



Rizvi Law College
10TH RLC SAQUIB RIZVI MEMORIAL NATIONAL
MOOT COURT COMPETITION 2019-20

Moot Proposition

Disclaimer: This case is purely fictional. Any resemblance to names, properties and associations is purely co-incidental.

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Brief Facts

On 23/01/2017 around at 11:45 PM Shabnam Khan (hereinafter referred to as the “Victim”) went to a shop across the street to purchase biscuits. While the victim was crossing the road to return back to her house, a green colour Qualis vehicle bearing Registration Number MH 06 T 2940 came and stopped in front of her. Ramesh Gaitonde (hereinafter referred to as the “Accused”) took out a knife and held it over her neck and threatened her to board the vehicle. The accused was accompanied by one more person. After the victim boarded the vehicle the accused drove the vehicle towards Dargah Galli, Hussain Patel Marg, Dockyard, Mazgaon Road. After reaching the above-mentioned spot the accused threatened her to hand over the money she possessed on her person. Upon her refusal to having any money, the accused slit her left arm with the knife. Thereafter the accused forcibly removed cash amount of Rs. 15000/- and white colour Samsung Mobile Phone from the pocket of the victim’s pant. In the meanwhile, one police van was passing by from the said place as a result of which the accused and his associate concealed their presence by hiding in a dark corner and at that time the victim escaped to save her life.

After reaching back to her place of residence the victim inquired with Pakhi and Asma who had witnessed the incident as to why they did not make any attempt to save her, to which they disclosed that they are afraid of Accused as he is a criminal minded person.

After discussing the incident with Pakhi and Asma the victim visited Byculla Police Station at about 01:45 AM to lodge the FIR bearing Number 184/17 dated 24/01/17.

After lodging of F.I.R. the case was handed over to P.I Sunil Vasant Salave to investigate the matter. Associate of the accused is absconding. The accused took a defence of total deniability in his statement under Section 313 of Cr.PC.

The learned Sessions Court convicted the Accused under Section 397, 365 read with 34 of IPC and sentenced him to undergo rigorous imprisonment for 7 years. The Accused being aggrieved by the Judgment of the learned Sessions Court has now preferred an Appeal before the Hon’ble High Court of Bombay to reverse the order of conviction.

The matter is now posted for final hearing.

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

1. **District:** Mumbai **Police Station:** Byculla **Year:** 2017 **FIR No:** 184/17 **Date:** 24/01/2017

2. **Act:** I.P.C. **Sections:** 365, 397, 34

3. Occurrence of offence:

Day: Monday **Date:** 23/01/2017

Time: 11:45 PM

Information received at Police Station:

Date: 24/01/2017 **Time:** 02:45 AM

General Diary Reference:

Entry No: 07/17 **Time:** 03:45 AM

Type of Information: Personal **Written/Oral:** Oral

4. Place of Occurrence:

Address: Dargah Galli, Hussain Patel Marg, Dockyard Mazgaon Road, Mumbai-400010

Name of P.S. Byculla **District:** Mumbai

6. Complainant / Informant:

(a) **Name:** Shabnam Khan

(b) **Date/Year of Birth:** 23 years

(c) **Nationality:** Indian

(f) **Occupation:** Housemaid

(g) **Address:** Zopdi No. 21, Wadi Bunder Road, B.P.T. Colony Mazgaon, Mumbai-400010

7. Details of Accused:

(1) Ramesh Gaitonde along with his one associate

8. Particulars of properties stolen: Rs. 15000/- and Rs. 5000/- worth Samsung Galaxy Phone

9. Total value of property stolen: Rs. 20000/-

10. F.I.R brief contents:

At around 11:45 p.m. at Wadi Bunder Road, Zopadpatti, B.P.T. Colony, Mazgaon, Mumbai-400010, Ramesh Gaitonde along with his one associate forcibly caught hold of me, held a knife to my neck and forcibly took me in their car and drove me to Dargah Galli, Hussain Patel Marg, Dockyard Mazgaon Road, Mumbai-400010 and over there he slit my arm with a knife and thereafter he removed Rs 15000 from my left pocket and also snatched my mobile phone and therefore I am lodging this F.I.R.

F.I.R. read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant /informant, free of cost.

R.O.A.C.

Sd/-

Signature of Officer in charge, Police Station

Name: Amar Shivaji Denge

Rank: Assistant Police Inspector

11. Signature / Thumb impression of Complainant/ Informant

Date and time of dispatched to the court: 25th January 2017 at 12:30 PM

AT THE HON'BLE COURT OF SESSION AT GREATER BOMBAY

CASE NUMBER: 56/2017

STATE OF MAHARASHTRA

...PROSECUTION

VS.

RAMESH GAITONDE

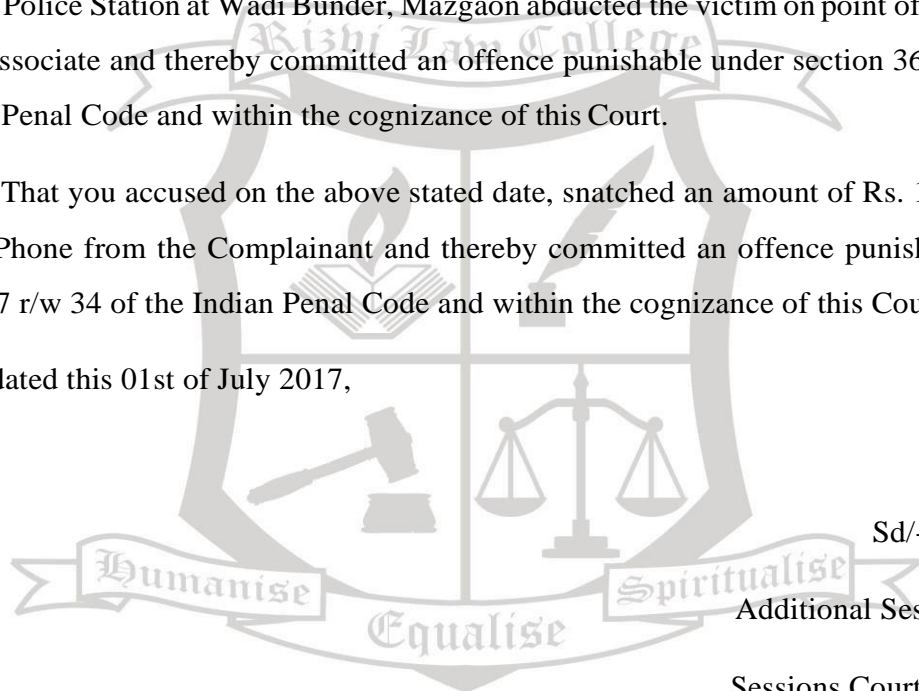
...ACCUSED

THE CHARGE

Firstly: That you accused on 23/01/17, in between 23:30 till 01:45 hours within the jurisdiction of Byculla Police Station at Wadi Bunder, Mazgaon abducted the victim on point of knife along with one associate and thereby committed an offence punishable under section 365 r/w 34 of the Indian Penal Code and within the cognizance of this Court.

