

**IN THE COURT OF THE I ADDL.METROPOLITAN SESSIONS JUDGE CUM
SPECIAL JUDGE FOR TRIAL OF CASES UNDER NATIONAL
INVESTIGATION AGENCY ACT, 2008, NHYDERABAD**

Dated this the Twenty Ninth day of January, 2014.

**PRESENT: Sri G.Lakshmipathi,
I Additional Metropolitan Sessions Judge,
Cum Special Judge for Trial of Cases under National
Investigation Agency Act, 2008, Hyderabad.**

SESSIONS CASE No. 567/2010

Crime Number and police Station.	: Cr.No.8/2010 of National Investigating Agency, New Delhi. (FIR no.49/2010 of Bhavani Nagar police station, Hyderabad)
Name and description of the Accused Person.	: <p>A1) Mohd. Zia Ul Haque alias Jani alias Abu Abdullah alias Jan Mohammed, S/o Mohd. Shareef, Age 34 years, Occupation: Cab Driver, R/o 18-8-534/A/16, Kumarwadi Colony, Edi Bazaar, Bhavani Nagar, Hyderabad.</p> <p>A2) Abdul Aziz alias Abu Rehan alias Wali, Baitul Mjuahideen LeT training camp Muzaffarabad (Pakistan Occupied Kashmir) (holder of E-mail ID sigamono@yahoo.com) (Absconding). (The case against this Accused No.2 was spit up and numbered as S.C.No.2/2011 at IV Additional Chief Metropolitan Magistrate Court, Hyderabad and subsequent to the transfer of this case this Court, the split case pending against the Accused No.2 was renumbered as Special S.C. No.1/2013 and it is pending).</p>
Prosecution conducted by	: Sri S. Rama Rao, Senior Public Prosecutor for National Investigation Agency, Hyderabad.
Accused defended by	: Sri. Mohd. Muzafer Ullah Khan, Advocate. For Accused No.1.
Offences charged	: Under Section 25 (1B)(a) of Arms Act, 1959 read with section 23 of Unlawful Activities (Prevention) Act 1967, Section 5 of Explosive Substances Act, 1908 read with section 23 of



Unlawful Activities (Prevention) Act, 1967, 18, and 20 of Unlawful Activities (Prevention) Act, 1967, Sections 122, 120-B and 419 IPC.

Plea of the accused

:Pleaded not guilty.

Finding of the Court

:Accused No.1 is found not guilty for the offences under Section 25(1B)(a) of Arms Act read with section 23 of Unlawful Activities (Prevention) Act 1967, Sections 20 and 18 of Unlawful Activities (Prevention) Act 1967, Sections 122 and 120-B and 419 of IPC. Accused No.1 was found guilty of the offence under Section 5 (b) of Explosive Substances Act, 1908.

RESULT

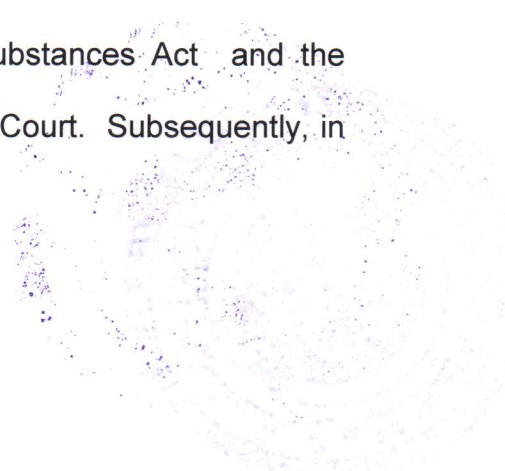
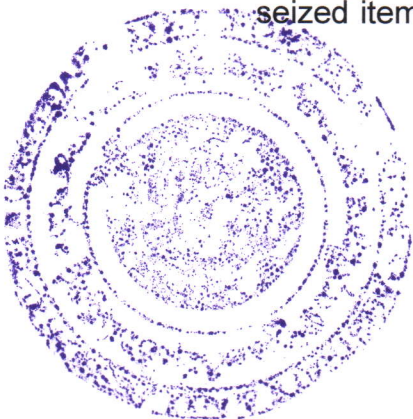
:In the result, the Accused No.1 is convicted under Section 235(2) of Cr.P.C., and sentenced to under go Rigorous Imprisonment for seven years and also to pay fine of Rs.1,000/- (Rupees One Thousands Only) in default of payment of fine, to under go simple imprisonment for six months for the offence under Section 5 (b) of Explosive Substances Act, 1908. Accused No.1 is acquitted under Section 235(1) of Cr.P.C., for the offences under Sections 25(1B)(a) of Arms Act read with Section 23 of Unlawful Activities (Prevention) Act, 1967, Sections 20 and 18 of Unlawful Activities (Prevention) Act, 1967 and Sections 122, 120-B and 419 of IPC. The period of detention already under gone by the Accused No.1 during the course of investigation and trial of this case shall be set off against the sentence of imprisonment imposed by this Court in this case under Section 428 of Cr.P.C. M.Os. 2 to 12 shall be destroyed and M.O.1 which is a fire arm shall be sent to the Armory for disposal in accordance with Law after disposal of the split up case in Special S.C.No.1/2013 which is pending against the Accused No.2. The Accused No.1 is informed that if he is not having means to prefer an appeal against the judgement of this court he can avail free legal aid from A.P. State Legal Services Authority through the Superintendent, Central Prison concerned.



JUDGEMENT

1. The Additional Superintendent of Police, National Investigating Agency, New Delhi has laid a charge sheet against the above named accused for the offences under Sections 120-B, 122, 123, 124-A IPC and Sections 16, 18, 18(b), 20, 23 of Unlawful Activities (Prevention) Act, 1967 and Section 25 (1B)(a) of Arms Act and Section 5 of Explosive Substances Act in crime no.8/2010 of National Investigating Agency, New Delhi (originally, crime was registered under First Information Report no.49/2010 of Bhavani Nagar Police Station, Hyderabad) with the following allegations:-

An organization namely Laskar E Toiba (LeT) is a terrorist organization which was banned by the Government of India in terms of Schedule of Unlawful Activities (Prevention) Act, 1967. On 3.5.2010, P.Madhukar Swamy, Inspector of Police, Special Investigation Team, Hyderabad who was investigating the Odeon Delux Theater, Hyderabad Blast Case in crime no.231/2006 of Chikkadpally police station, on receiving credible information, he along with his team on specific identification apprehended one Mohd. Zia Ul Haque, son of Mohd. Shareef who is the accused No.1 in this case, at about 14.50 hours and at that time, the accused was found in possession of a hand grenade and other material documents. Then, on disclosure statement by the accused, a search at his residential premises was conducted which lead to the recovery of another hand grenade, pistol with magazine, six numbers of live cartridges and other documents. Then on the report of P.Madhukar Swamy, Inspector of Police, Special Investigation Team, Hyderabad, a case in crime no.49/2010 was registered under Sections 120-B, 122, 123, 124-A IPC and Sections 16, 18, 18(b), 20, 23 of Unlawful Activities (Prevention) Act, 1967 and Section 25 (1B)(a) of Arms Act and Section 5 of Explosive Substances Act and the seized items and disclosure memos were sent to the Court. Subsequently, in

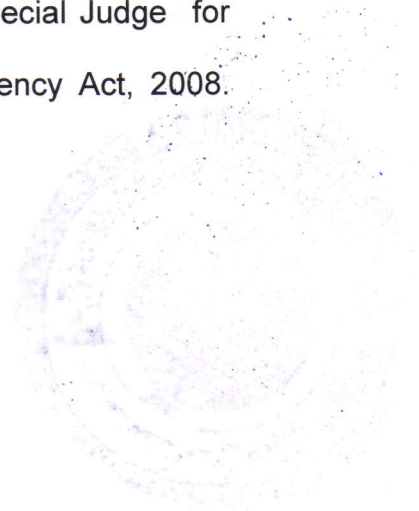
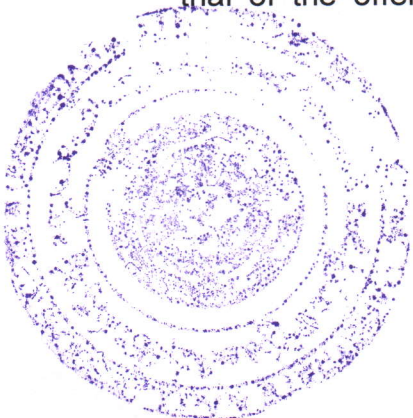


compliance of the order dated 19.7.2010 of Ministry of Home Affairs, Government of India, a case in crime no.8/2010 dated 22.7.2010 was registered against the accused for the above said offences by the National Investigating Agency. Original first information report was sent to the Court. The accused confessed that he entered into criminal conspiracy with Accused No.2 Abdul Azeeb a Pakistani LeT operator and other LeT operators outside India to wage war against India branding India as Kafir/Hindu country and to indulge in terrorist acts by using explosives, arms and ammunitions and some funds provided by Abdul Aziz of Pakistan for terrorist activities. The accused on or about the year 2002 went to Pakistan illegally and got trained in Baitul Mujahideen (LeT) Training Center at Musaffarabad, Pakistan for about 45 days in handling weapons namely AK-47, pistol, hand grenades, using of explosives, browsing of Internet and checking of e-mails along with other trainees to wage war against India by Jihad. Abdul Aziz alias Abu Rehan alias Wali arranged ticket for the accused no.1 from Saudi Arabia to New Delhi via Karachi in Pakistan International Airlines. He was received by LeT cadre who managed airport officials to take him out of airport illegally without stamping / checking of the passport of accused no.1 – Mohd. Zia Ul Haque. Accused no. 1 deposited his Indian passport with LeT terrorist. In pursuance of the said criminal conspiracy, the accused no.1 on or about October, 2002 infiltrated back to India after the training through Poonch Sector of Jammu and Kashmir. He as a LeT operator belonging to sleeper cell at Hyderabad in India was in touch with Abdul Aziz alias Abu Rehan alias Wali a Pakistani LeT operator. In pursuance of the said criminal conspiracy Accused No.1 -Mohd Zia Ul Haque on the instructions of Accused No.2 by name Abdul Aziz visited Delhi and stayed there from 2.12.2005 to 4.12.2005 in the guest house near Jama Masjid by revealing his identity as Mohd. Habib son of Mohd. Shareif, resident



of Santosh nagar, Hyderabad district and collected four hand grenades, pistol with magazine and six live cartridges through unknown courier at the behest of Accused No.2, the Pakistani LeT operators. In pursuance of the said criminal conspiracy, Accused no.1 lobbed one hand grenade on 7.5.2006 at about 10.15 pm inside the Odeon Delux Theater, Hyderabad and dropped another hand grenade in the dustbin outside the theater. The grenade exploded and resulted in the injury to two persons. Accused no.1 has completed task successfully and informed the same to Abdul Aziz – Accused No.2 who remained in touch with Accused no.1. Thereafter, the Accused no.1 waited for chance to do so. While he was moving with hand grenade he was apprehended at 14.50 hours on 3.5.2010 near Anmol Hotel, Hyderabad. The required sanction for prosecuting the accused no.1 under Section 196 of Cr.P.C. And Section 45(1) of Unlawful Activities (Prevention) Act, 1967, Arms Act and Explosive Substances Act has been obtained from the Government of India.

2. The case was taken on file against the accused nos. 1 and 2 under Sections 122, 123, 124-A IPC, Section 25 (1B)(a) of Arms Act, Sections 16, 18, 18(b), 20, 23 of Unlawful Activities (Prevention) Act, 1967 by the Learned Metropolitan Sessions Judge, Hyderabad. Non Bailable Warrant against Accused No.2 was issued.
3. When the case is pending for appearance of both the accused, awaiting execution of non bailable warrant against Accused no.2, as per the notification published in Gazette of India, dated 1.9.2010, the leaned IV Additional Metropolitan Sessions Judge, Hyderabad was notified as Special Judge for trial of the offences pertaining to National Investigating Agency Act, 2008.



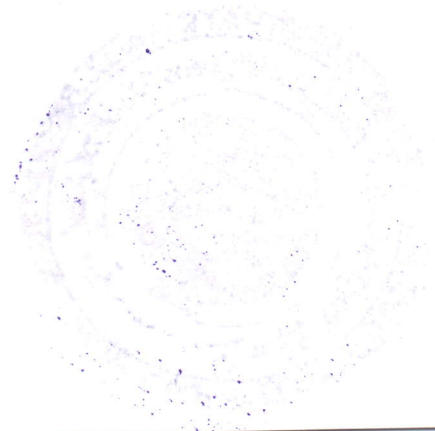
Then this case was transferred to the Special Court for trial of Cases under National Investigation Act i.e., IV Additional Metropolitan Sessions Judge Court, Hyderabad. Subsequently, after production of the accused no.1 before the then Special Court, i.e., IV Additional Metropolitan Sessions Judge, Hyderabad, and when the non bailable warrant against accused no.2 was pending, the then Special Court has found that there was no possibility to apprehend accused no.2 without possible delay. Hence, the case against accused no.2 was split up and numbered as Sessions Case No.2/2011.

