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## Crl.A. No. 1961 of 2011 - State of Maharashtra Vs. Fahim Harshad Mohammad Yusuf Ansari & Another

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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION



Aftab Alam and Chandramauli Kr. Prasad,  
JJ.

August 29, 2012

CRIMINAL APPEAL NO.1961 OF 2011

ElitePartner  
Akademiker und  
Singles mit Niveau

Juristin

Pianistin

Liebe ist  
kein Zufall

Partner finden

STATE OF MAHARASHTRA ... APPELLANT

VERSUS

FAHIM HARSHAD MOHAMMAD YUSUF ANSARI  
& ANOTHER ... RESPONDENTS

AND

TRANSFER PETITION (CRIMINAL) NO.30 OF  
2012

RADHAKANT YADAV ... PETITIONER

VERSUS

UNION OF INDIA & OTHERS ... RESPONDENTS

**Head Note:-**

Indian Evidence Act, 1872 -  
Sections 25 and 26 - Criminal  
Procedure Code, 1973 -  
Sections 164 and 366 -  
Explosive Substance Act, 1908 -  
Unlawful Activities (Prevention)  
Act, 1967 - Section 16 - Indian  
Penal Code, 1860 - Death  
Penalty - Conspiracy to wage  
war - Collecting arms - Criminal  
conspiracy to commit murder -  
Fairness of Trial - Right to an  
attorney - Right to remain silent

- Failure to provide a lawyer to the accused at the pre-trial stage may not have the same consequence of vitiating the trial unless it is shown that failure to provide legal assistance at the pre-trial stage had resulted in some material prejudice to the accused in the course of the trial the same would have to be judged on the facts of each case.

## J U D G M E N T

**Aftab Alam , J .**

### **CRIMINAL APPEAL NO.1961 OF 2011**

588. This appeal is filed at the instance of the State of Maharashtra against the acquittal of *Fahim Ansari* and *Sabauddin Ahamed* (accused Nos. 2 and 3 respectively) recorded by the trial court and affirmed by the High Court. As noted, in the judgment in Criminal Appeal Nos.1899-1900 of 2011, these two accused faced the trial along with and on the same charges as *Kasab*.

589. Their connection with the other accused in the case, according to the prosecution, was through conspiracy. *Fahim Ansari* is said to have prepared, by hand, maps of various places of Mumbai to

facilitate the attack by the terrorists who landed in the city. One such map was recovered from the trouser pocket of *Abu Ismail* (deceased accused no.1) during inquest and was seized under the seizure panchnama (Ext. no. 99).

590. According to the prosecution case, *Fahim Ansari* handed over the maps prepared by him to *Sabauddin Ahamed* in Kathmandu, Nepal and the latter sent or delivered those maps to the perpetrators of the crime in Pakistan.

591. This part of the prosecution case is based on the testimony of **Naruddin Shaikh (PW-160)**.

592. It is further alleged that in order to provide ancillary logistical support to the terrorists landing in Mumbai, *Fahim Ansari* had made arrangements for his stay in Colaba area of South Mumbai. In order to stay in close proximity to Badhwar Park he was searching for a place of residence in fishermen's colony there and he had taken admission in a Computer Institute viz., "Softpro Computer Education" situated at Fort, Mumbai, as an excuse for staying in that area.

593. However, when the attack took place

on November 26, 2008, neither *Fahim Ansari* nor *Sabauddin Ahamed* were present in Mumbai. They were in the custody of U.P. Police, having been arrested earlier in connection with a terrorist attack on the RPF Camp at Rampur.

594. In support of the second part of its case, the prosecution has examined a number of witnesses, namely, Police Inspector *Prashant Marde* (PW-48), *Jivan Gulabkar* (PW-35), *Rajendra Bhosale* (PW-38), *Ms. Shantabai Bhosale* (PW-40), Police Inspector *Shripad Kale* (PW-47), *Jayant Bhosale* (PW-146), *Sharad Vichare* (PW-265), *Shivaji Shivekar* (PW-14), API *Subhash Warang* (PW-27), *Ashok Kumar Raghav* (PW-213), *Manpreet Vohra* (PW-254), *Krantikumar Varma* (PW-61) and *Dr. Shailesh Mohite* (PW-23).

595. We have gone through the evidence of *Naruddin Shaikh* and the other witnesses very carefully. We are of the view that the evidence of *Naruddin Shaikh* is completely unacceptable. The evidences of the other witnesses also do not inspire confidence insofar as these two accused are concerned.