Secondly: That you accused on the above stated date, snatched an amount of Rs. 15000/- and a Mobile Phone from the Complainant and thereby committed an offence punishable under section 397 r/w 34 of the Indian Penal Code and within the cognizance of this Court.

Mumbai, dated this 01st of July 2017,



Sd/-

Additional Session Judge

Sessions Court at Mumbai

SIR B.J.M. GROUP OF GOVT. HOSPITAL, MUMBAI

INJURY CERTIFICATE

15786

To,

The Investigation Officer Byculla Police Station Ref. Letter No. 11996/17 Date: 10/02/2017.

Name of the Patient: Shabnam Khan

Date & Time of Examination: 24/01/2017

Consent for Examination: YES

Brought & Identified by Police Constable WPC 0902103 P.S. Byculla

History of the Incidence: Assault manually around 12:00 AM

Sr. No.	Nature of Injury	Size of Injury (Length and Breadth) & Depth Direction	Site of Injury	Simple or Grievous or Dangerous to Life	Kind of Weapon Used	Age of Injury Hours/Day	Remark (OPD/IPD/DEATH)
1.	Incised wound	4 cm cut	Left Arm (lateral to bicep)	Simple	Sharp Object	Fresh	OPD Inj. Diclofenance 3cc Tab. Ibuprofen

Opinion of Specialist: Incised wound caused by sharp-force trauma probably by a sharp-edged object.

1. Marks of Identification: 4cm incision on Left Arm

Sd/-

Place: BJM Hospital Date & Time: 10/02/2017 Name of HOD/RMO/Doctor: Dr. Madhuri Malve

HOD/RMO/Doctor

BJM Hospital, Mumbai

EVIDENCE

Deposition of Witness No. 1 for the Prosecution

17/07/17

Name: Shabnam Khan, Age-23 years, residing at Zopdi No. 21, Wadi Bunder Road, B.P.T. Colony Mazgaon, Mumbai-400010.

Examination in Chief

1. I am residing with my parents, one child. My husband has deserted me. I am working as a housemaid and my salary is Rs. 5000/- per month.
2. On 23/01/2017 at around 11:45 PM I went to the shop opposite my house to purchase biscuits. My neighbours Pakhi and Asma were washing utensils outside their hutments at that time. While I was returning, a green colour Qualis vehicle bearing Registration Number MH 06 T 2940 came and stopped in front of me. Ramesh came out of the vehicle and took out a knife and held it to my neck and forced me to board the vehicle. He was accompanied by more associate. They drove the vehicle to Dargah Galli, Hussain Patel Marg, Dockyard Mazgaon Road. Ramesh threatened me to hand over the money in my possession. Upon my refusal to having any money, the accused slit my left arm with the knife. Thereafter the accused forcibly removed cash amount of Rs. 15000/- and white colour Samsung Mobile Phone from the pocket of my pant. In the meanwhile, one police van was passing by from the said place because of which the accused and his associate concealed their presence by hiding in a dark corner and at that time I escaped to save my life.
3. Once I returned to my house Pakhi, Asma, Aaliya and Zubeda were sitting outside their house. I inquired with Pakhi & Asma as to why they did not come to my rescue when I was being abducted to which they replied that they were afraid of Ramesh as he was a criminal minded person.
4. After discussing about the incident with Pakhi, Asma, Aaliya and Zubeda I decided to lodge a FIR with Byculla Police Station at around 02:30 AM. Then I was referred to BJM Hospital for medical examination and treatment for injury which I sustained on my left arm. FIR bearing No. 184/17 dated 24/01/2017 now shown to me bears my signature. It is marked as **Exh. 1**. I can identify the knife. It is marked as **Art. A**. I can identify Ramesh and his Associate. Only Ramesh is present today in Court.

Cross Examination

5. I am educated up to 10th Std. I can read and write in Hindi Language. I was working as a Housemaid in the month of January 2017. It is not true that there is no shop opposite my hut. The said shop remains open till 12:30 AM. I do not know the name of the said shop. I do not know the name of the shop keeper.

6. It is true that I did not give any description of the knife. I had worn a half sleeves T-Shirt and Jeans on the day of the incident. The pants had pockets. I am on visiting terms with Aaliya, Asma, Zubeda and Pakhi. It is true that I have a cordial relation with them. Some of my neighbours sit outside their hutments till 10:30 PM.

7. I am not aware about the availability of Narcotic Drug Powder (meow-meow) in our area. It is not true that I am a drug addict or a drug peddler.

8. I do not know the wife of the Ramesh. I am not aware that the wife of the Ramesh has lodged a complaint against Sr. P.I. Shri. Dhawale with Anti-Corruption Bureau.

9. I have purchased biscuits from the shop. I might have made shopping of about Rs. 100/-. I did not take any receipt of purchase from the shop.

10. I had stated before the police while recording of my statement that a person named Ramesh had taken out a knife and held it to my neck. I cannot assign any reason as to why the said fact is not mentioned specifically in my supplementary statement. It is not true to say that Ramesh had forcibly removed cash amount of Rs. 15000/- and mobile phone from the right pocket of my pant. I cannot assign any reason as to why such statement is mentioned in my supplementary statement. Witness volunteers that Ramesh had forcibly removed cash amount of Rs. 15000/- and mobile phone from the left pocket of my pant. It is not true that I was knowing Ramesh before the occurrence of the incident in question. I had not stated before the police that I knew Ramesh. I cannot assign any reason as to why such fact is mentioned in my statement.

11. It is true that area between Wadi Bunder hutment and Husain Patel Marg is a residential area. I can differentiate between white and light grey colour. The colour of my mobile phone was white. I had not stated before the police that I was possessing light grey colour handset. I cannot assign any reason as to why such fact is mentioned in my supplementary statement.

12. It is true that Ramesh is a very common name. it is true that several persons from our area are known as Ramesh. It is true that I did not give the description of the appearance of the person named Ramesh. It is true that I was not called by the police for identification parade or for identification of Accused, Ramesh.

13. It is not true that no incident as stated by me did ever occur on 23/01/2017 at 11:45 PM. It is not true that since Pakhi, Asma, Aaliya and Zubeda are my close friends therefore their statements have been recorded in support of my false FIR. It is not true that since there were cross terms between Ramesh and Sr. P.I. Dhawale from Byculla Police Station, I have lodged false FIR.