4. Then after production of accused no.1 before the then Special Court, i.e., IV Additional Metropolitan Sessions Judge, Hyderabad, copies of the case record were furnished to him as required under Section 207 of Cr.P.C.
5. The learned Special Public Prosecutor for the prosecution and the learned Counsel for the accused no.1 were heard and accused no.1 was examined under section 228 of Cr.P.C. Charges under sections 25(1B)(a) of Arms Act, 1959 read with section 23 of Unlawful Activities (Prevention) Act, 1967, Section 5 of Explosive Substances Act, 1908 read with section 23 of Unlawful Activities (Prevention) Act, 1967, Sections 20 and 18 of Unlawful Activities (Prevention) Act, 1967, Section 122, 120-B, 419 IPC are framed against the accused no.1, read over and explained to the accused no.1 and he pleaded not guilty. Hence, the case was ordered for trial.
6. During the course of trial before the the then Special Court i.e., IV Additional Metropolitan Sessions Judge, Hyderabad, Pws 1 to 24 were examined and Exs.P1 to P68 were marked. Subsequently, as per the Central Government Notification, I Additional Metropolitan Sessions Judge's Court, Hyderabad was



designated as Special Court for trial of the case instituted under National Investigation Agency Act. Then, this case was transferred from IV Additional Metropolitan Sessions Judge Court, Hyderabad to this Court for trial. The split case pending against the Accused No.2 is renumbered as Special Sessions Case No.1/2013 on the file of this Court.

7. After production of the Accused no.1 from the Central Prison, Warangal, continuation of trial was conducted before this court and Pws 25 to 30 were examined and Exs.P69 to P104 were marked and in all M.Os.1 to 12 marked.
8. After closure of the prosecution side evidence, Accused no.1 was examined under Section 313 Cr.P.C., so as to enable him to explain the incriminating circumstances appearing in the evidence of prosecution witnesses against him, the accused denied the allegations and pleaded not guilty. Accused no.1 further stated that he is only a cab driver. When he was taking his wife to admit her in the hospital, police have taken him by misrepresentation and kept him in illegal custody for four days and foisted this case. He also stated that after keeping him in illegal custody for four days, the police have taken him to his house and have taken driving licence, bank cheques, travelling licence, pan card passport from his house. Counter Intelligence Officer has come to his house on that day. He has seen Pw1 Madhukar Swamy, Inspector of police, for the first time at Special Investigation Team Office after producing him before the court after detaining for four days in illegal custody. He applied for passport only for one time and he did not apply for passport for second time. He further stated that in the year 2002, he returned from Saudi Arabia and then onwards he was running a hotel and closed it later. Then, he was working as driver. Then, he took seven vehicles on lease and running them by



hiring the Drivers. He run those vehicles for five years. In the year 2010 on one day in a month, when he was at home when he was preparing to take his pregnant wife to hospital, his brother in law informed to him that some body came for him. Then, he came down from his house in the first floor and there were two police and they called him to police station on the ground that they want to examine him in connection with a complaint preferred by a girl stating that he was harassing her on phone and have taken him to a guest house in Banjara Hills. There police questioned a boy and he has stated on seeing him that he was not the person. Then he was taken to Medhcal guest house by the police. He was interrogated and at that time he stated that he does not know anything. Then they detained him for more than three days and beat him and asked him to accept the offence. He does not know what is grenade at all. The police beat him indiscriminately and they have obtained his signatures on white papers and handwritings on white papers. Later have asked him to walk properly and not to disclose about their beating him and they produced him before the court. At the time of arrest the inspector of police, Madhukar Swamy was not there. He saw the inspector Madukar Swamy when the case was given to Special Investigation Team police. Assistant Commissioner of Police, Prabhakar Reddy never taken him to any place outside. He asked him for two times when he was in custody. This case has been foisted against him. He did not commit any offences. He did business with hard earned money. He has performed marriages of his two sisters and two elder brothers.

9. **Now the points for determination are:**

- (1) "Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under sections 25(1B)(a) of Arms Act read with Section 23 of Unlawful Activities (Prevention) Act, 1967



and whether the accused is liable to be punished for the offences punishable under the above sections of law?

(2)“Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under section 5 of Explosive Substances Act, 1908 read with Section 23 of Unlawful Activities (Prevention) Act, 1967 and whether the accused is liable to be punished for the offences punishable under the above sections of law?”

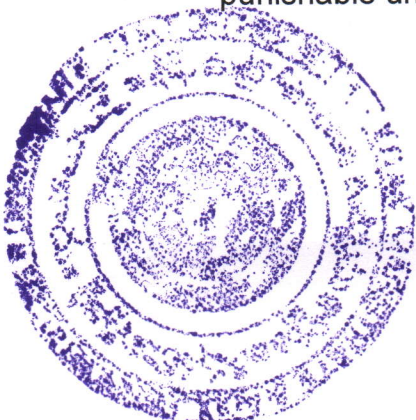
(3)“Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under section Section 20 of Unlawful Activities (Prevention) Act, 1967 and whether the accused is liable to be punished for the offence punishable under the above section of law?”

(4)“Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under section Section 18 of Unlawful Activities (Prevention) Act, 1967 and whether the accused is liable to be punished for the offence punishable under the above section of law?”

(5)“Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under section Section 122 of IPC and whether the accused is liable to be punished for the offence punishable under the above section of law?”

(6)“Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under section Section 120-B of IPC and whether the accused is liable to be punished for the offence punishable under the above section of law?”

(7)“Whether the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offence punishable under section Section 419 of IPC and whether the accused is liable to be punished for the offence punishable under the above section of law?”

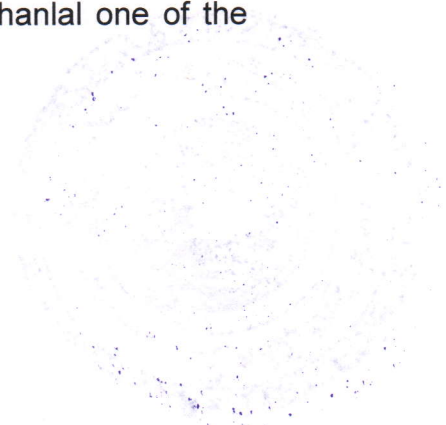
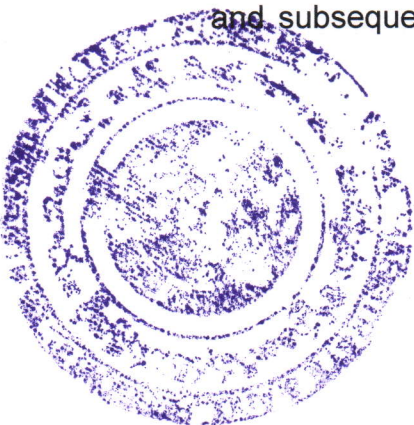


10. Heard the Learned Special Public Prosecutor for the prosecution and the learned counsel for the accused no.1. Written arguments filed by the learned Special Public Prosecutor. Written arguments filed by the learned counsel for the accused no.1. Supplementary written arguments were also filed for the prosecution by the Special Public Prosecutor.

11. **POINTS NOS.(1 to 7):-** Perused the evidence of Pws 1 to 30 and Exs.P1 to P104 and M.Os. 1 to 12. Pw1 is P.Madhukar Swamy, Inspector of police, Special Investigating Team, Hyderabad is one of the investigating officers. Pw2, M.Karunakar, the then Tahasildar, Bandlaguda Mandal is one of the Panchayathdars for the arrest of the accused and seizure of incriminating material. Pw3, Dr.T.M.Suri, the then Inspector of police, Bomb Squad at Hyderabad who destroyed two grenades involved in this case. Pw4, Abdul Qavi is the son of Abdul Shukoor, land lady rented the house to the accused no.1. Pw5, M.Abhijith Reddy, who was running Internet cafe, from where the accused no.1 said to have sent e-mails. Pw6, Mohd. Mudassir Khan, who run another Internet Cafe, from where also the accused no.1 has sent e-mails. Pw7, K.Srinivas Rao, Head (Operations), Royal Bank of Scotland, where the accused was having bank account. Pw8, Modh. Sadiq Ali, who is running mobile recharge shop at Rein Bazaar. Pw9, Dr. Venkateswarlu, Scientific officer in Andhra Pradesh Forensic Science Laboratory, Hyderabad, who examined the fire arm and live cartridges involved in this case. Pw10, Mohd. Arif, classmate of the accused no.1. Pw11, Mahesh one of the panchayathdars in whose presence the print outs of e-mails sent by the accused were taken. Pw12, M.Radhika, one of the bomb blast victims at Odeon Delux Theater. Pw13, Satish Chand, the then Deputy Superintendent of police, Information and Technology, New Delhi, who provided computer with Internet facility to

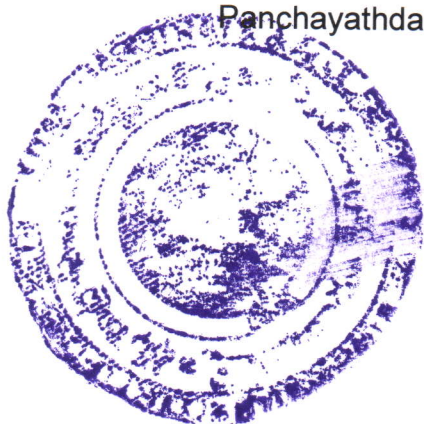


obtain the print outs of e-mails sent by the accused no.1. Pw14, Ashok Kumar Bawalia, the then Under Secretary, Ministry of Home Affairs, Government of India who forwarded the proposals for sanctioning of the prosecution against the accused. Pw15, D.Anjaneyulu one of the panchayathdars for the seizure of incriminating material at Vishnu Internet Cafe of Pw5. Pw16, Mohd. Moinuddin Hassan Khan, Assistant Director, Forensic Science Laboratory, Hyderabad who examined the sample sent by the Deputy Commissioner of police, Detective Department, Hyderabad and issued his opinion Pw17, B.V.S.Siva Prasad, Scientific Officer, Andhra Pradesh State Forensic Science Laboratory, who analyzed the hard discs sent by Deputy Commissioner of police, DD., CCS., Hyderabad and gave his opinion. Pw18, K.Satya Prasad, the then chief manager, Andhra Bank, Mehdipatnam branch, where the accused no.1 was having bank account. Pw19, Rakesh Kumar, owner of sweets corner, Delhi, where the accused no.1 purchased sweet box. Pw20, Mohd. Shabuddin, owner of private guest house in New Delhi, where the accused no.1 said to have been stayed for two days with fictitious name. Pw12, Kishore Mohan Chatlani, the then manager of ICICI Bank, where the accused was having account. Pw22, the then Inspector of police, Bhavani nagar police station, who registered the report of Pw1 under Ex.P1 as Ex.P47. Pw23, K.Vanaja Venkataramana, passport granting officer, Regional Passport Authority, Hyderabad who issued copies of the application forms and connecting documents of accused no.1. Pw24, Sudhesh Kumar Sarma, one of the panchayathdars for the seizure of customers register at the private guest house in New Delhi. Pw25, P.Venugopal Rao, Scientist-B, in Central Forensic Science Laboratory, Ramanthapur, Hyderabad, who examined the hand writings in the questioned and standard documents and issued opinion and subsequent documents and issued opinion. Pw26, Kishanlal one of the

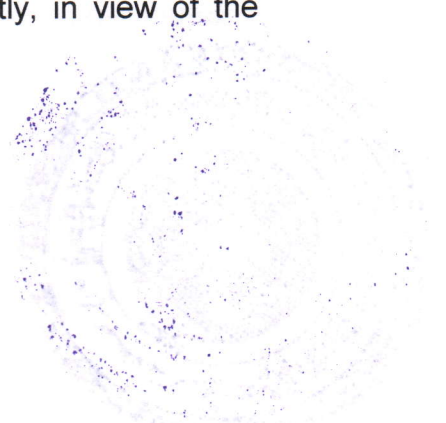
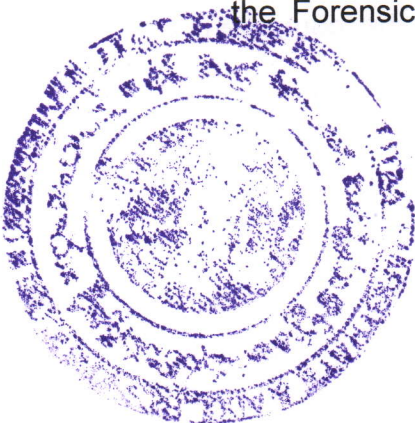


Panchayathdars for the seizure of register at a private guest house in New Delhi and also for the seizure of empty sweet box from the said shop of Pw19. Pw27, M.Prabhakar Reddy, the then Assistant Commissioner of Police, Special Investigation Team, Hyderabad, one of the investigating officers. Pw28, K.Baburao, the then assistant commissioner of police, Central Crime Station, Detective Department, Hyderabad, one of the investigating officer. Pw29, Vishal Garg, Additional Superintendent of Police, National Investigating Agency, New Delhi one of the investigating officers who filed charge sheet after completion of investigation. Pw30, Gulzar Natarajan, District Magistrate, Hyderabad who issued sanction orders to prosecute the accused nos. 1 and 2 in this case.