596. The trial court and the High Court have considered the evidences relating to these

two accused in far greater detail. Both the courts have analysed the prosecution evidence in regard to the two accused at great length and have given very good reasons to hold the prosecution evidence unworthy of reliance to hold such grave charges against the two accused. We are in full agreement with the reasons assigned by the trial court and the High Court for acquitting the two accused of all the charges. The view taken by the trial court and the High Court is not only correct but on the facts of the case, that is the only possible view.<sup>597</sup> We find no merit in the appeal and it is, accordingly, dismissed.

#### **TRANSFER PETITION (CRIMINAL) NO.30 OF 2012**

598. In view of the judgment in Criminal Appeal Nos. 1899-1900 of 2011, the Transfer Petition does not survive and it is, accordingly, dismissed.

#### **THE POSTSCRIPT**

599. The decision in the appeal is over. But there are still a few things for us to say before we finally close this matter.

600. At the beginning of the hearing of the appeal, Mr. Gopal Subramaniam avowed that, though appearing for the prosecution,

he would like the best for the appellant. He wished that the case of the appellant be presented before the Court at the highest level and that it should receive the most careful scrutiny by the Court. The solemnity and sincerity of his declaration set the tone for the proceedings before the Court. The discourses were luminous, warm and stimulating but completely free from heat, rancour or anger, leave alone any vengefulness. Mr. Subramaniam, erudite and sensitive, was full of restraint; always down-playing the prosecution case a notch or two and never making a statement of fact unless absolutely certain of its correctness. Mr. Ramachandran, cool and clinical, gently tried to persuade the Court to his point of view. In the course of the hearing of the case, which was spread over 13 weeks, not once were the voices raised, not once was the Counsel of the other side interrupted and contradicted on a statement of fact. In my twenty years on the bench I have not heard a serious case debated in such a congenial atmosphere as created by Mr. Subramaniam and Mr. Ramachandran in this case.

601. Mr. Ramachandran, appearing for the appellant, was assisted by Mr. Gaurav Agrawal and a small team of juniors. Mr. Subramaniam, representing the State of



Maharashtra, was assisted by Mr. Ujjawal Nikkam, the Spl. PP who conducted the trial and a team of juniors. The juniors' teams also showed remarkable preparation and resourcefulness. Any query on facts was answered in no time with reference to volume number and page number from the records that appeared like a small mountain. We are indebted to Mr. Subramaniam and Mr. Ramachandran and their respective teams and we put our gratitude on record.

602. In this case we came across heroes like Tukaram Ombale, Hemant Karkare, Ashok Kamte, Vijay Salaskar and Sandeep Unnikrishnan, who lost their lives in the fight against terrorism. We salute every policeman, every member of the security forces and others who laid down their lives saving others and helping to catch or neutralise the ten terrorists. We have great admiration for the courage and sense of duty shown by the policemen and the members of the security forces who received injuries in discharge of their duties and we extend our deepest sympathies to them for their injuries. We compliment all those who showed great presence of mind and professionalism and, caring little for their own safety, saved countless lives or photographed the terrorists on their killing

spree thus providing unimpeachable evidence for the court. We mourn the death of 148 civilians, both Indians and foreign nationals, who fell victim to the orgy of terror unleashed on the city, and extend our heart-felt condolences to their families. We also extend our deepest sympathies to all the 238 people who suffered injuries at the hands of the terrorists. We also greatly complement the resilient spirit of Mumbai that, to all outward appearances, recovered from the blow very quickly and was back to business as usual in no time.

603. In the course of hearing of the appeal we also came to know the trial Judge Shri *Tahiliani*. From the records of the case he appears to be a stern, no-nonsense person. But he is a true flag bearer of the rule of law in this country. The manner in which he conducted the trial proceedings and maintained the record is exemplary. We seriously recommend that the trial court records of this case be included in the curriculum of the National Judicial Authority and the Judicial Authorities of the different States as a model for criminal trial proceedings.604. We direct the Maharashtra Government to pay a sum of Rupees eleven lakh (Rs.11 Lakhs) to Mr. Raju Ramachandran and Rupees three lakh fifty thousand to Mr. Gaurav Agrawal (Rs 3.5 Lakhs) as token

remuneration for their very valuable assistance to the Court. The payments should be made within two months from today.