Name: Pakhi Bablu Shaikh, Age-30 years, residing at Zopda No.29, Wadi Bunder Road, In front of BPT colony, Mazgaon, Mumbai-400010

Examination in Chief

1. I am working as a housemaid in a chawl since about 10 years. I am residing at the above address. After returning from work I have to dispose of the household work at my home and thereafter I sleep by 12:00 at midnight.
2. On the night of occurrence of the incident of Ramesh Bhai having caught Shabnam and she raised an alarm for saving her. When I heard Shabnam shouting for help, I went ahead to see as to what has happened, I saw that she was caught by Ramesh Bhai and was being forcibly dragged in a vehicle. On the next day when Shabnam inquired with me as to why I did not go to help her, I replied to her that since Ramesh Bhai was a criminally minded individual of that area and he held a knife in his hand, I did not come ahead for her help. As others namely Asma Nagori, Aliya and Jubeda had agreed to accompany us, we had been to the Byculla Police station with Shabnam for reporting the incident.
3. The incident with Shabnam had occurred at about quarter to 12:00 midnight. I had noticed the registration number of the vehicle in which Shabnam was forcibly taken. It was MH 06 T 2940. It was a green colour Qualis make vehicle. Several others from my neighbourhood were present besides me in front of our houses in the night of the occurrence of incident in person. Like me, Aliya, Asma and Zubeda had also gone ahead to see as to what had happened when Shabnam shouted for help. Upon noticing Ramesh Bhai holding knife in his hand we did not go ahead to rescue her. We all fear from Ramesh Bhai.
4. Shabnam had disclosed that Ramesh Bhai had taken her forcibly to Darga lane and snatched away cash amount of Rs. 15000/- and mobile handset from her person at the point of knife. She had also informed that upon noticing that a Police vehicle was patrolling in the area, Ramesh Bhai and his associate fled away and Shabnam had escaped therefrom.
5. Later I was called by the Police to give my statement with regards to the afore-mentioned incident.
6. Ramesh Bhai is present in the Court today.

Cross Examination

7. I am educated up to 3rd standard in Urdu medium. I can poorly read and write in Urdu language. I cannot read or write in any other language.

8. I had no transactions with Ramesh. Witness volunteers that I know him since he had once forcibly taken away my husband to his godown and beaten him after tying him to extort money. The godown of Ramesh is beside Dargha galli. The incident with my husband at the hands of Ramesh had occurred on the birthday of my younger son “Mubarak”. I had not taken my husband to my hospital after the incident.

9. The incident in question has occurred on 23/01/2017. We visited the Police Station on 24/01/17. Since 23/01/17 till 28/01/17 I was in Mumbai. We had been to the Police Station at about 05:00 AM. I was accompanied by Shabnam, Asma, Aliya and Zubeda. When Shabnam made complaint with the police at about 01:15 AM on 24/01/17, I had accompanied her.

10. It is true that today I have come to the court with informant Shabnam, Zubeda, Aliya and Asma. I was not informed by the Police to attend the court as a witness. Witness volunteers that Shabnam had come to my home and informed that I must attend the Court as a witness therefore I attended the Court today. Shabnam had come to my home in the morning at about 08:00 AM.

11. I had stated before the Police about a presence of one person with Ramesh at the time of incident in question. I cannot assign any reason as to why this fact is not mentioned in my supplementary statement. I did not describe them by the appearance.

12. It is not true to say that I did not witness any incident at about 11.45 PM on 23/01/17. It is not true to say that it did not happened that I visited the police station on 24/01/17 and reported the incident to the police. It is not true that I have deposed falsely that Ramesh Bhai is a criminal minded person in our area. It is not true that myself, Shabnam and others are involved in drug trafficking in our area. It is not true that I have deposed falsely against Ramesh at the instance of police officer of Byculla Police station. It is not true that I have seen Ramesh for the first time, in this Court and that I have identified him before the Court at the instance of police.

Name: Aaliya Mohd. Hanif Shaikh, Age-40 years, residing at Wadi Bunder, BPT chawl, Ekta Nagar, Mazgaon, Mumbai.

Examination in Chief

1. I am working with fisherman in the fish market. I am residing at the above given address since last 40 years. On the 23/01/17 also I was residing at the said address. I know Pakhi, Zubeda, Asma and Rabia. I know them as we are neighbours.

2. On 23/01/17 at about 11.00 to 11.30. p.m. I was sitting in front of my residence. I heard Shabnam was shouting. So, I went a shorter distance ahead to verify as to what had happened. I noticed that Shabnam was being forcibly dragged by Ramesh. He was accompanied by one more person. Both forced Shabnam to enter a green coloured vehicle. I was accompanied by several others, but we could not step ahead to the rescue of Shabnam since knife was held in the hand by Ramesh. Immediately within a short while they left in the said vehicle. I was waiting at my residence thereafter. Since Ramesh is criminal we did not go ahead for the help of Shabnam.

3. After about 15 minutes Shabnam came running back. I inquired with Shabnam about the incident. She disclosed that she was robbed of a mobile handset and cash amount of Rs. 15000/- by Ramesh. I asked her as to how did she escape and come back. She disclosed that a police vehicle had arrived nearby the vehicle of Ramesh near Dargah Galli, when she escaped therefrom.

4. On the next morning we had been to Byculla police station with Shabnam. Shabnam reported the incident to the police and then she was inquired by the police. Likewise, inquiry was made with me. After about 4 to 5 days I was called at Byculla Police Station and my statement was recorded by the police.

5. I know Ramesh since my childhood. He is known to everyone to our locality since he visits our area for collecting extortion money as a slum lord. I do not remember the registration number of the vehicle in which Shabnam was forcibly taken. Ramesh is present in the court today.

Cross Examination

6. I am illiterate. I am residing at my given address since my birth. It is true that I do not know each and every person residing in Mazgaon Area. It is true that Ramesh is a common name in my locality. I was at Mumbai between 24/01/17 and 29/01/17. I visited the police station twice on my own between 24/01/17 and 29/01/17. I had accompanied once for the first time with Shabnam and on the second occasion on 29/01/17 to the Police Station. On 24/01/17 I had been to the police station at 03:30 AM.

7. It is true that people remain present outside their hutments for some work for rest and that some people lay their cots also on the road in front of hutment. There are two pan shops in the said slum, one is at another end while the other is in front of hutment of Shabnam. Witness volunteers that the shop in front of hutment of Shabnam has food stuffs for sale.

8. Number of my hutment is 36. I do not understand the timings. I do not care for the timings as I do not understand it.

9. I know Shabnam since my childhood. Shabnam works as a housemaid. She was not holding any polythene bag or biscuits or chocolate in her hands at the time of the incident in question. Witness volunteers that her son was holding some biscuits. I do not remember the name of son of Shabnam. The son of Shabnam might be of 3 to 3 ½ yearsage.

10. Though I do not understand the timings I have stated the time of occurrence of incident in question as I was told by the others who were present with me at that time. I had stated before the police that on 23/01/2017. I was sitting in front of my resident in between 11.00 to 11.30 PM. I had stated before the police that when I heard Shabnam shouting, I went some distance ahead to verify what had happened. I cannot assign any reason as to why these facts are not mentioned in my supplementary statement.

11. It is not true that I had not witnessed any incident which allegedly occurred on 23/01/17 at about 11:15 PM with Shabnam. It is not true that the wife of Ramesh has lodged a complaint against Police Officer of Byculla Police Station with Anti-Corruption Bureau, therefore, at the instance of said police officer I have made false statement before the police and the court, though no incident as alleged had ever occurred with Shabnam.