12. It is the case of the prosecution that the accused no.1 - Mohd.Zia Ul Haque was indoctrinated into LeT a terrorist organization which was declared as unlawful organization by the Government of India under section 2(l)(m) and Section 35 Unlawful Activities (Prevention) Act, 1967 by the accused no.2 by name Abudl Aziz alias Abu Rehan alias Wali, who was residing in Saudi Arabia a Pakistani national. It is also the case of the prosecution that the accused no.1 though, went to Saudi Arabia by legal means yet he returned to Indian by illegal means without using his Indian passport after getting training in Pakistan. It is also the case of the prosecution that there was blast at Odeon Delux Theater, Hyderabad which is the subject matter of crime no.231/2006 of Chikkadapally police station, Hyderabad. On 3.5.2010 Pw1 Madhukar Swamy, inspector of police, Special Investigation Team, Hyderabad while investigating the said case in crime no.23/2006 of Chikkadpaly police station, Hyderabad, on information along with his staff and independent Panchayathdars, proceeded to the place near Hotel Anmol, Hyderabad at



2.30 pm and detained the accused no.1 in the presence of panchayathdars and interrogated him and on his confession and on personal search he found one hand grenade and some documents and seized them under cover of a confession cum seizure report and on confession leading to recovery, the accused no.1 lead them to his house situated at Kummarwadi, Edi Bazaar, Bhavani Nagar, Hyderabad at 5.00 pm and at his house, the accused no.1 has produced another hand grenade, one pistol with magazine, six live cartridges along with other documents which were seized by the said inspector of police – Pw1 in the presence of some panchayathdars under same seizure report.. Then, Pw1 produced the accused no.1 and the seized material before the Station House Officer, Bhavani Nagar police station, Hyderabad which was registered as crime no.49/2010 and on the next day the accused was produced before the court. Subsequently, the case was transferred to the Assistant Commissioner of Police, Special Investigation Team, Hyderabad for investigation. On 7.5.2010, Pw27, Assistant Commissioner of Police, Special Investigation Team, has taken the accused to police custody with the permission of the court and interrogated him and at the instance of accused no.1, two hard discs and one register from Sri Vishnu Internet Cafe belonging to Abhijith Reddy (Pw5) were seized in the presence of panchayathdars and two more hard discs and statement of account were seized from Amman Communications of Pw6 at Imam Bada, Rein Bazaar in the presence of Panchayathdars. During the course of investigation, the said Pw27 obtained statements of accounts of the bank accounts of the accused and the seized hand grenades were sent to Bomb Disposals Expert -Pw3 who distructed them and the chemical substances were forwarded to Forensic Science Laboratory and the seized pistol and ammunition were also sent to the Forensic Science Laboratory for analysis. Subsequently, in view of the



gravity of the offences involved in this case, the case has been entrusted to the National Investigating Agency for continuation of investigation. During the course of investigation, Pw29, Chief Investigating Officer, National Investigating Agency, Vishal Garg interrogated the accused no.1 in the presence of Panchayathdars and on the confession of the Accused No.1, E-mails retrieved from the in box and out box of the E-mail addresses of the accused with the assistance of Pw13, Deputy Superintendent of Police, Information Technology, National Investigating Agency, New Delhi. On confession of the accused no.1, the Customers-Register at Shabuddin Guest Houses, New Delhi was seized from Pw20, Mohd. Shabuddin and sweet box was seized from Pw19, Rakesh Kumar owner of Krishna Sweet Corner, New Delhi. During the course of investigation, Pw29 also obtained passport and application for passport submitted by the accused from the Assistant Passport Officer, Hyderabad. After completion of investigation, and after obtaining sanction orders to prosecute the accused for the offences under Section 5 of Explosive Substances Act and 25(1B)(a) of Arms Act as required under Section 196 Cr.P.C., and Section 45(1) of Unlawful Activities (Prevention) Act, 1967 and charge sheet was filed.

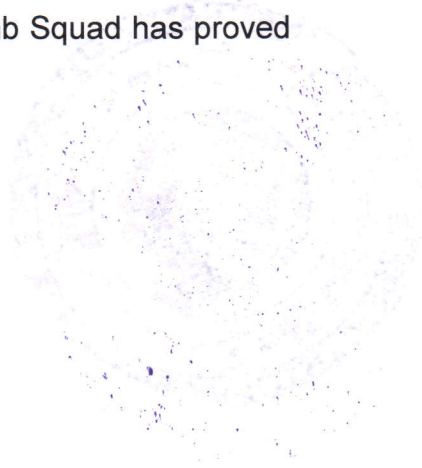
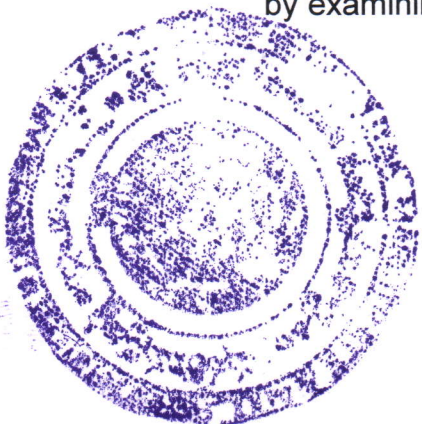
13.The case of the accused is total denial and this case was foisted against him.

14.To prove its the prosecution has examined Pws 1 to 30 and has marked Exs.P1 to P104 and M.Os. 1 to 12.

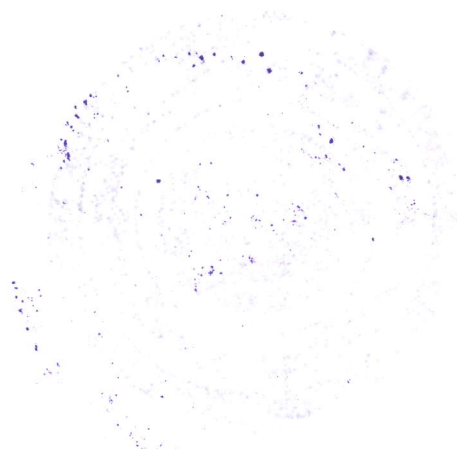
15.It is the contention of the learned Special Public Prosecutor for the prosecution that it is an admitted fact that the Accused No.1 had been to Saudi Arabia and he was having Indian-passport issued by the competent



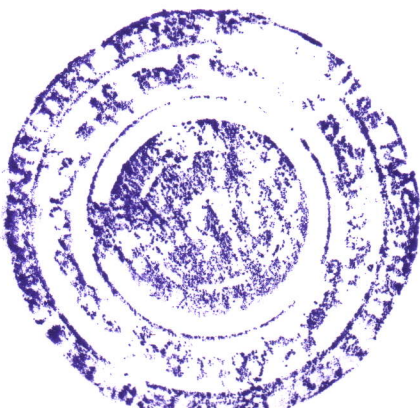
authority and Accused No.1 neither produced nor given any explanation for his not producing passport issued to him which clearly shows that the accused has applied for another passport for the second time with false information as deposed by Pw23, Regional Passport Officer. It is also the contention of the learned Special Public Prosecutor for the prosecution that the prosecution by examining Pws 1 to 30 and exhibiting P1 to P104 has proved that the Accused No.1 at the time of arrest was in possession of one hand grenade and other material and subsequently on the confession of Accused No.1 leading to recovery, Accused No.1 has taken Pw1 and his staff and panchayathdars to his house and has produced one hand grenade, one pistol, six live rounds and other incriminating material and they were also recovered from his possession by examining Pw5, the owner of Vishnu Internet Cafe and Pw6, the person in-charge of Amman Communications Internet Cafe, the prosecution has proved that the Accused No.1 was using the Internet facility in those Internet Cafes to communicate with Accused No.2 who is in abroad. It is also the contention of the Learned Special Public Prosecutor that by examining Pw13 Satish Chand, Deputy Superintendent of Police, Information Technology Division, National Investigation Agency, the prosecution has proved that the Accused No.1 himself has opened two e-mail accounts by using his e-mail Ids and passwords which were in his exclusive knowledge and those printouts of the e-mails were exhibited as Exs.P30 and P31 which shows that the Accused No.1 has communicated with the absconding Accused No.2 who is in abroad in code language. By examining Pw9, Dr.V.Venkateswarlu, Scientific Officer in Ballistic Section, Andhra Pradesh Forensic Science Laboratory, the prosecution has proved that the pistol that was seized from the possession of Accused No.1 is a company made 7.63 mm caliber (Mauser). The prosecution by examining Pw3, Dr. T.M.Suri, Inspector of Police, Bomb Squad has proved



that two hand grenades were destroyed as it was not possible to diffuse them, after obtaining permission from the court and he has picked up samples from the remnants of the destroyed grenades, By examining Pw16, Assistant Director, Forensic Science Laboratory, Hyderabad, the prosecution has proved that the sample sent to him in a bottle which was collected by Pw3 is RDX which is highly explosive substance. Therefore, it is clear that the hand grenades that were seized from the possession of the Accused No.1 were highly explosive grenades. Since, the Accused No.1 was in possession of them, it is clear that he was having intention to cause extensive damage to the public property and also to the lives of innocent people which is terrorist act. The acts committed by the Accused No.1 are violative of provisions of Arms Act and Explosive Substances Act and also Unlawful Activities (Prevention) Act, 1967. It is also the contention of the Learned Special Public Prosecutor for the prosecution that the evidence of Pw29 Vishal Garg, is clear that hand grenades that were seized from the Accused No.1 are similar to that of hand grenades that were exploded at Odeon Deluxe Theater blast in Hyderabad and also the grenades that were seized at Mumbai and Delhi. It is also the contention of the learned Special Public Prosecutor for the prosecution that once the possession of arms and explosives with the accused is proved, it is the burden on the accused that it was not a conscious possession, the accused how he was came to be in possession of the same is within his special knowledge. Therefore, Section 106 of Evidence Act comes into play and if he fails to prove the same he is liable for punishment for the possession of arms and ammunition. Hence, the prosecution has proved the guilt of the accused no.1 beyond all reasonable doubt for the offences alleged against him.



16. It is the contention of the learned counsel for Accused No.1 that the prosecution has failed to prove the possession of Arms and explosive substances in his possession. The arms and ammunition said to have been seized from the possession of Accused No.1 were not packed and sealed at the time of seizure. There is no evidence to indicate whether the arms and ammunition and explosive substances said to have been seized from the possession was kept in safe custody and there was no possibility for any body to tamper with them before they were sent to the Expert for testing. Therefore, Accused No.1 is entitled for benefit of doubt for the offence under Section 5 of Explosive Substances Act and 25(1B)(a) of Arms act. It is also the contention of the learned counsel for the accused no.1 that there is absolutely no evidence produced by the prosecution to show that the Accused No.1 is a member of any terrorist organization especially LeT (Lashker E Taiba) and witnesses examined by the prosecution have not stated that the Accused No.1 is intended to wage war against the Government of India. Therefore, Section 122 of IPC is not proved by the prosecution against Accused No.1. It is also the contention of the learned counsel for Accused No.1 that none of the witnesses examined by the prosecution have stated any fact which attracted the ingredients of Section 18 of Unlawful Activities (Prevention) Act, 1967. There is also no evidence produced by the prosecution to show that Accused No.1 has involved in any terrorist activities and that the Accused No.1 is member of terrorist gang or organization. So, Section 20 of Unlawful Activities (Prevention) Act, 1967 also not proved against the Accused No.1. It is also the contention of the learned counsel for Accused No.1 that Exs.P30 and P31, the printouts of E-mails said to have been sent or received by the Accused No.1 are not proved to have been sent or received by the Accused No.1. The alleged criminal conspiracy by Accused No.1 with Accused No.2 Abdul Aziz is



also not proved. So, prosecution has failed to prove the offence under Section 120-B of IPC against the Accused No.1. It is also the contention of the learned counsel for Accused No.1 that there is absolutely no evidence on record to conclude that the Accused No.1 has stayed in a private guest house at New Delhi with fictitious name, except the oral evidence of Pw20. Therefore, the prosecution also has failed to prove the guilt of the Accused No.1 for the offence under Section 419 IPC and pleaded for the acquittal of Accused No.1.

17.In reply, the learned Special Public Prosecutor for the prosecution submitted that Pw23, K.Vanaja Venkatrama, Passport Granting Officer in Regional Passport Office, Hyderabad has deposed that passport was issued to Accused No.1 on 17.2.1995 vide Passport No.T941459. Her evidence also shows that same Accused No.1 Mohd. Zia Ul Haque son of Mohd. Shareef has applied for passport in the year 2006, but, no passport was issued on that application, since, there was adverse police report. So, it is clear that Accused No.1 has applied for second passport. Accused No.1 has not given any explanation for his applying for passport for the second time, which is exclusive special knowledge of him to explain that what happened to his first passport. With the evidence of Pws 1 to 30 and with the contents of Exs.P1 to P104, the prosecution has established the guilt of the accused No.1 beyond all reasonable doubt for the offences alleged against him.

