

**Sessions Case No.33/2015
Exh. No.49**

Deposition of witness No.3 for the State.

I do hereby on solemn affirmation state that :-

My name :- Kamalesh Ramesh Waradkar

My age :- 35 years. Occu. :- Private Service.

R/o. Wayari-Malvan, Tal. Malvan, Dist. Sindhudurg.

Examination-in-chief by A.P.P. G. M. Todkari for State.

1. On 29/11/2014 I went at Zatye Hospital for panchanama. Other panch Ludabe also accompanied me at the relevant time. The spot was shown by Shri. Dhuri.

2. We found shirt buttons of black coloured falling on the ground in the lane of Bilwadkar's house. Those buttons were seized by police. The shirt buttons were of Shri. Vitthal Dhuri which were fallen down during assault. We also found black coloured whistle and clip behind the house of Shri. Bilwadkar near toilet. Those were also seized by police. We also found the trees of coconut and chiku. Accordingly, spot panchanama was drawn. My two signatures were obtained on panchanama. Now I have shown the panchanama, it is the same. Contents are true and correct. It bears my signature. It is at **Exh.50**.

3. I can identify muddemal buttons, if shown to me. Now I have shown muddemal buttons. Those are the same. Those are at **Article-2**. I have also signed on the label affixed on

the packet under which buttons were seized. The same now shown to me, it is the same. Now I have shown black coloured whistle. It is the same. It bears my signature on the label affixed on a packet. It is at Article-3. Now I have shown whistle clip, it is the same. It bears my signature on the label affixed on a packet. It is at Article-4.

(Examination-in-chief on behalf of prosecution is completed.)

Cross-examination by Adv. Shri.S.D. Desai for accused
No. 1, 4 & 5.

4. I reached at the spot at 8.00 to 8.15 a.m. The complainant, police and other panch were already present when I reached at the spot. My house is located at 3 k.m. distance from the spot. At the relevant time I was passing by and at that time I was asked to remain as panch. One police by name Keram asked me to act as a panch. It is not true to say that police had already started the panchanama when I reached at the spot. I was at the spot until 9.30 a.m. It did not happen that complainant Dhuri went out during panchanama. The contents of the panchanama were dictated by complainant Dhuri to police and accordingly police has drawn the panchanama. The signature of the complainant Dhuri was obtained before me on panchanama. The complainant Dhuri also signed on the labels on the articles seized before us. It is not true to say that no panchanama was drawn before me. It is not true to say that no muddemal articles were seized before me.

(Cross-examination on behalf of accused No.1, 4 & 5 is completed.)

Cross-examination by Adv. Shri. Y. R. Khanolkar
for accused Nos.2.

5. Cross-examination taken on behalf of accused No.1, 4 & 5 is adopted.

Cross-examination by Adv. Shri. V. P. Chindarkar for
accused No.3

6. I had not read over the panchanama. Witness again say that he read over the contents of the panchanama and thereafter signed on it. It is not mentioned in the panchanama vide Exh.50 that, while I was passing from Malvan market, police stopped me. I have not suggested the police to write in panchamnama that police stopped me while I was passing from the road.

7. It is not true to say that portion marked 'A' mentioned in panchanama under Exh.50, is incorrect. It is true to say that it did not happen that police called me in writing to act as a panch. I do not remember whether no measurements were taken before me and by which instrument that is why I have not deposed accordingly in my examination-in-chief. It is true to say that there was dust all around due to excavation of underground drainage work. It is true to say that there was not dust on the Article No.2 to 4. Witness volunteers that the said articles were lying near the compound of the house and not on the road. It is true to say that, there is no mention of dust in panchanama vide Exh.50. It is true to say that there is no specific identification

marks on muddemal buttons vide Article No.2. It is not true to say that there is no specific identification mark on muddemal whistle vide Article No.3.

(Article No.3 muddemal whistle is shown to the panch and following questions is asked by the learned defence counsel.)

Que. Is there any specific identification mark on muddemal whistle vide Article No.3 and whether it is mentioned in panchanama ?

Ans.: It is a broken whistle i.e. its identification. Except broken clip of the whistle, there is no other specific identification description of whistle in panchanama.

8. It is not true to say that as panchanama was not drawn before me, I have not seen the articles seized under panchanama. I have seen aluminum or iron articles before panchanama. It is true to say that there is rusting on iron and not on aluminum. It is true to say that muddemal Article No.4 is rusted. It is true to say that there are two pieces of Article No.4. It is true to say that there is no mention of two pieces of muddemal Article No.4 vide panchanama Exh.50. It is true to say that there is no specific identification mark mentioned in panchanama vide Exh.50 in respect of muddemal Article No.4.

9. It is true to say that the date mentioned on the last page clause-11 of panchanama vide Exh.50 as overwriting. It is not true to say that I am deposing false that, muddemal articles were found within the premises of Shri. Bilwadkar. It is not true to say that police obtained my signature on panchanama in police

station. It is not true to say that at the instance of police I am deposing false.

(Cross-examination on behalf of accused No.3 is completed.)

Re-examination :- Nil.

Read over to the witness to which he admitted it to be correct.

Sd/-

Date :- 28.06.2022.
Sindhudurg Oros.

(Smt. Sanika S. Joshi)
Addl. Sessions Judge,
Sindhudurg-Oros.