12. It is not true that I have deposed falsely before the Court upon being tutored by the Byculla police. It is true that I was not called by the police at the police station for identification parade after the arrest of Ramesh. It is true that police did not record my statement regarding identification of Ramesh. It is not true that accused Ramesh has no concern with our residential locality but that I have identified him for the first time, before the Court, at the instance of Byculla Police.

13. It is not true that Shabnam as well as me, Zubeda and Pakhi are drug addicts. It is not true that the Byculla police have with the help of drug addicts like us, concocted a false story against the accused.

14. Ramesh is present in the Court today.

Deposition of Witness No. 4 for the Prosecution

08/08/17

Name: Sanjay Sadashiv Sagvekar, Age-47 years, residing at Suryakund Bldg, C123, Mahapurush Marg, Mazgaon, Mumbai.

Examination in Chief

1. I am supplying tourist vehicle since 7 to 8 months.
2. I was called by Byculla Police Station on 24/01/17. I was requested by police to act as a pancha. The said police officer informed me about registration of a crime and requested to act as a pancha during its investigation. I agreed willingly to act as a pancha.
3. I accompanied the police where Shabnam Khan and other pancha was also present. Police introduced the informant Shabnam to me. Police had disclosed her address as Hutment No. 21, Wadi Bunder Road, Zopadpatti in front of BPT colony, Mazgaon, Mumbai-400010. The police officer had further informed about the place where she was allegedly taken away forcibly during incident in question. He further informed me that the Accused Ramesh Gaitonde has snatched Rs. 15000/- and a mobile handset from Shabnam Khan. The said informant had shown in my presence the spot of the incident in question before the police. The informant first showed us the spot from where she was abducted. There were around 100-200 hutments. There was a shop in front of the spot of incident. There was a BMC Building besides the said shop. Subsequently she showed us the spot from where Rs. 15000/- was extorted from her. There were several trucks parked near the spot of the incident. There was a leather factory 150 metres away from the said spot.
4. We recorded the description of the landmarks surrounding the said spots while drawing the panchanama. On 24/01/17 spot panchanama was drawn between 08:50 AM and 10:05 AM in my presence. After all the process of visiting and inspecting the spot of alleged incident in question was completed, a panchanama of the spot was drawn by the police in the presence of myself and another pancha and I signed it. Now spot panchanama dated 24/01/17 is shown to me from the record. It is true that it bears my signature. The said spot panchanama is marked as **Exh. '2'**.

Cross Examination

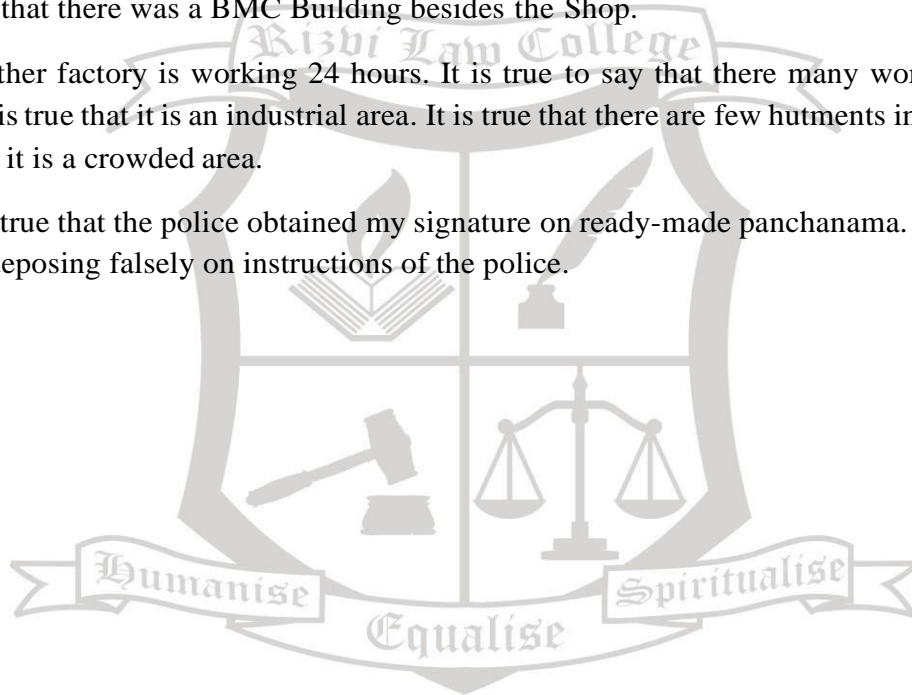
5. I am supplying tourist vehicle since 7 to 8 months. Prior to that I used to work at “Bhaucha Dhakka” Mazgaon. I have heard about Shabnam, resident of Wadi Bunder Slum. I have heard about her for being involved in a trade of drugs in Wadi Bunder Area. I don’t have any personal knowledge about her drug trade. I have heard about the same from different people. It is not true that I purchase drugs from Shabnam and therefore I am deposing falsely.

6. I do not remember the name of the other Pancha who was present while drawing the Spot Panchanama. It is true that I have been to Byculla Police Station prior to the incident for my personal work. It is not true that I know Sr. P.I. Dhawale personally. It is not true that I have acted as a pancha before in any case.

7. It is not true that I had not been to the spot. It is true that it is not mentioned the Spot Panchanama that there is a BMC building besides the shop. Witness volunteers that now I remember that there was a BMC Building besides the Shop.

8. The leather factory is working 24 hours. It is true to say that there many workers in that factory. It is true that it is an industrial area. It is true that there are few hutments in that area. It is true that it is a crowded area.

9. It is not true that the police obtained my signature on ready-made panchanama. It is not true that I am deposing falsely on instructions of the police.



Deposition of Witness No. 5 for the Prosecution

21/08/17

Name: Mohd. Aiyaz Fiyaz Qureshi, Age-27 years, residing at Habib Mantion Room no.33,
Chamber lane, Byculla (E) Mumbai-400027