18.To prove that there was valid sanction to prosecute the accused for the offences under Section 5 of Explosive Substances Act and Section 25 (1B)(a) of Arms Act, the prosecution has examined Pw30 and has marked Ex.P104. In his evidence, Pw30, Guljar Natarajan, the then District Collector cum

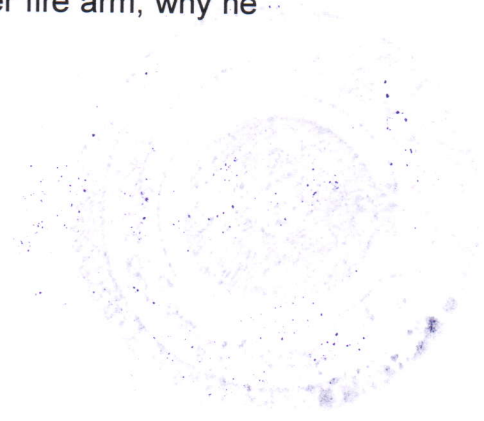


District Magistrate, Hyderabad has deposed that on requisition from the Assistant Commissioner of Police, Special Investigation Team, he has perused the record of investigation placed before him in this case and after applying his mind, he has accorded sanction to prosecute the said accused under Section 7 of Explosive Substances Act and 39 of Arms Act and punishable under Section 5 of Explosive Substances Act and Section 25(1B)(a) of Arms Act under Ex.P104. The said sanction orders under Ex.P104 was accorded to prosecute eleven accused in crime no.49/2010 of Bhavani Nagar Police Station, Hyderabad. The said case in crime no.49/2010 of Bhavani Nagar police station, was subsequently entrusted to National Investigation Agency for investigation and it is re-registered as FIR 8/2010 of National Investigation Agency. So, in view of the evidence of Pw30 and Ex.P104 there is valid sanction from the Central Government to prosecute the accused for the offences punishable under Sections Section 5 of Explosive Substances Act and Section 25(1B)(a) of Arms Act.

19.To prove that the charge under Section 25(1B)(a) of Arms Act and Section 5 of Explosive Substances Act, the prosecution has examined Pws 1, 2, 3, 12, 16 and 22. In his evidence Pw1 P.Madhuakara Swamy, the then Inspector of Police, Special Investigation Team has stated that on information relating to the blast case in Odeon Deluxe Theater, he secured mediators Pw2 and one M.Devadass, Deputy Tahasildar, Bandlaguda, Hyderabad and proceeded along with his staff and mediators to Edi Bazaar and parked their vehicles adjacent to Anmol Hotel in a lane and reached a pan shop opposite to Anmol Hotel and at about 2.40 pm, they surrounded the suspect Accused No.1 and on physical search of him they found a hand grenade in a polythene cover and also found some papers, documents in his pant. Then, on the questioning



of the accused no.1, he confessed the offence in this case. Then, he seized the said hand grenade and one driving licence of the Accused No.1 (Ex.P1), pan card of Accused No.1 (Ex.P2) and registration certificate card of two wheeler with the name of Accused No.1 (Ex.P3) under cover of confession-cum-seizure-panchanama, the admissible portion of it is Ex.P4. Then on the confession of the accused No.1 they were lead to the house of the Accused No.1 in Kummarwadi and there the accused no.1 went to his room and picked up a cover and it contained one hand grenade, one pistol (M.O.1), six live cartridges (M.O.2) and handed over them to him and they kept each of them in a separate covers affixed panch witnesses ID slips. Then, the Accused No.1 also produced cheque book of ICICI Bank (Ex.P5), Cheque Book of ABN Amro Bank (Ex.P6), Pass Book of Andhra Bank (Ex.P7), Electricity Bill (Ex.P8) and domestic gas connection card (Ex.P9) and they were seized under seizure report under (Ex.P10). Then he has taken the accused and the seized property to Bhavani Nagar Police Station, Hyderabad and preferred a complaint to the Station House Officer, Bhavani Nagar Police Station and also handed over the Accused No.1 and the seized articles and documents to him. During cross examination this Pw1 has stated that when M.O.1 pistol was recovered, it was kept in a cover and stapled and it was not sealed with sealing wax. He admitted that in Ex.P10, seizure report he has not noted about his putting M.O.1 in a cover and stapled it. In Ex.P10 the seizure report under which M.Os. 1 and 2 and Exs.p5 to P9 were seized, M.O.1 was not described as pistol. It is simply noted as one fire arm having star mark on both sides of the butt and the magazine which is fixed from the bottom side of the butt. In his evidence, Pw1 has admitted that from pistol to AK47 they all fire arms. By looking at all normal fire arms he can distinguish one from the other. When, Pw1 is able to distinguish one fire arm from the other fire arm, why he



has not mentioned that M.O.1 as pistol in the seizure report under Ex.P10 is not explained. He also stated during cross examination that by looking at a weapon he can distinguish the company made fire arm or the country made. When Pw1 is able to distinguish the country made fire arm and company made fire arm why he has not described as country made or company made in Ex.P10 is also not explained. In his evidence, Pw1 has specifically admitted that M.O.1 was not sealed with sealing wax.

20. In a case between Jasbir Singh V. State of Punjab, reported in 1998 CRI.L.J.

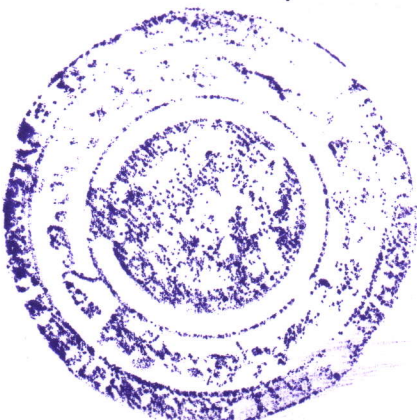
2063 (In Criminal Appeal No.1086/1997), on which the learned counsel for the Accused No.1 relied on, the Honourable Supreme Court observed,

"Having gone through the evidence, we find that the contention raised on behalf of the appellant is correct and, the cartridges did not have any mark or any number on them and after seizing the same police had not thought it fit to wrap them and apply a seal over them. No explanation in that behalf was given by the prosecution witnesses. This aspect was not considered by the trial Court. As the identity of the incriminating articles has not been established by the prosecution we allow this appeal, set aside the conviction of the appellant both under Section 5 of the TADA Act and 25 of Arms Act and acquit him of all the charges levelled against him."

In another case between Sahib Singh V. State of Punjab, reported in 1997 CRI.L.J. 2978, on which the learned counsel for the accused relied on, the Honourable Supreme Court observed,

"We next find from the record that the arms and ammunitions allegedly recovered from the appellant and seized were not packeted and sealed. In Amarjit Singh v. State of Punjab, 1995 (3) SCC 217 this Court has observed that non-sealing of the revolvers at the spot is a serious infirmity because the possibility of tampering with the weapon cannot be ruled out. From the record we further find that there is no evidence to indicate with whom the revolver was after its seizure by P.W.3 till it was sent to the Arms Expert for testing through constable Baita Singh. This missing link also weakens the prosecution case. For all these infirmities we are of the view, that the appellant is entitled to the benefit of reasonable doubt."

In the present case also investigating officer Pw, who is alleged to have been



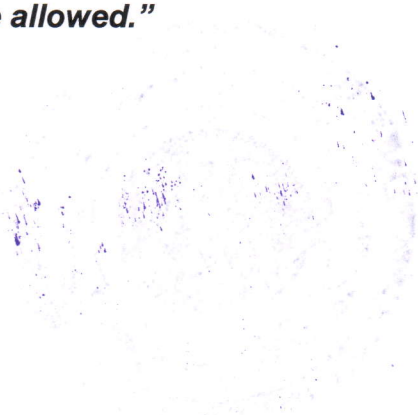
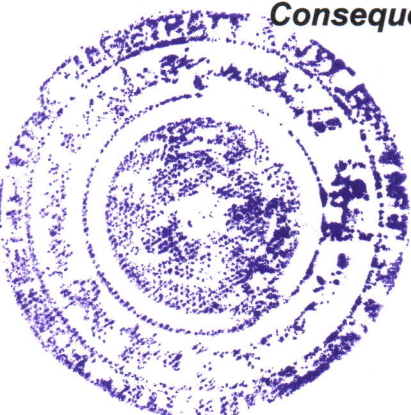
seized the pistol (M.O.1) and live cartridges (M.O.2), hand grenade from the possession of Accused No.1 has not chosen to seal them, pack them separately with sealing wax to avoid tampering of the same till it was sent to the Expert for testing.

21.It is the contention of the learned Special Public Prosecutor that in this case Pw1 who recovered M.Os. 1 and 2 and two hand grenades has handed over them to Pw27, Pw27 in turn handed over to Pw28 and Pw28 has handed over them to Pw29. So, it cannot be said that there is no evidence to indicate as to with whom the seized pistol and two hand grenades were after seizure till they were sent to Experts and so, the above said decisions are not applicable to the present case.

22.It is true that there is oral evidence to the effect that Pw1 has handed over the seized material objects to the Pw22 and Pw22 has handed over them to Pw27 and Pw27 to Pw28 and Pw28 to Pw29. But, the fact remains is that Pws 1, 22, 25, 27 and 28 have not sealed M.O. 1 and two hand grenades separately with sealing wax. Therefore, the contention of the learned Special Public Prosecutor is not acceptable.

In a case between Kurava Surya Prakash Reddy V. State of Andhra Pradesh, reported in 2002 (1) ALD (Cr.) 341 (AP), on which the learned counsel for the Accused No.1 relied on, the Honourable High Court of Andhra Pradesh observed,

"It should be borne in mind that the intention of the Legislature is to avoid replacement or the articles seized from the possession of the accused or plant certain other material objects. The prosecution as frustrated the very intent of the section by delayed production of accused and MO1. Therefore, the prosecution version cannot be believed in view of the flagrant violation of Section 37 of the Arms Act. Consequently, the criminal revision case is liable to be allowed."



23. It is the contention of the learned Special Public Prosecutor that Section 37(b) of Arms Act makes it mandatory to produce the arms before the authority then and there, only after the recovery was done by a person other than the police officer or Magistrate and in the present case, the police officer made the recovery. Therefore, the said decision is not applicable to the present case.

Section 37(b)(i) of Arms Act reads as follows:

(b) any person arrested and any arms and ammunition seized under this Act by a person not being a Magistrate or a Police officer shall be delivered without delay to the officer in charge of the nearest Police Station and that officer shall --

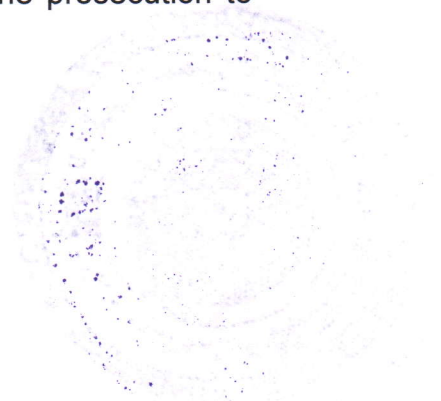
(i) either release that person on his executing a bond with or without sureties to appear before a Magistrate and keep the things seized in his custody till the appearance of that person before the Magistrate; or

24. On a plain reading of Section 37(b)(i) of Arms Act shows that the police officer also can keep the things seized in his custody till the appearance of the said person before the Magistrate. In this case admittedly, Accused No.1 was produced before the Magistrate on 3.5.2010. Admittedly, M.Os. 1 and 2 and two hand grenades were not produced before the Magistrate on that day i.e., on 3.5.2010. So, there is clear violation of Section 37(b)(i) of Arms Act.

25. In a case between Ibrahim Musa Chauhan alias Baba.... vs. State of Maharashtra, (Criminal Appeal No.555 of 2012) on which the learned Special Public Prosecutor relied on, the Honourable Supreme Court observed,

"The appellant/accused had been in possession of arms and ammunition in an unauthorized manner. But held that the same does not in any way shown the complicity of the accused in the conspiracy relating to the blast that had been taken place on 12.3.1993."

In the above said decision there is no plea that the arms and ammunition that were seized from the possession of the accused were not sealed at the time of seizure. So, the above said decision is not helpful to the prosecution to



conclude that the failure of the police officer to proceed with the arms and ammunition in packing and sealing the said arms and ammunition is not fatal to the case of the prosecution.

26. In view of the above three decisions on which the learned Counsel for the Accused No.1 relied on, we have to extend the benefit of doubt in favour of Accused No.1 and we have to conclude that the prosecution has failed to prove the guilt of the Accused No.1 beyond all reasonable doubt for the offence under Section 25(b)(i) of Arms act.

27. It is the contention of the prosecution that there is no motive for the investigating agency to show to foist false case against the Accused No.1.