Examination in Chief

1. I run my business as Fruit vendor at a stall in Byculla Market, Mumbai.
2. On 29/01/2017 I was present at Byculla market running my business. Two police personnel had come at the market and had taken me to Byculla police station. One Sanjay Singh was also called by the police to act as a pancha like me. At the police station one Ramesh Gaitonde was present. The police informed us that he intended to make statement in our presence. Then Ramesh Gaitonde stated before us about the incident with Shabnam and having extorted money and her cell phone from her by abducting her in his vehicle, assaulting and threatening with knife. He had also disclosed that since police vehicle was passing by, he and his companions concealed their presence and meanwhile Shabnam fled away therefrom.
3. Ramesh Gaitonde disclosed as to where he has placed the weapon like knife. He led us by Nesbith Road, Wadi Bunder, Darga Galli at Railway Compound building. One very old three-wheeler vehicle was parked there. We took out a knife from it in our presence. The police officer had then taken the said article in possession wrapped it and affixed labels. Our signatures were obtained thereupon. A panchanama also prepared by the officer. I signed the panchanama so also Sanjay Singh and police officer Mr. Salave, also signed it. Police obtained my signature on paper label as well as on panchanama.
4. Now a knife placed as Art. A shown to me from muddemal. It is the same knife which was seized by the police in my presence. The paper label affixed to the knife bears my signature as well as that of Sanjay Singh. The said memorandum-cum-Panchanama is marked as **Exh. 3**.
5. On 02/02/2017 I was present at my shop. I was again called by the police to act as a pancha. One Jayesh Telgi was also present in the police station to act as a pancha. The accused had disclosed that he would take us to the place where he had kept the vehicle used in the incident, at Mumbra near Kausa Petrol Pump.
6. I was accompanied by two police officers, another pancha, staff as well as the accused while we proceeded towards Mumbra. We reached near Kausa petrol pump of Mumbra within one hour and fifteen minutes. As we went closer to the said petrol pump the accused asked police officers to stop the vehicle. One vehicle was standing in front of MHADA building. Accused had pointed out the said vehicle as the same vehicle. It was a Qualis make vehicle. A Panchanama was drawn regarding sealing and seizure of the said vehicle. Now memorandum of disclosure – cum – seizure Panchanama dated 02/02/17 is shown to me. It bears my signatures twice. It is the same Panchanama which was drawn in my presence. The said memorandum – cum – Panchanama is marked as **Exh. 4**.
7. I can identify the accused who had accompanied us and produced the weapons in my presence. He is present in the court today.

Cross Examination

8. I am vending fruits at Byculla Market in front of police station as well as in and around the area of Byculla Market. I do not possess any document to show that I am vending fruits at a stall at Byculla Market. It is true that the officials and staff of MCGM keeps on patrolling in the market and carries away the illegal vendors and hawkers along with their articles. The witness volunteers that he knows the police persons from Byculla Police Station by face but not personally. It is not true that I have acted before as a pancha for Byculla Police Station.

9. I was not informed by the said police head constable that a panchanama regarding a knife was to be drawn so I should act as a pancha. Witness volunteers that they were informed that accused who was present in the police station intended to disclose something.

10. It is true that the said knife is not in the same position as it was seized in my presence. It is true that there is a design of squares and flowers on the handle of the knife. It is true that knives like Art. A are available in the market. It is true that both the paper labels on both the articles were folded and affixed with the articles with adhesive tapes and have been opened in the Court today. I cannot assign any reason as to why it is not mentioned in the panchanama that the paper labels were folded and affixed on the seized articles with adhesive tape.

11. On 02/02/17 I was at my shop at Byculla market. I cannot assign any reason as to why it has not been mentioned in memorandum cum Panchanama that, while I was present at my shop at Byculla market two police personnel had come to me and requested to accompany them for recording of a statement of the accused at Byculla police station. It is not true that the facts which I had stated in examination in chief about my business are not mentioned in Panchanama.

12. It is true that the said area of recovery of car was of residential locality. Witness volunteers that since it was morning time no local residential was present. Public was passing by the said spot. Police officers or the staff did not make any attempt to inquire with any local resident or otherwise about the presence of vehicle in question at that place.

13. It is true that today, the seized Qualis car has not been shown to me. It is not true that the accused did not make any statement before me at the police station on 29/01/17 and 02/02/17 neither he took us to any place nor did he show any vehicle or knife which were seized and sealed in my presence upon being shown by the accused.

14. I do not remember the colour of the car. I do not remember the Registration No. of the car. It is not true that I have identified the accused before the court upon being tutored by the police and the accused being shown.

Name: Dr. Madhuri Malve, Age-30 years, residing at Campus of KEM Hospital. Parel, Mumbai.

Examination in Chief

1. On 24/01/17 I was working as causality medical officer at BJM Hospital, Mumbai. On 24/01/17, at 04:00 AM I had attended patient namely Shabnam Khan, aged above 23 years old. At that time, I was on duty from 10:00 PM to 08:00 AM. Byculla Police station WPC no. 0902103 brought Shabnam to me for Medical Examination.
2. I have mentioned on inquiry with the patient that she was assaulted manually at around 12:00 AM. And had no complaint about head/chest/abdo trauma. I have recorded her pulse at 88 min. and BP is 110/80.
3. On Examination I found a visible external injury on her left arm. As she sustained a cut on her arm I cleaned the wound and covered it with a band-aid. I gave her injection Diclo Fenace a painkiller to her. I had also given a tablet Ibuprofen.
4. About this examination I have issued injury certificate on demand by the police. Now said injury certificate shown to me. I have issued dt. 10/02/17. It bears my signature and seal. Its content are correct. It has been marked as **Exh. 5**.

Cross Examination

5. I am working at BJM Hospital since last 3 years. It is true that I have examined many such patients.
6. It is true that Shabnam sustained a simple injury. It is true that such injury could have been caused by any sharp object. It is true to say that such injury can be caused by nail cutter or scissors.
7. It is not true that Shabnam Khan is known to me. It is true that I know P.I. Sunil Salave. It is not true that I have issued a false certificate on instruction of P.I. Sunil Salave. It is not true that I am deposing falsely in the Court today on the instruction of police.

Deposition of Witness No. 7 for the Prosecution

12/09/17

Name: P.S.I Omprakash Ramkrushna Lad, Age-54 years, residing at Naigaon New police Line, B/40, J.D. Ambekar Marge, Parel, Mumbai.

Examination in Chief

1. On 11/07/2015 to 12/07/2017 I was posted as PSI at Police station, Byculla. On 26/01/17 P.I. Salave IO of crime no. 184/17 called me and API Shaikh and other staff to search for the accused Ramesh Gaitonde in the above crime. Accordingly, we proceeded to search for the accused at his residential address at Madina Manzil Room No. 9, Husain Patel Marg, Mazgaon Mumbai. On search we were unable to find the accused.
2. We received information from our secret service that accused is hiding himself at the house of his sister namely Nishreen Gaitonde, Near Guruji Hotel, 2nd floor, Alibag. I informed this information to my senior officer. After taking necessary entries in station dairy on the permission of Senior Officer, I along with Police Naik S.C. Patil, Police Constable P.L. Shelar and Police constable Sawant we proceeded to Alibag for the search of the accused at about 03:00 PM. When we visited the said address sister of the accused Nishreen was present in the house. We also found the accused present in that room. Hence, we brought the accused from Alibag and produced him before IO Shri P.I. Salave on 27/01/2017 at about 04:00 AM. Accordingly, the entries are made in the station diary. Arrest panchanama was prepared by P.I. Salave and the necessary information about his arrest was given to the sister of accused.
3. The accused present before the court is the same person whom we brought from Alibag.