In a case between Jasbir Singh Vs State of Punjab reported in AIR1998 S.C.1660 (Criminal Appeal No.1067 of 1997), on which the Learned Special Public Prosecutor relied on, the Honourable Supreme Court observed,

"We do not find any substance in this contention because the sten gun had a number written on it and it was noted in the seizure memo and it tallied with the number found on the stengun produced in the Court. RDX powder after its seizure was kept in a sealed packet and it is proved that on examination it was reported as a highly explosive substance. A contention regarding validity of registration of the offence and the investigation that followed was also raised on the ground that no permission of the Superintendent of Police was obtained before registering the offence. We do not find any substance in this connection also."

In the above decision it was observed by the Honourable High Court that there was evidence in the case to the effect that the RDX powder after its seizure was kept in a sealed packet and it is proved that on examination it was reported as a highly explosive substance.



28. But in this case, though hand grenades alleged to have been seized from the possession of Accused No.1 were not sealed, yet the description particulars of the two hand grenades that were seized from the possession of the Accused No.1 are noted in Ex.P4 and P10 respectively. Pw2 who destroyed the two hand grenades has issued the opinion certificate under Ex.P14 also has noted the numbers of the hand grenades which are tallying with the numbers of the hand grenades that are noted in Ex.P4 and P10 respectively.

29. In the above said decision on which the learned Special Public Prosecutor relied on, the stengun that was said to have been seized from the possession of Accused No.1 was not kept in sealed packet. But, the RDX that was seized at the instance of the accused was kept in a sealed packet. In the above said decision the number written on the stengun was noted in the seizure memo. Therefore, the Honourable Supreme court has not extend benefit of doubt to the accused for not keeping the stengun seized in a sealed packet.

30. In the present case, as stated above, the numbers of the two hand grenades are noted in Exs.P4 and P10 respectively and those numbers were also noted in the opinion certificate issued by Pw3 in Ex.P14. Therefore, we cannot extend benefit of doubt to the accused for not keeping the two hand grenades in a sealed packet.

31. In another case between Kumar and another v. State of Andhra Pradesh reported in 1972(1) Andhra Weekly Reporter, page 159 on which the learned counsel for the Accused No.1 relied on, the Honourable High Court of Andhra Pradesh observed,



"The failure to break open the seals in the presence of those witnesses before whom the seals were put and whose signatures were obtained on the slips pasted to the tins (in which the "bombs" recovered were placed) is a serious infirmity and omission in the prosecution case throwing considerable doubt whether the substances which were found to be "explosive substances" by the Inspector of Explosives were identical substances that were recovered from the respective houses of the accused."

32. In this case admittedly, the hand grenades that were said to have been seized from the possession of the Accused No.1 were not sealed by Pw1 who alleged to have been seized from the possession of Accused No.1.

33. Pw3 in his evidence has stated that he has destroyed the two hand grenades after taking permission from the Court when it was found that it was not possible to diffuse them. In his evidence, Pw3 has not stated about any seals that were on the polythene bag containing the two hand grenades that were given to him. So, in this case, Pw3 has received hand grenades in a polythene bag has no seals. Therefore, the above decision is not applicable to the present case.

34. In a case between B.Konda Reddy V. State of Andhra Pradesh, reported in 1996 A.P.L.J.(CrI.)222 (HC), on which the learned counsel for the Accused No.1, relied on, the Honourable High Court of Andhra Pradesh observed,

"It is therefore clear that it is not enough for the prosecution to establish that the objects examined by the expert found to contain explosive substances, the prosecution should further establish that what were examined by him were the identical objects that were seized from the accused. The said evidence is lacking in this case. The evidence does not even purport to establish such factum. This court has therefore, have not hesitation in holding that the prosecution has not establish that the identity of the substances recovered from the accused are the very same substances that have been examined by the inspector of Explosives. This is a very serious lacuna in the case."



35. But, in this case, the numbers written on the two hand grenades were noted in Exs.P4 and P10 respectively and they were also noted in the opinion certificate issued by Pw2 who destroyed those two hand grenades. Therefore, the above said two decisions on which the learned counsel for the accused no.1 relied on are not helpful to the case of the Accused No.1. So, with the evidence of Pw1 coupled with the evidence of Pw3 and Exs.P4, P10 and P14, and in view of the decision of the Honourable Supreme Court reported in AIR 1998 SC 1660 on which the learned Special Public Prosecutor relied on, we have to conclude that the Accused No.1 was in possession of special category explosive substances on 3.5.2010 and the accused no.1 has not shown that he had in possession of those special category explosive substances for a lawful object. Hence, I am satisfied that the prosecution has proved the guilt of the Accused No.1 beyond all reasonable doubt for the offences punishable under Section 5 of Explosive Substances Act.

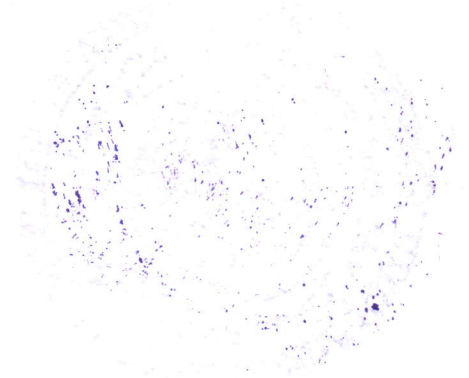
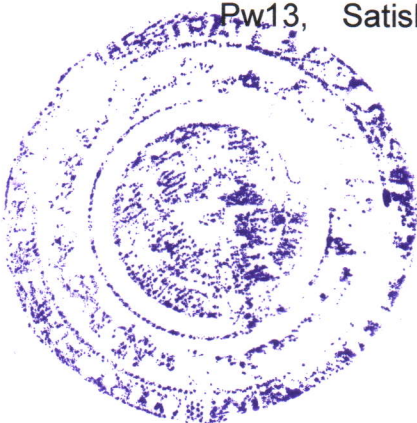
36. To prove that the Accused No.1 has conspired with the absconding Accused No.2 Abdul Aziz to wage war against the Government of India and for that he has secured arms and ammunition to do an illegal act and to create terror, the prosecution has examined Pw1, Pw2, Pw5, Pw6, Pw11, Pw14, Pw to 20. It is admitted fact that the prosecution has not produced any direct evidence to show that the Accused no.1 belongs to any particular terrorist organization. It is the case of the prosecution that Accused No.1 used to send e-mails to the absconding Accused No.2 - Abdul Aziz and he used to receive e-mails from the said absconding accused no.2 and those e-mails were in code language and the said e-mails are pertaining to the terrorist acts committed by the Accused No.1 etc. Pw5, M.Abhijit Reddy, who is said to have been running Sri Vishnu Internet Cafe, Gudimalkapur, Mahdipatnam has deposed that on



8.5.2010 Pw27, M.Prabhakar Reddy came along with Accused No.1 and the Accused No.1 has stated that he used the Cabin Nos. 3 and 4 in the Internet and then he verified the log book of his Internet and on verification he found that the Accused No.1 has used the Cabin Nos. 3 and 4 on 5.4.2010 between 1.50 pm and 4.40 pm and then on the request of Pw27 he has handed over the hard disc pertaining to the computers in the Cabin Nos. 3 and 4 (M.Os. 6 and 7). Pw6, Mohd. Mudassir Khan who used to run Internet Cafe called Aman Communications at Rein Bazaar, Hyderabad has deposed that Accused No.1 has come to his Internet Cafe on two occasions i.e., on 10.4.2010 and 17.4.2010. On 8.5.2010 Pw27 came along with Accused No.1 and the Accused No.1 at that time has stated that he has used the Cabin No.1 or Cabin No.3 in his Internet Cafe. Then, on the request of Pw27 he has removed the hard disc from the respective computers in Cabin Nos. 1 and 3 and handed over them to Pw27 and they are M.Os. 8 and 9 and he also handed over Ex.P18 the printouts of customers list particulars. The said customer particulars under Ex.P18, in the Internet Cafe of Pw6 and the log book under Ex.P16 maintained by the Internet Cafe of Pw5 does not contain the signatures of Accused No.1. So, basing on Ex.P16 and P17 we cannot conclude that the Accused No.1 has used the computers in the Internet Cafe of Pws 5 and 6.

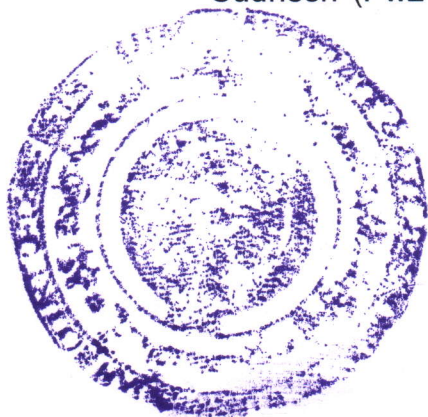
37. Pw17, B.V.S.Siva Prasad, Scientific Officer in Andhra Pradesh Forensic Science Laboratory, Hyderabad has deposed that he has analyzed the hard disks in M.Os. 6 to 9 and has prepared a report under Ex.P35 and he had annexed the printouts that he had taken which represent the data that was retrieved from the items nos. 3 and 4 along with 4 hard discs M.Os. 6 to 9.

Pw13, Satish Chand, Deputy Superintendent of Police, Information



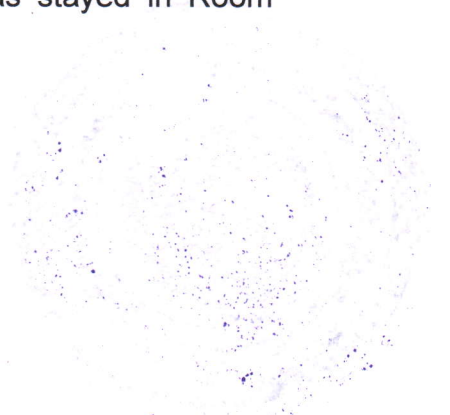
Technology Division of National Investigating Agency, New Delhi has deposed that on 4.9.2010 at 4.00 pm Pw29, Vishal Garg, Additional Superintendent of Police came along with two individuals Dishanth Chopra and Mahesh, requested him to provide computer with Internet facility and then that Pw29 brought Accused No.1 and that Accused No.1 has disclosed the ID address of two e-mails and their pass words and that Accused No.1 sat before the computer and used Internet explorer and opened roolee000@yahoo.co.in by using password "goodgood" and at the request of Pw29 he took the printouts of 22 mails from that account opened by Accused No.1 and that e-mail account indicate that e-mails were sent to sigamono@Yahoo.com.in. Ex.P30 is the said printouts and then the Accused No.1 opened another Account zoolee000@yahoo.co.in by using the password "badbad" and he took out printouts of the e-mails in that account under Ex.P31.

38. Basing on the log book under Ex.P16 without the signature of the accused no.1 seized at the Internet Cafe of Pw5 and the account statement under Ex.P17 without the signature of the accused no.1 seized from the Internet Cafe of Pw6, we cannot conclude that the Accused No.1 has used those two Internet Cafes of Pws 5 and 6 respectively. With the evidence of Pw17 and with the contents of printouts under Exs.P35 and P36, we cannot conclude that those e-mails were sent by the accused no.1 only to the absconding accused No.2. Likewise, basing on the evidence of Pws 11 and 13 and with the contents of Exs.P29, P30 and P31 without the signature of the accused no.1 in them we cannot conclude that e-mails were sent to Accused No.2. Pw19, Rakesh Kumar who is running Krishna Sweets at Sanjay Nagar, Delhi has stated that in the presence of witnesses namely Krishnaji (Pw6) and Sudhesh (Pw24), police have seized one KG sweet box (empty) – M.O.11.



Basing on the evidence of Pw19, we cannot conclude that Accused no.1 has received grenades sent by unknown courier by using said type of sweet box under M.O.11, since, there is no connecting link to presume the same.

39. In this case, Pw20, Mohd. Shabuddin, owner of Shabuddin Guest House has stated in his evidence on 3.9.2010 at about 5.00 pm, Accused No.1 was brought by the police officer Pw29 along with three more persons and also local police and the Accused No.1 shown to the police, the room no.105 situated in the second floor in the guest house. Then when the police asked him (Pw20), he produced the guest house register under Ex.P42, and the police have verified the said register and they have pointed out an entry in the said register which is marked as Ex.P43 at page no.112 at serial no.71. The said Ex.P43 is relevant entry in Ex.P42 the guest house register. Pw24, Sudhesh Kumar Sharma and Pw26 Kishanlal in their evidence has stated that in their presence Accused no.1 has shown the room no.105 of Shabuddin Guest House and the police have seized the guest house register under Ex.P42 and the relevant entry in Ex.P42 is Ex.P43 and they (Pw24 and Pw26) signed in that guest house register which are marked as Exs.P54 and P89 respectively. Pw25, P.Venugopal Rao, Central Forensic Science Laboratory has deposed that he has compared the admitted signatures and hand writings of the accused under Exs.P70 to P74 with the disputed signature of Accused No.1 in that relevant entry under Ex.P43 in Ex.P42, guest house register and has opined under Ex.P88, the opinion/report dated 22.10.2012 that the writings and signatures marked as Q1, S1, S2, S1/1 to S6/1 and A1 to A5, were all written by one and the same person. Exs.P7 to P74 are the admitted signatures and hand writings of Accused No.1. So, with the evidence of Pws 24 to 26, Pw29, Pw20, it is clear that Accused No.1 has stayed in Room



No.105 from 2.12.2005 to 4.12.2005 6.00 pm with the fictitious name Mohd. Habeeb son of Mohd. Sorif. There is absolutely no evidence on record to show that what purpose the Accused No.1 has stayed in that guest house with fictitious name.

40. Section 415 of IPC defines 'cheating'. Section 416 defines 'personation' and Section 419 is punishment for cheating by personation.

Section 415 IPC reads as follows:

Cheating:-

Whoever by deceiving any person, fraudulently or dishonesty induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation: A dishonest concealment of facts is a deception within the meaning of this section.

Section 416 IPC reads as follows:

Cheating by personation:

A person is said to "cheat by personation: if he cheats by pretending to be some other person or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation: The offence is committed whether the individual personated is a real or imaginary person.

41. Mere personation is not an offence in Indian Penal Code. Only cheating by person is punishable under Section 419 IPC. By referring the case reported in ILR 17 Calcutta 606 (Moje Case) in the Penal Law of India by Dr. S. Hari Singh Gour, 11th Edition IV Volume page 4184 as noted that,

In another case on the same facts the Sessions Judge justified the conviction on the ground that the false personation of the executant by the accused had caused harm to the Registrar. But the Court held that the "damage or harm" must be the necessary consequence of the act done by the reason of the deceit practiced, or must be necessary likely to follow therefrom. The possibility of the Registrar suffering in reputation and losing fees in future from persons debarred from



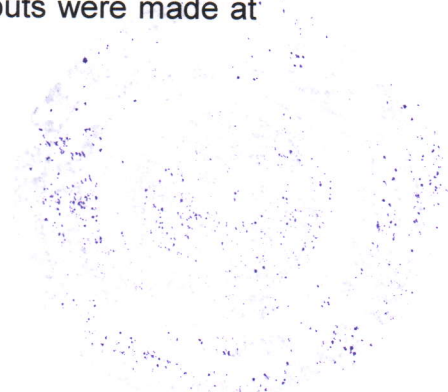
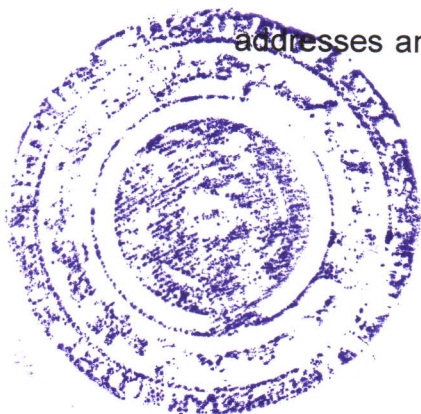
registering their transactions is too remote to be in the contemplation of Section 415."

42. Since, in this case, there is absolutely no evidence placed by the prosecution to show that the Accused No.1 by staying in the guest house of Pw20 with fictitious name has cheated any body. But, it may create some suspicion that for doing some mischief or cheating only the Accused No.1 has stayed in the said guest house with fictitious name. But, suspicion however strong cannot take the place of proof. So, I am constrained to come to the conclusion that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt for the offence under Section 419 IPC.

43. It is the contention of the learned Special Public Prosecutor for the prosecution that minor discrepancies or omissions will not effect the case of the prosecution in any way. In a case between Dowluri Krishna and Others V. State of Andhra Pradesh, reported in 2013(2) ALD (CrI.) 929 (AP), on which the learned Special Public Prosecutor relied on, the Honourable High Court of Andhra Pradesh observed,

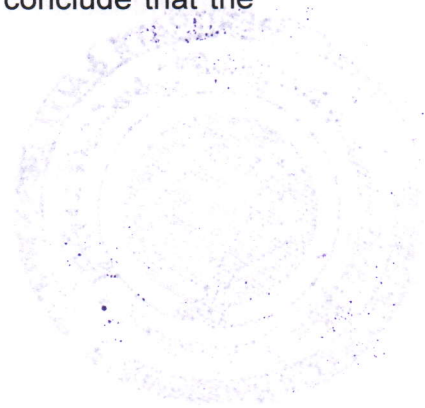
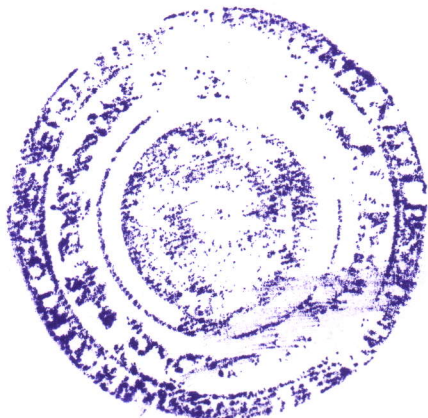
"Minor discrepancies or omissions are bound to occur even in a case of truthful witness. Those minor contradictions or omissions are of trivial in nature. They will not effect the main fabric of the prosecution case."

44. It is true in view of the above decision, we can conclude that minor discrepancies or omissions will not going to effect the fabric of the prosecution case. In this case, prosecution has not produced any direct evidence to show that Accused No.1 has links with any terrorist organization or that the Accused NO.1 has committed any terrorist act. In his evidence, Pw13 has stated that Ex.P30 and P31 printouts of e-mails said to have been obtained by this Pw13 when the Accused No.1 himself opened his e-mail account by using ID addresses and pass words do not indicate that those printouts were made at



Delhi. Pw13 also deposed that Ex.P29, the disclosure seizure panchanama dated 4.9.2010 at PS of NIA, New Delhi does not mention number of printouts made on that day. Pw13 also deposed that while looking at Exs.P30 and P31 one cannot say the place or the country from it was sent or the place and country in which it is received. He also stated voluntarily that the Forensic Expert by analyzing "Full Header" by opening e-mail account could gather the information of the place of origination and from which computer it was sent and the place of receipt of e-mail. He admitted that service provider of Internet and Yahoo, together alone can furnish information about the origination of e-mail and the place where it was received. In this case there is no evidence on record to show that who is the service provider for the Vishnu Internet Cafe run by Pw5 from which Accused No.1 alleged to have been sent e-mails. Pw6 has stated that BSNL was the service provider to his Internet Cafe called Aman Communications Internet Cafe at Rein Bazaar, Hyderabad. The investigating agency has not taken any steps to ascertain the service provider of Pw5 and also has not taken any steps to get the service providers of Pw5 and Pw6 and Yahoo Company together furnish information about the origin of e-mails containing Exs.P30 and P31.

45. In this case, it is the contention of the learned counsel for the Accused No.1 that if the police would have been made the videographs of the Accused No.1 when he was opening his alleged Internet Account by using pass words by himself, the matter would be different. In the absence of any such evidence, the oral evidence of Pw13 is of no use. It is true that as the prosecution has not able to produce the evidence to show that the e-mails shown in Exs.P30 and P31 were sent from which place or country and in that place or the country in which they were received. Therefore, we cannot conclude that the

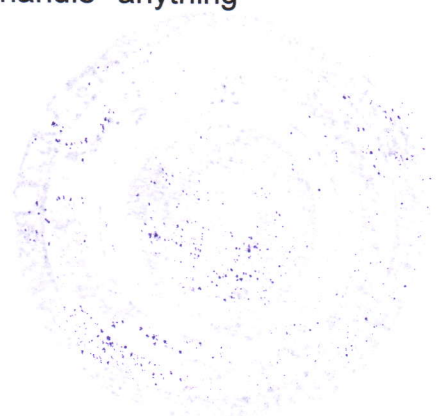
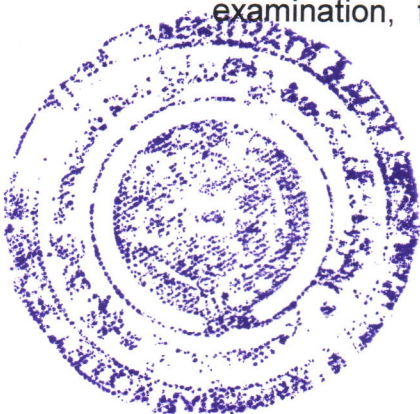


Accused No.1 has sent the e-mails found in Exs.P30 and P31 from Hyderabad to the absconding accused No.2 in abroad.

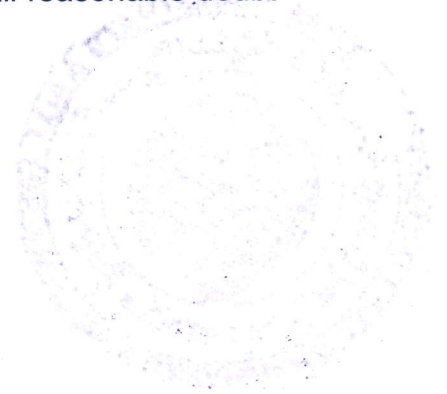
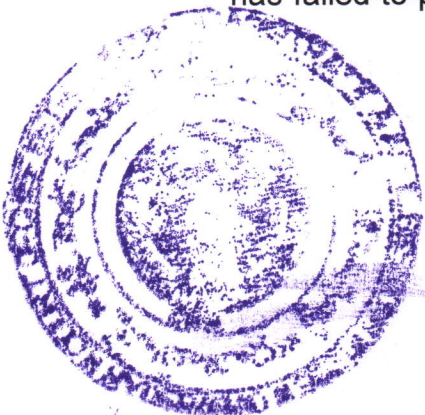
46.It is true that the said LeT (Laskher-e-Taiba) is included in Serial NO.5 of the Schedule attached in Unlawful Activities (Prevention) Act, 1967. In this case, there is absolutely there is no evidence on record to show that Accused No.1 is a member of a terrorist gang or organization especially LeT (Laskher-e-Taiba).

47.It is the contention of the learned Special Public Prosecutor for the prosecution that the Accused No.1 has not given any explanation for his not possessing passport obtained by him. It is true that the Accused NO.1 has not produced the passport that was obtained by him in the year 1995. In his statement under section 313 Cr.P.C., the Accused No.1 has stated that by keeping him in illegal custody for four days, the police have him to his house and in his house they have taken his driving licence, bank cheques, travel licence, pan card and passport from his house. Counter Intelligence Officer have come to his house on that day. It is an admitted fact that the police have seized driving licence, bank cheques, pan card, four bills, domestic gas connection card from the house of Accused No.1 and when Accused No.1 produced the same.

48.In her evidence Pw23, Passport Granting Officer has stated that Accused No.1 has applied for passport in the year 2006, vide No.A/075633/06 and no passport was issued on that application since, there was adverse police report indicating that the said individual was not living in that address. During cross examination, this Pw23 has admitted that she did not handle anything



concerning the above activities and she only deposed from what is available on record. She denied the suggestion that Ex.P53 application was not made by Accused No.1 and it does not contain his signature. Ex.P43 is the photo copy of application form said to have been submitted by the Accused No.1 to the Passport Authorities. The original passport application said to have been submitted by Accused No.1 i.e., original of Ex.P53 not produced by Pw23. The signature on Ex.P53 was not sent to the Hand Writing Expert for comparison of the same with the admitted signatures and handwritings of Accused No.1. Admittedly, Pw23 is not the person that has received the application under the original of Ex.P53. So, basing on the evidence of Pw23 and Ex.P53, we cannot conclude that the Accused No.1 has applied for passport for the second time with false address and information. Further, basing on the failure of the Accused not producing the passport that was issued to him in the year 1995 when he has stated that the said passport was also seized by the police when he produced it at his house, it cannot be concluded that the passport that was issued to him in the year 1995 was seized by the terrorist organization in abroad. It is an admitted fact that Accused No.1 went to abroad with valid passport. It is also admitted fact that the Accused No.1 returned to India from abroad. It is the case of the prosecution that he returned to India by illegal means. In the absence of any evidence to that effect, we cannot conclude that the Accused No.1 who went to abroad with valid passport has returned to India by illegal means without using his valid passport. Therefore, as there is absolutely no evidence on record to show that the Accused No.1 is a member of terrorist gang or terrorist organization as notified in the Schedule to the Unlawful Activities (Prevention) Act, 1967, I am constrained to come to the conclusion that the prosecution has failed to prove the guilt of the Accused No.1 beyond all reasonable doubt.



for the offence under Section 20 of Unlawful Activities (Prevention) Act, 1967.

49. It is the case of the prosecution that the Accused No.1 has conspired with the absconding Accused No.2 to do terrorist acts in India. In a case between P.K.Narayanan V. State of Kerala, reported in 1994 (3) Crimes page 850 on which the learned counsel for the Accused No. relied on, the Honourable Supreme Court of India observed,

"The ingredients of this offence are that there should be an agreement between the persons who are alleged to conspire and the said agreement should be for doing of an illegal act for doing by illegal means an act which by itself may not be illegal. Therefore the essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both and it is a matter of common experience that direct evidence to prove conspiracy is rarely available. Therefore the circumstances proved before, during and after the occurrence have to be considered to decide about the complicity of the accused. But, if those circumstances are compatible also with the innocence of the accused persons then it can be held that the prosecution has successfully established its case. Even if some acts are proved to have been committed it must be clear that they were so committed in pursuance of an agreement made between the accused who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation."