Cross Examination

4. On 26/01/17 my duty hours was from 09:00 AM to 09:00 PM. I have not made entry about the search at Madina Manzil Room No. 09, J. R. Husain Patel Road, Mazgaon, Mumbai. It true that I have not made entry in station dairy in my own handwriting about return from Alibag. Witness says that I have made the entry in the station dairy about visit of Alibag. In the station dairy there is no entry about the information secretly received about the whereabouts of accused at Alibag.
5. I know that where the accused is taken in to custody there itself panchanama has to be prepared. I have not prepared the panchanama at Alibag where we have taken accused into custody. I have not recorded statement of Nishreen Gaitonde. I have not recorded the statement of an independent person at Alibag to show that we went there and arrested the accused. Witness volunteers that no one was willing to act as pancha.
6. It is not true to say that I did not receive and secret information about the whereabouts of the accused and therefore I have not made entry in station diary about it. It is not true to say that neither I visited Alibag nor I have made entry in the Log book about our visit at Alibag. It is not true to say that on the instructions of our senior officer I am deposing falsely. It is not true to say that I have seen the accused in the police station itself and prepared false story of Alibag.

Name: A.P.I. Amar Shivaji Denge, Age-37 years, residing at Ganesh Nagar, Kungar Phata, Sakivali, Vasai (E) Dist. Palghar.

Examination in Chief

1. I am attached to Byculla Police station Mumbai as API. On 23/01/17 I was on night duty as Thane Amaldar from 08:00 PM to 08:00 AM on next date. On about 03:45 AM I received a complaint of Shabnam Khan that she was threatened by the accused Ramesh Gaitonde on point of knife along with his associate and asked her to board the vehicle forcibly and she was taken to Darga Galli and the accused and his associate injured her with a knife. She further narrated that accused Ramesh forcibly snatched Rs. 15000/- from her pocket and her Mobile Handset from her Hand. At that time as police van was passing near by the accused, he along with his associate ran away. Therefore, the complainant escaped from the spot and went to her house. As per this narration I have recorded her detailed statement and registered the offence at Sr. no. 184/17 u/s 397, 365, 34 of IPC.

2. As per the information I registered the FIR. After obtaining signature of the complainant on the FIR I signed it myself and handed over one copy of the FIR to the complainant. Now FIR shown to me is the same. It bears my signature. Its content are correct. It is already at **Exh. 1**.

3. There after I have referred the complainant for medical treatment along with lady police constable. Thereafter I visited the spot and prepared spot panchanama in presence of Two panchas. One Pancha is Sanjay Sadhashiv Sagavekar and another is Aalam Ali.

4. I have prepared the Panchanama on 24/01/17 at about 08:50 to 10:05 AM. Along with me constable Mr. More, complainant and two panchas were present at Municipal Council Urdu School, Wadi Bandar Road Slum, Mazgaon, Mumbai. The complainant showed the spot where she was forcibly boarded on the point of knife in the vehicle which is in front of the school. The complainant there after took us to Darga Galli where the amount and mobile was snatched. In front of that spot there is Pahadi Masjid. As per the narration we have wrote down the panchanama. On the spot I have obtained signature of two panchas after reading it to them and thereafter I signed it myself.

5. The panchanama now shown to me is the same. Its content are correct. It bears my signature and signature of two panchas.

6. Thereafter I have also recorded supplementary statement of the complainant on 24/01/17. Thereafter the crime no. 184/17 was transferred for further investigation to P.I Shri Salave of PS Byculla. The accused present before is the same as he was arrested during investigation when I was present in the police station.

Cross Examination

7. I do not know that, the complainant Shabnam Khan is accused in a Drug case in Byculla Police Station. There are about 100 huts at Wadi Bandar area. There is number to each hut. The lane of that slum hut is about 1km and more. The complainant did not narrate that the incident took place in front of Corporation Municipal Urdu School. The complainant did not narrate that the second incident took place in front of Pahadi Masjid.

8. It is not mentioned in the panchanama that there is a road to cross and there is a shop as I did not feel it necessary.

9. I have not inquired to the complainant about the source of Rs. 15000/- to her. I did not feel it necessary to inquire about it. I have not inquired about the mobile phone and its IMEI No. and the SIM Card Number. The complainant has not given description of the knife to me. As the complainant told me the name of accused Ramesh Gaitonde, therefore I did not feel it necessary to ask about the description of the accused.

10. The complainant Shabnam Khan has not stated to me that, "the person named Ramesh had taken out the knife and held it over my" Neck. Hence, this omission is not mentioned in FIR and her supplementary statement.

11. The complainant had stated that Ramesh had forcibly removed cash amount of Rs. 15000/- and mobile phone from the right pocket of my pant. Hence, I have mentioned it in her supplementary statement.

12. The complainant had stated that she knew Ramesh prior to the incident. Hence, I have mentioned it in her supplementary statement.

13. The complainant had stated that she was possessing a light grey colour mobile. Hence, I have mentioned it in her supplementary statement.

14. It is not true to say that no such incidence as deposed by me took place. It is not true to say that the complainant have not shown the spot to us and I have not prepared the spot panchanama in presence of the panchas on the spot. It is not true to say that, the panchanama was already prepared in the police station upon which the signature of habitual panchas was obtained in the police station. It is true to say that the wife of the accused had lodged complaint against Mr. Dhawale of Anti-Corruption. It is not true to say that since the wife of the accused had lodged complaint against Mr. Dhawale, we have created a false case and indulged the accused to pressurize her. It is not true to say that, on the direction of the senior police officers I have registered a false F.I.R and prepared false panchanama. It is not true to say that I am deposing falsely.

Name: P.I Mr. Sunil Vasant Salave, Age-57 years, residing at Dapati Society. D10, Indira Nagar, Kanjarmarge (E), Mumbai 400042.

Examination in Chief

1. On 23/01/17 I was attached to Police station Byculla as Police Inspector. On that day from 23/01/17 to 24/01/17 I was on night duty. Crime No. 184/17 was handed over to me for further investigation on 25/01/17. The offence was registered against the accused u/s. 397, 365 & 34 of IPC. The offence was registered by PSI Amar Denge.

2. I verified the case papers and supplementary statement of Shabnam Khan and Spot Panchanama prepared by PSI Amar Denge, and Medical papers of the injured complainant from B.J.M. Hospital. Thereafter I have verified the Police record of the accused and found that, there are 3 offences registered against the accused. I have drawn the list of offences and attached it with the case paper. Now that list shown to me. It is the same it bears the seal of police station Byculla. It is at **Exh. 7**

3. I also searched for the accused in Mazgaon area. I also inquired about the eyewitness of the incidence and found there are four eyewitnesses, out of each I have recorded the statement of Mrs. Asma Nagori and Mrs. Pakhi Shaikh. They have stated the happening of the incidence to me and thereafter I recorded their statement.