50. As per section of 2 (k) of Unlawful Activities (Prevention) Act, 1967 defines the terrorist act as follows:

(k) "terrorist act" has the meaning assigned to it in section 15, and the expressions "terrorism" and the "terrorist" shall be construed accordingly.

Section 2(o) Unlawful Activities (Prevention) Act, 1967 defines unlawful activity as follows;

(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),--

51. There is absolutely no evidence on record to show that Accused No.1 has



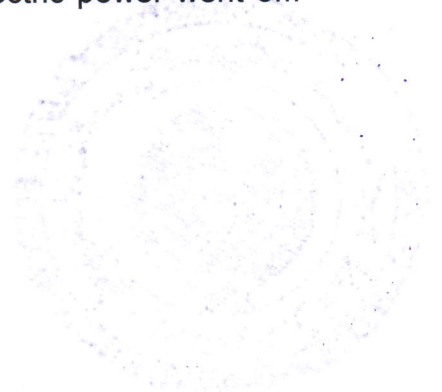
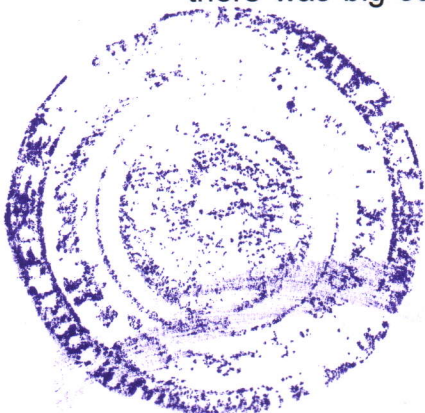
committed any terrorist activities or unlawful activities as defined under section 2(k) and 2(o) respectively of the Unlawful Activities (Prevention) Act, 1967. In this case, the identity of Accused No.2 itself is not established . There is also no evidence on record to show that Accused No.2 is a terrorist or he did any terrorist activity at any time and there is also no evidence on record to show that Accused No.1 herein has conspired with the absconding accused No.2 to do any terrorist act or unlawful activity.

52. Section 18 of Unlawful Activities (Prevention) Act, 1967 reads as follows:

Punishment for conspiracy, etc.--Whoever conspires or attempts to commit, or advocates, abets, advises, or incites or knowingly facilitates the commission of a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

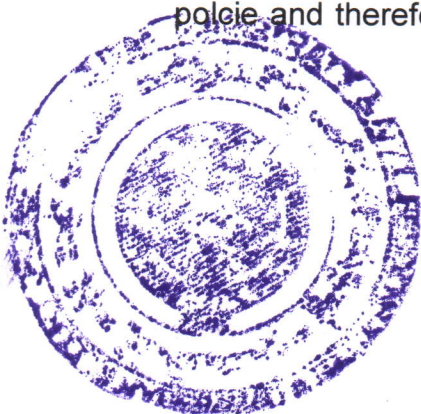
53. Since, there is absolutely no evidence on record that the Accused No.1 conspired with any body particularly with the absconding Accused No.2 and did or advocates, abets, advised or incites or knowingly facilitates the commission of a terrorist act, or any any preparatory to the commission of a terrorist act, I am constrained to come to conclusion that the prosecution has failed to prove the guilt of the accused no.1 beyond all reasonable doubt for the offence under Section 18 of Unlawful Activities (Prevention) Act, 1967 and also Section 120-B of IPC.

54. In this case, prosecution has examined Pw12, M.Radhika. In her evidence she stated that about six years ago, she went to a movie called "Lakshmi" in Odeon Theater for second show along with four others and at 10.00 pm, when the movie was commenced and which was before interval of the said movie, there was big sound like that of crackers sound and electric power went off.



The sound was like a bomb sound. She sustained injury on her left leg. She does not know who was responsible for the said blast. She was taken to Gandhi Hospital and from there to Sriram Hospital and police recorded her statement. This Pw12 has not stated anything against the Accused No.1. So, with her evidence we cannot conclude that the Accused No.1 was the person responsible for the blast in the Odeon Theater.

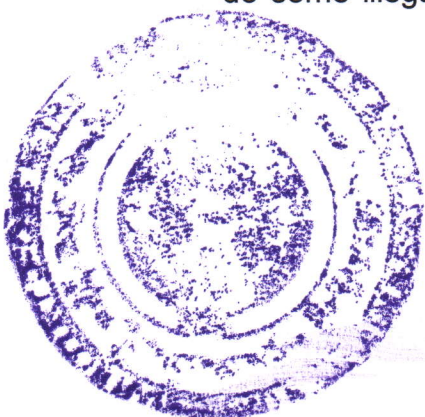
55. In this case, the prosecution has established that two hand grenades were in possession of the Accused No.1 and they were seized from the possession of him. Pw29, Vishal Garg one of the investigating officers in this case has deposed that he has requested the other State police to inform him about any seizure of hand grenades by them during the last five years and to regarding provide information the make of hand grenades, manufacturing country and the name of terrorist group if they know behind the said hand grenades. On that he received report under Ex.P103 from ATS (Anti Terrorist Squad), Mumbai that they have seized 50 grenades having series No.86P-01-03-632 were recovered from Manmad in May, 2006. He received report under Ex.P102 from the Special Cell, Delhi police regarding the two grenades recovered by them in February, 2007 having series No.86P-01-03-632. Those two reports were compared with the reports in this case received from Bomb Disposal Squad, Hyderabad and all the three reports matches, which shows that PAN India terrorist activities. In his evidence, Pw29 has admitted that in Exs. P102 and P103 the name of the country or origin of the hand grenades are not noted. He denied the suggestion during cross examination by the learned counsel for the Accused No.1 that the series numbers of the hand grenades said to have been seized in this case were already available with the police and therefore, they used them to implicated the Accused in this case.



It is true that in his opinion under Ex.P14, Pw3, Dr. T.M.Suri, Inspector of Police, Bomb Disposal Team, Crime Investigation Department, Hyderabad has given the numbers of the two hand grenades that were destroyed by him. One grenade is described as China origin bearing no. 86P-01-03-362 and another is of China's bearing no. 82-25-01-03-660. So, one of the grenades no.86P-01-03-632 noted in Ex.P14 is tallying with the hand grenade numbers noted in Ex.P102 and P103. On perusal of Ex.P102, report received from Special Cell, Delhi, dated 5.10.2010, we found that no hand grenade bearing no. 86P-01-03-632 was referred in it. When we peruse the report under Ex.P103, received from ATS, Mumbai, there is mention that hand grenade no. 86P-01-03-632. So, the evidence of P29 is not corroborated with Ex.P102 but, it is corroborating with Ex.P103.

56.It is the contention of the Learned Special Public Prosecutor for the prosecution that as the prosecution has able to prove that the Accused No.1 was in possession of those two hand grenades, we can infer that the Accused No.1 was in possession of those two hand grenades for the purpose of waging war against the Government of India and that he is a member of terrorist organization and that he conspired with the a member of terrorist organization to committal unlawful activities. In a case between Sucha Singh Vs. State of Punjab (Appeal (crl.) 24 of 2001) on the file of Honourable Supreme Court of India)(obtained from India Kanoon – <http://indiakanoon.org/doc/1832541/>.

57.Since, in this case the prosecution has not proved that there was an agreement between the Accused No.1 with the absconding Accused No.2 to do some illegal acts, we cannot throw burden on the Accused No.1 to prove

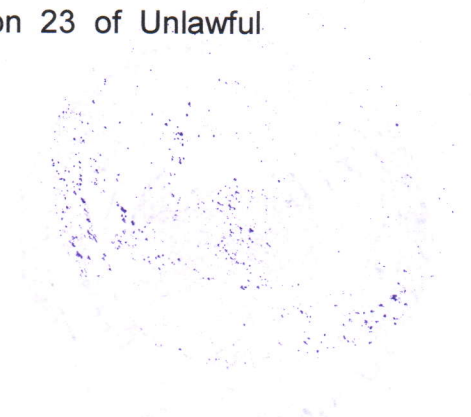
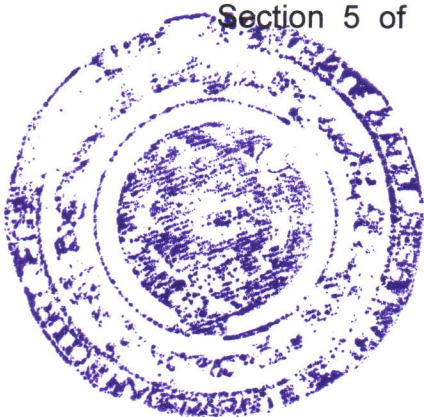


his innocence by invoking the Section 106 of Indian Evidence Act.

58.The prosecution has not examined the officers concerned with Ex.P102 and Ex.P103. Since, the evidence of Pw29 is not corroborated with Ex.P102, we cannot give much weight to these Exs.P102 and P103 in the absence of the evidence of the officers who issued those Exs.P102 and P103. It is true that the prosecution has proved in this case that the Accused No.1 was in possession of two hand grenades, but, when the Accused No.1 is found in possession of two hand grenades, we automatically cannot conclude that he was keeping those hand grenades for the purpose of waging war against the Government of India or State Government. With this evidence of Pw29 who is one of the investigating officers in this case, we cannot conclude that the Accused No.1 who was found in possession of two hand grenades was keeping them for the purpose of terrorist activities to wage war against the Government of India. In view of my above discussion, I am constrained to come to the conclusion that the prosecution has failed to prove the guilt of the Accused No.1 beyond all reasonable doubt for the offence under Section 122 of Indian Penal Code.

59.In view of my above findings, the points Nos.1, 3, 4, 5, 6 and 7 are hereby answered against the prosecution. In view of my findings with respect of the point no.2, is concerned, I hold that the prosecution has proved the guilt of the Accused No.1 beyond reasonable doubt for the offence under Section 5 of Explosive Substances Act, 1908 only.

60.The second charge that was framed against the Accused No.1 is under Section 5 of Explosive Substances Act read with Section 23 of Unlawful



Activities (Prevention) Act, 1967. Since, I hold that the prosecution has failed to prove the offences under Sections 18 and 20 of Unlawful Activities (Prevention) Act 1967, we cannot invoke the Section 23 of Unlawful Activities (Prevention) Act 1967 to impose enhanced punishment or penalty to the Accused No.1 for the offence under Section 5 of Explosive Substances Act, 1908. Hence, point no.2 is hereby allowed party to the extent of Section 5 of Explosive Substances Act, 1908 only in favour of the prosecution.

61. In view of my findings on Points Nos.1 and 3 to 7, the Accused No.1 is found not guilty for the offences punishable under Section 25(1B)(a) of Arms Act read with section 23 of Unlawful Activities (Prevention) Act 1967, Sections 20 and 18 of Unlawful Activities (Prevention) Act 1967, Sections 122 and 120-B and 419 of IPC. Accordingly the Accused No.1 is acquitted under Section 235 (1) of Cr.P.C., for the offences under Section 25(1B)(a) of Arms Act read with section 23 of Unlawful Activities (Prevention) Act 1967, Sections 20 and 18 of Unlawful Activities (Prevention) Act 1967, Sections 122 and 120-B and 419 of IPC. In view of my finding on Point No.(2), the Accused No.1 is found guilty of the offence punishable under Section 5(b) of Explosive Substances Act, 1908.

62. Hence, the Accused No.1 is found guilty of the offence punishable under Section 5 (b) of Explosive Substances Act, 1908 and he is convicted under Section 235(2) of Cr.P.C.

Dictated to the Personal Assistant, transcribed by him, corrected and pronounced by me in the open court, this the 29th day of January, 2014.

Sd/-

**I ADDL. METROPOLITAN SESSIONS JUDGE,
CUM SPECIAL JUDGE FOR TRIAL OF CASES
UNDER NATIONAL INVESTIGATION AGENCY
ACT, HYDERABAD.**



63.The Accused No.1 is heard with regard to the question of sentence. The accused No.1 pleaded mercy of the Court stating that he is in judicial custody since about four years. He is having three children and wife and aged parents and he is the sole bread winner of his family and requested the court to order for set off of the period of detention already under gone by him as the sentence in this case.

64.Considering the plea of the Accused No.1 and other circumstances of this case, including the nature of the offence proved against the Accused No.1, I am of the view that it is not a fit case where we can invoke the provisions of the Probation of Offenders Act.

65.In the result, the Accused No.1 is convicted under Section 235(2) of Cr.P.C., and sentenced to under go Rigorous Imprisonment for seven years and also to pay fine of Rs.1,000/- (Rupees One Thousands Only) in default of payment of fine, to under go simple imprisonment for six months for the offence under Section 5(b) of Explosive Substances Act, 1908. Accused No.1 is acquitted under Section 235(1) of Cr.P.C., for the offences under Sections 25(1B)(a) of Arms Act read with Section 23 of Unlawful Activities (Prevention) Act, 1967, Sections 20 and 18 of Unlawful Activities (Prevention) Act, 1967 and Sections 122, 120-B and 419 of IPC. The period of detention already under gone by the Accused No.1 during the course of investigation and trial of this case shall be set off against the sentence of imprisonment imposed by this Court in this case under Section 428 of Cr.P.C. M.Os. 2 to 12 shall be destroyed and M.O.1 which is a fire arm shall be sent to the Armory for disposal in accordance with Law after disposal of the split up case in Special S.C.No.1/2013 which is pending against the Accused No.2. The Accused No.1



is informed that if he is not having means to prefer an appeal against the judgement of this court he can avail free legal aid from A.P. State Legal Services Authority through the Superintendent, Central Prison concerned.

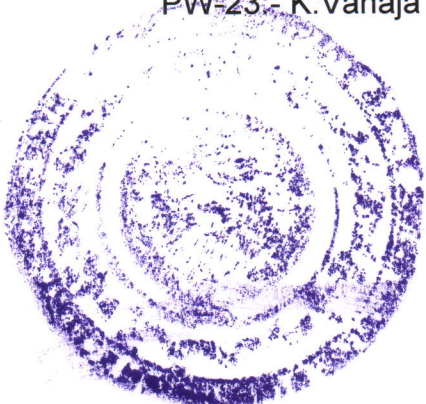
Dictated to the Personal Assistant, transcribed by him, corrected and pronounced by me in the open court, this the 29th day of January, 2014.

Sd/-
I ADDL. METROPOLITAN SESSIONS JUDGE,
CUM SPECIAL JUDGE FOR TRIAL OF CASES
UNDER NATIONAL INVESTIGATION AGENCY
ACT, HYDERABAD.

:APPENDIX OF EVIDENCE:

WITNESS EXAMINED FOR PROSECUTION:-

- PW-1:- P.Madhukar Swamy (Inspector of police, SIT, Hyderabad)
- PW-2:- M.Karunakar (Tahsildar of Ameerpet mandal)
- PW-3:- T.M.Suri. (Inspector, Bomb Squad, Hyderabad)
- PW-4:- Abdul Qavi
- PW-5:- M.Abijit Reddy (Who ran Sri Vishnu Internet Cafe at
Gudimalkapur, Mehidipatnam)
- PW-6:- Mohd Mudassir Khan (Who ran Aman Communications Internet Cafe at
Rein Bazar, Hyderabad)
- PW-7:- K.Sreenivas Rao (Head operator in ABN Amro Bank)
- PW-8:- Mohd Sadiq Ali (Owner of the shop selling mobile recharge coupons)
- PW-9:- Dr.V.Venkateshwarlu (Scientific officer in APFSL)
- PW-10:- Mohd Airf (Who leases cars and vehicles)
- PW-11:- Mahesh (Who worked in a competent software Pvt., Ltd.,)
- PW-12:- M.Radhika
- PW-13:- Satish Chand (Dy.Superintendent of police)
- PW-14:- Ashok Kumar Bawalia (Under Secretary, Ministry of Home Affairs)
- PW-15:- D.Anjaneyulu
- PW-16:- Mohd Moinuddin Hassan Khan (Asst. Director, Forensic Science
Laboratory)
- PW-17:- B.V.S.Siva Prasad (Scientific Officer in APFSL)
- PW-18:- K.Satya Prasad (Chief Manager of Andhra Bank, Mehdipatnam branch,
Hyd)
- PW-19:- Rakesh Kumar
- PW-20:- Mohd Shabuddin (Owner of a Shahabuddin Guest house)
- PW-21:- Kishore Mohan Chatlani (Manager of ICICI Bank, Charminar Branch,
Hyderabad)
- PW-22:- P.Subbaiah (Inspector of police in Bhavani Nagar Law and Order police
station)
- PW-23:- K.Vanaja Venkatarama



PW-24:- Sudhesh Kumar Sharma (LIC Record clerk)
 PW-25:- P.Venugopala Rao (Scientist-B in CFSL, Ramanthapur, Hyderabad)
 PW-26:- Kishan Lal
 PW-27:- M.Prabhakar Reddy (ACP, Special Investigation Team, Hyderabad)
 PW-28:-K.Babu Rao (Assistant Commissioner of police, CCS, Detective Department)
 PW-29:- Vishal Garg (Additional Superintendent of police, NIA, New Delhi).
 PW-30:- Gulzar Natrajan (District Collector-cum-District Magistrate, Hyderabad)

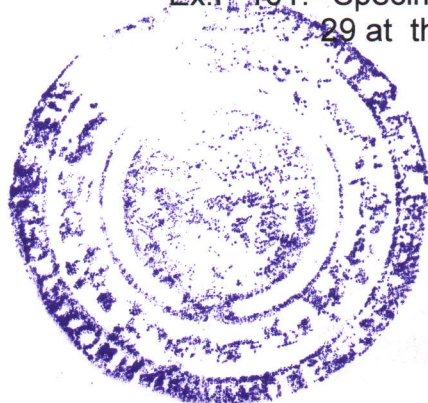
WITNESS EXAMINED FOR DEFENCE:- - Nil -

EXHIBITS MARKED FOR PROSECUTION:-

Ex.P-1:- Driving License of the accused.
 Ex.P-2:- PAN Card
 Ex.P-3:- Registration Certificate of two wheeler vehicle of the accused.
 Ex.P-4:- Admissible portion of Confession Cum seizure panchanama dated:3-5-2010.
 Ex.P-5:- Cheque book of ICICI Bank for A/c.No.024201507796.
 Ex.P-6:- Cheque book of ABN Amro bank for A/c.No.1439169.
 Ex.P-7:- Pass book of Andhra Bank with A/c.No.085401100022797
 Ex.P-8:- Electricity Bill.
 Ex.P-9:- Domestic Gas Connection card.
 Ex.P-10:- Seizure report make at the house of the accused.
 Ex.P-11:- Complaint given by PW-1.
 Ex.P-12:- Requisition dated:20-5-2010 to the Hon'ble Court seeking permission to destroy the grenades.
 Ex.P-13:- Granted permission letter on 21-5-2010.
 Ex.P-14:- Opinion given by PW-3.
 Ex.P-15:- Copy of Trade License issued by G.H.M.C.
 Ex.P-16:- is the Log Book.
 Ex.P-17:- Hand writing of PW-5
 Ex.P-18:- Printout of customers list in the shop of PW-6.
 Ex.P-19:- Entry dated:10-4-2010 in Ex.P-18.
 Ex.P-20:- Entry dated:27-4-2010 in Ex.P-18.
 Ex.P-21:- State of Account of Sri Mohd.Zia-UI-Haq
 Ex.P-22:- Cheque bearing no.492716 dated:9-4-2008 drawn by the customer of Ex.P-21.
 Ex.P-23:- Bunch of cash deposit slip or cheque deposit slips 13 in number.
 Ex.P-24:- Letter addressed by PW-7 to Sri Vishal Garg.
 Ex.P-25:- Account opening form of customer of Ex.P-21.
 Ex.P-26:- Statement of account of the customer maintained by bank.
 Ex.P-27:- Signature of PW- 8 on panchanama.
 Ex.P-28:- Report given by PW-9 dated:22-6-2010.
 Ex.P-29:- Part of the panchanama marked.
 Ex.P-30:- Printouts of e-mails.
 Ex.P-31:- Printouts of e-mails.
 Ex.P-32:- Sanction orders dated:27/28-10-2010.
 Ex.P-33:- Admissible portion of seizure panchanama.
 Ex.P-34:- FSL report given by PW-16.
 Ex.P-35:- FSL report given by PW-17.
 Ex.P-36:- Printout containing 9 sheets bearing PW-17's section seal.
 Ex.P-37:- Printout of account of accused Zia-UI-Haq.
 Ex.P-38:- Photo copy of Voter ID card, Gas Voucher of accused Zia-UI-Haq.



- Ex.P-39:- Credit voucher containing 61 in number of accused Zia-UI-Haq.
- Ex.P-40:- Original withdrawal slips and cheques totaling 26.
- Ex.P-41:- Signature of PW-19 on Seizure report dated:3-9-2010.
- Ex.P-42:- Shabuddin Guest House Register.
- Ex.P-43:- Stamped entry at page 112 in Ex.P-42 register.
- Ex.P-44:- Account opening form.
- Ex.P-45:- Transactions in that account by cash deposit slips and cheques.
- Ex.P-46:- Statement of account which is given by Pw-21.
- Ex.P-47:- FIR in Cr.No.49/2010
- Ex.P-48:- Letter Dt.12-5-2010 issued by P.J.Mane, to the Dy. Commissioner.
- Ex.P-49:- Attested copy of Passport Application dt.11-1-1995.
- Ex.P-50:- Attested copy of Ration card.
- Ex.P-51:- Attested copy of the affidavit of Mohd Zia-UI-Haq declaring his date of birth.
- Ex.P-52:- Attested copy of data available on passport information service on net.
- Ex.P-53:- Attested copy of passport application of Mohd Zia-UI-Haq.
- Ex.P-54:- Signature on PW-24 on Ex.P-42.
- Ex.P-55 to P-68:- Signatures of PW-24 on Confession report, Seizure reports, Scene of offence description.
- Ex.P-69:- Disputed signature marked as Q.1 in Ex.P-42 at page no.112.
- Ex.P-70:- specimen writing of the person concerned marked as S.1.
- Ex.P-71:- Specimen writing which is marked as S.2.
- Ex.P-72:- Specimen writing which is marked as S.3.
- Ex.P-73:- Specimen writing which is marked as S.4.
- Ex.P-74:- Specimen writing which is marked as S.5.
- Ex.P-75:- Admitting writing marked as A1 and A2.
- Ex.P-76:- Admitting writing marked as A3.
- Ex.P-77:- Admitting writing marked as A4.
- Ex.P-78:- Admitting writing marked as A5.
- Ex.P-79:- Opinion of PW-25 bearing no.CH-214/2010, Dt.13-1-2011.
- Ex.P-80:- Letter of Laboratory dt.27-12-2011.
- Ex.P-81 to P-86:- Specimen writings marked as S.1/1 to S.6/1.
- Ex.P-87:- Forwarding letter dated:7-11-2012.
- Ex.P-88:- Opinion of PW-25.
- Ex.P-89:- Signature of PW-26 at relevant entry in Ex.P-42.
- Ex.P-90:- Seizure report dated:3-9-2010 at 4-30 pm at Shabuddin Guest House.
- Ex.P-91:- Seizure report dated:3-9-2010 at 7-00 pm at Krishna Sweet Corner.
- Ex.P-92:-Admissible portion in the confession of the accused dated:3-9-2010 at 1-20 pm.
- Ex.P-93:- Admissible portion in the panchanama dated:8-5-2010 at 14.00 hrs.
- Ex.P-94:- Letter dated:8-5-2010 calling for details regarding the cell number 9848118509.
- Ex.P-95:- Letter dated:8-5-2010 calling for details regarding the cell number 8096059680.
- Ex.P-96:- Reply received from Idea Cellular Communications with regard to the details of the cell number 9848118509.
- Ex.P-97:- Reply received from Idea Cellular communications with regard to the details of the cell number 8096059680.
- Ex.P-98:- Call details of cell number 9849118509.
- Ex.P-99:- Covering letter from Second Nodal Officer, Reliance Communication dated:12-5-2010.
- Ex.P-100:- Original FIR in Cr.No.8/2010 of NIA police station, New Delhi.
- Ex.P-101:- Specimen signatures of the accused obtained in two sheets by PW-29 at the guest house.



Ex.P-102:- Report received from Special Cell Delhi, Dated:5-10-2010.

Ex.P-103:- Report received from Anti Terrorism Squad, Mumbai Dated:2-10-2010.

Ex.P-104:- Sanction orders dated:24-9-2010 issued by PW-30.

EXHIBITS MARKED FOR DEFENCE:- - Nil -

MATERIAL OBJECTS MARKED:-

MO-1:- Pistol

MO-2:- Set of six cartridges.

MO-3:- Card Board Box

MO-4:- Small bottle into which PW-3 had chemicals.

MO-5:- Remnant that was collected by PW-3 into MO-3 box.

MO-6:- Hard disk from cabin no.3 of PW-5 Internet Cafe.

MO-7:- Hard disk from cabin no.4 of PW-5 Internet Cafe.

MO-8:- Hard disk of Seagates.

MO-9:- Hard disk of Seagates.

MO-10:- Opened Jute Parcel.

MO-11:- Spl.Ghewar card board box containing PW-19 signature.

MO-12:- Mobile Phone of LG make of Reliance.

Sd/-
**I ADDL. METROPOLITAN SESSIONS JUDGE,
 CUM SPECIAL JUDGE FOR TRIAL OF CASES
 UNDER NATIONAL INVESTIGATION AGENCY
 ACT, HYDERABAD.**

// true copy //

@
29/1/14.

**I Addl. Metropolitan Sessions Judge
 HYDERABAD.**