4. PSI Shri. Omprakash Lad informed that they had received secret information that the accused was hiding himself at Alibag, Raigad. Therefore, I directed PSI Lad to search for the accused and arrest him. Hence PSI Lad along with his police staff proceeded to Alibag on 26/01/17 at 03:00 PM. They arrested the accused and produced him before me at about 04:00 AM on 27/01/17. They informed me that the accused was found at the house of Mrs. Nishreen Gaitonde at C-203, Second Floor, Bhaji Gali, Guruji Hotel Beach, Alibag District, Raigad. We have filled up the necessary arrest form, posted photograph of the accused, informed him about the crime and obtained his signature and thumb impression over it. Also, we informed the wife of the accused about the arrest and obtained her signature over the arrest form. Said Arrest panchanama now shown to me is the same. It bears my signature, signature of two panch witnesses and signature of accused and his wife. Its contents are correct. It is at already marked at **Exh. 6**. I have also searched for the other accused, but he is absconding.

5. On 27/01/17 the accused was produced before Ld. M. M. Mazgaon Court and was remanded to police custody till 04/02/17. Thereafter, I inquired with the accused about the offence, knife used in the crime, about the vehicle used in the crime, cash and mobile of the complainant Mrs. Shabnam Khan.

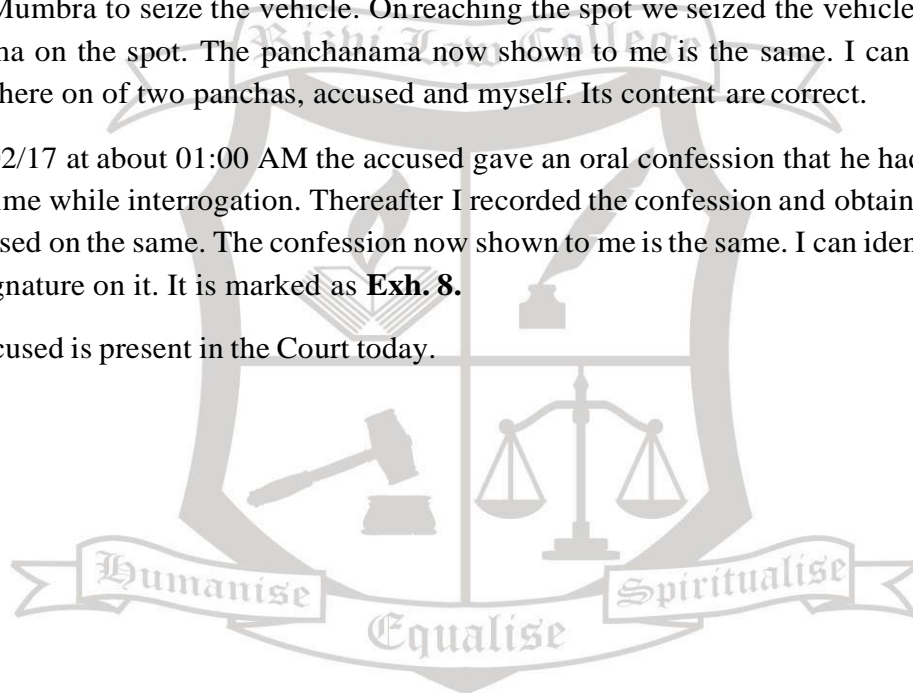
6. On 28/01/17 I had inquired with Mrs. Pakhi Shaikh and recorded her statement as per her say. On 29/01/17 I had inquired with Mrs. Aaliya Shaikh and recorded her statement as per her say. On 29/01/17 the accused disclosed information about the knife used in the crime. Therefore, I called Police Constable Mr. Inamke to call two panchas. He brought Mohd. Aiyaz Qureshi and Sanjay Singh as panchas. In presence of the panchas accused voluntarily disclosed

facts about the crime and the use of knife in the crime. The Accused disclosed that, knife from which he had threatened the complainant Mrs. Shabnam was kept near central railway godown below one tempo and asked us to accompany him on the spot so that he can show the articles to us. Therefore, said disclosure statement was recorded in presence of two panchas on 29/01/17 and obtained the signature of two panchas, accused and I have signed over it. The panchanama now shown to me is the same. I can identify the signature of two panchas, accused and myself over it.

7. On 02/02/17 the accused revealed about the vehicle used in the crime. Hence, I asked Police Constable Mr. Shelar to call the Panchas. Police Constable Mr. Shelar had brought two panchas Mohd. Aiyaz Qureshi and Jayesh Telgi. I have taken note about it in the station diary. In their presence the disclosure statement of the accused was recorded. The accused disclosed that, Qualis vehicle bearing no. MH 06 T 2940 was hidden by him at MHADA Colony M, M. Velly Road, Kausa Mumbra, District Thane and is ready to show that spot. Therefore, we proceeded to Kausa Mumbra to seize the vehicle. On reaching the spot we seized the vehicle and made a panchanama on the spot. The panchanama now shown to me is the same. I can identify the signature there on of two panchas, accused and myself. Its content are correct.

8. On 03/02/17 at about 01:00 AM the accused gave an oral confession that he had committed the said crime while interrogation. Thereafter I recorded the confession and obtained signature of the accused on the same. The confession now shown to me is the same. I can identify accused and my signature on it. It is marked as **Exh. 8**.

9. The Accused is present in the Court today.



Cross Examination

10. I have served in the police department for about 35 years 2 months. The senior officer have in person directed me to investigate in this matter.

11. The statement u/s. 161 of Cr.PC if recorded, the witness has to depose before the court and there is no necessity for the IO to depose about the contents of the statement of the witnesses.

12. Under Sec. 27 of Evidence Act the disclosure statement of the accused before the police is an admissible evidence. As per my information in 2 cases the accused is acquitted, and I do not know what happened about the other case.

13. I do not know how many cases are pending against the complainant Shabnam in Byculla Police Station. Shabnam's residence is in the slum area, Mazgaon, Mumbai.

14. I have inquired about the source of Rs. 15,000/- with Shabnam Khan. No statement about it came to be recorded. I have not recorded the statement of Shabnam as to how she was in possession of a Samsung mobile. I have not called the record from Reliance company about the SIM card No. 76665***** used by Shabnam in her Samsung Mobile. I have not recorded the statement of the Shopkeeper to show that, the complainant Shabnam visited the shop to purchase biscuits.

15. On 28/01/17 I have recorded statement of Mrs. Pakhi Shaikh. I have personally visited the spot and recorded statement there. Shabnam in the FIR stated that, at the time of incidence Mrs. Pakhi Shaikh and Mrs. Asma Nagori were present. I do not know that, on 24/01/17 when FIR was lodged by Shabnam, she was accompanied by Mrs. Asma, Mrs. Pakhi and Mrs. Zubeda for the same.

16. It is not true to say that the statement of Mrs. Pakhi Shaikh is not recorded as per her version. Para No. 11 of PW-2 Mrs. Pakhi Shaikh, came to be read over to the witness which is "I had stated before the Police about a presence of one person with Ramesh at the time of incident in question." is not stated by the said witness to me while recording her statement.

17. It is not true to say that the statement of Mrs. Aaliya Shaikh is not recorded as per her version. Para No. 10 of PW-3 Mrs. Aaliya Shaikh came to be read over to the witness which is "Though I do not understand the timings I have stated the time of occurrence of incident in question as I was told by the others who were present with me at that time. I had stated before the police that on 23/01/2017. I was sitting in front of my resident in between 11.00 to 11.30 PM. I had stated before the police that when I heard Shabnam shouting, I went some distance ahead to verify what had happened." is not stated by the said witness to me while recording her statement.

18. I have recorded the statement of Mrs. Asma Nagori on 26/01/17.

19. I have not made arrest panchanama of the accused at Alibag. I have not recorded the statement of the panchas by showing them the accused in the police station.

20. It is true that, the witnesses have not given detailed description about the weapon. It is true that, the witnesses have not given detailed description of the accused and his associate.

21. It is not true to say that the spot panchanama was not prepared on the spot in presence of panchas. I do not know that, complainant Shabnam along with Pakhi and Asma are drug peddlers.

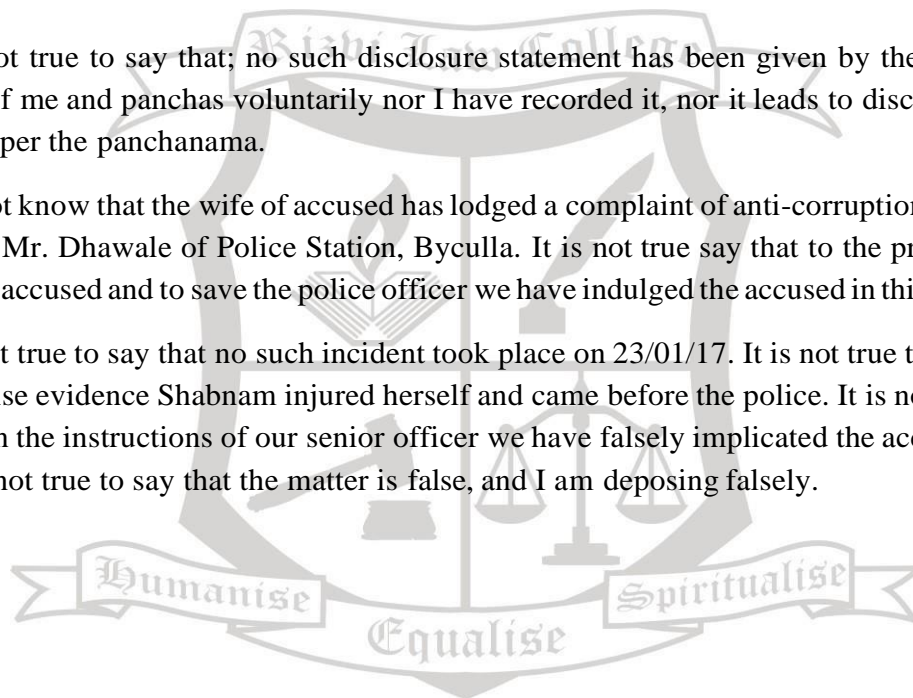
22. The pancha was called from the station area of Byculla. The building was Central Railway Godown. The Tempo from which knife was recovered was in rusted condition having no number plate and other facts. The road on which tempo is lying is having traffic. The panchas were inquired whether they were habitual panchas or not. It is not true to say that the accused did not give disclosure statement before the panchas to me. It is not true that I have neither visited the spot to recover the articles as shown by the accused in presence of panchas nor recorded the panchanama.

23. I have not recorded the statement of the neighbours from the spot where the vehicle was found. We did not find RTO papers in the vehicle therefore we have not produced it in this matter.

24. It is not true to say that; no such disclosure statement has been given by the accused in presence of me and panchas voluntarily nor I have recorded it, nor it leads to discovery of the articles as per the panchanama.

25. I do not know that the wife of accused has lodged a complaint of anti-corruption against the Senior P.I Mr. Dhawale of Police Station, Byculla. It is not true say that to the pressurize the wife of the accused and to save the police officer we have indulged the accused in this false case.

26. It is not true to say that no such incident took place on 23/01/17. It is not true to say that to prepare false evidence Shabnam injured herself and came before the police. It is not true to the say that, on the instructions of our senior officer we have falsely implicated the accused in this case. It is not true to say that the matter is false, and I am deposing falsely.



Name: Mrs. Seema Ramesh Gaitonde, Age-40 years, residing at Wadi Bunder, Madina Manzil, Husain Patel Marg, Room no. 9, Mazgaon, Mumbai-400010.

Examination in Chief

1. On 30/11/2015, my husband was called by Byculla Police Station. Police concocted a false case against him. On 01/12/2015, my husband was produced before Sewree Court. The police obtained remand of my husband and did not allow to meet him.
2. On 05/12/2015, I was called to Byculla Police Station. The Senior PI, Mr. Dhawale asked me to pay Rs 1, 00, 000/- to discharge him in all the cases pending against him. I informed the same to my husband. My husband asked me to lodge a complaint in Anti-Corruption Bureau, Worli, Mumbai. Senior PI Dhawale asked me to take constable Mr. Shivaji to my house and pay him the amount. Thereafter, from PCO I called Mr. Mohite in ACB who asked me to remain present outside Byculla Police Station as they were coming there. The two lady constables from ACB had camera fixed on their dress from which they recorded the entire incident. Somehow Senior PI Dhawale, received information about my complaint to ACB. Mr. Dhawale as being aware of the recording, in the presence of the police constables from ACB refused to accept the amount from me. Due to recording of the entire incident. A case came to be registered against Senior PI Dhawale.
3. The Complainant in this case, Mrs. Shabnam Khan, who had lodged the complaint against my husband, is involved in narcotic cases. Mrs. Shabnam Khan, on the instructions of Senior PI Mr. Dhawale, has registered a false case against my husband. My husband came to be implicated in the false cases by the police because I lodged a complaint against Senior PI Mr. Dhawale in ACB. Hence, I pray for justice.

Cross Examination

4. I do not know the full name of PI Mr. Dhawale, against whom I have registered a complaint in ACB. I have lodged a report on 06/12/2015. I do know that, total 3 cases are registered against my husband.
5. My husband is a driver. I am visiting my husband regularly in the court, on each and every date of hearing of all the cases, including this case. The police are not allowing me to visit my husband in jail.
6. I have not lodged a complaint to Senior PI, ACP, DCP, CP against false implication of my husband in criminal cases. I have not lodged any complaint in the court against false implication of my husband in criminal cases. My husband has not lodged a written complaint in the court, about his false implication by the police in criminal cases. It is not true to say that, as my husband was not implicated in false cases, therefore I have not lodged any complaint about the same. It is not true to say that, PI Mr. Salave and Shabnam Khan are not having any connection with my ACB complaint. I have lodged only one complaint in ACB against Senior PI Mr. Dhawale. It is not true to say that I am deposing falsely to save my husband.