605. With this we come to the close of the matter and we end here.

#### **SCHEDULE I**

##### **LIST OF PERSONS KILLED**

Sr. No. NAME POLICE/ SECURITY FORCE/  
CIVILIAN NATIONALITY

##### **KUBER**

1 Amarchand Naran Solanki Civilian Indian

##### **CST**

2 Shashank Chandrasen Shinde Police  
(Inspector) Indian

3 Hamina Begum Hamid Shaikh Civilian  
Indian

4 Ashraf Ali Allahrakha Shaikh Civilian Indian

5 Ajij Nabilal Rampure Civilian Indian

6 Aakash Akhilesh Yadav Civilian Indian

7 Mukesh Bhikaji Jadhav Home Guard Indian

8 Sitaram Mallapa Sakhare Civilian Indian

9 Rahamtulla Ibrahim Civilian Indian

10 Mishrilal Mourya Shri Garib Civilian  
Indian/Mourya

11 Vinod Madanlal Gupta Civilian Indian

12 Sunil Ashok Thackare Civilian Indian

13 Haji Ejaj Bhai Imamsaheb Dalal Civilian  
Indian

14 Mira Narayan Chattarji Civilian Indian

15 Shirish Sawla Chari Civilian  
IndianSushilkumar Vishwambhar Sharma  
Civilian Indian  
17 Murlidhar Laxman Choudhary Railway  
Protection Force (Constable) Indian  
18 Ambadas Ramchandra Pawar Police  
(Constable) Indian  
19 Jaikumar Durairaj Nadar Civilian Indian  
20 Deepali Janardhan Chitekar Civilian  
Indian  
21 Raju Janardhan Chitekar Civilian Indian  
22 Aditya Ashok Yadav Civilian IndianIsibul  
Raheman Faizuddin Raheman Shaikh Civilian  
Indian  
24 Prakash Janath Mandal Civilian Indian25  
Harakha Lalji Solanki Civilian Indian  
26 Mohamed Amanat Mohamad Ali Civilian  
Indian  
27 Sarafraz Sallauddin Ansari Civilian Indian  
28 Ayub Yakub Qureshi Civilian Indian  
29 Afarin Shahadab Qureshi Civilian Indian  
30 Avadesh Sudama Pandit Civilian Indian  
31 Chandulal Kashinath Tandel Civilian  
Indian  
32 Manohar Sohani Civilian IndianMohamad  
Hussain Mohamad Alamgir Shaikh Civilian  
Indian  
34 Murtaza Ansari Sallauddin Ansari Civilian  
IndianMohamad Arif Mohamed Islam Ansari  
Civilian Indian  
36 Mohamad Mukhtar Malik Civilian Indian  
37 Abbas Rajjab Ansari Civilian Indian

- 38 *Unknown Male person* Civilian  
Indian/Mrs.Gangabai Baburao Kharatmol  
Civilian Indian
- 40 Narul Islam Ajahar Mulla Civilian Indian41  
Murgan Palaniya Pillai Civilian Indian
- 42 Rakhila Abbas Ansari Civilian Indian
- 43 Nitesh Vijaykumar Sharma Civilian Indian
- 44 Fatmabi Rehaman Shaikh Civilian Indian
- 45 Meenu Arjun Ansari Civilian Indian
- 46 Mohamad Itihans Ansari Civilian Indian
- 47 Mastan Munir Qureshi Civilian Indian
- 48 M.V. Anish Civilian Indian
- 49 Upendra Birju Yadav Civilian Indian
- 50 *Unknown Male person* Civilian Indian
- 51 Poonam Bharat Navadia Civilian Indian
- 52 Baichan Ramprasad Gupta Civilian Indian
- 53 Nathuni Parshuram Yadav Civilian Indian
- CAMA-IN**
- 54 Prakash Pandurang More Police  
(Sub-Inspector) Indian
- 55 Vijay Madhukar Khandekar Police  
(Constable) Indian
- 56 Baban Balu Ughade Civilian Indian57  
Bhanu Devu Narkar Civilian Indian
- 58 Thakur Budha Waghela Civilian Indian
- 59 Bhagan Gangaram Shinde Civilian Indian
- 60 Shivashankar Nirant Gupta Civilian Indian
- CAMA-OUT**
- 61 Hemant Kamlakar Karkare Police (Joint  
Commissioner, ATS) Indian
- 62 Ashok Marutirao Kamate Police  
(Additional Commissioner - East Region)

Indian

63 Vijay Sahadev Salaskar Police (Inspector)

Indian

64 Bapurao Sahebrao Durgude Police  
(Sub-Inspector) Indian  
Balasaheb @ Nana  
Chandrakant Bhosale Police (Assistant Sub-  
Inspector) Indian

66 Arun Raghunath Chite Police (Constable)  
Indian

67 Jayawant Hanumant Patil Police  
Indian (Constable)

68 Yogesh Shivaji Patil Police (Constable)  
Indian

69 Surendrakumar Bindu Rama Civilian  
Indian

**VINOLI CHOWPATY**

70 Tukaram Gopal Ombale Police (Assistant  
Sub-Inspector) Indian

**VILE PARLE BLAST**

71 Mohabbat Umer Abdul Khalid Civilian  
Indian

72 Laxminarayan Goyal Civilian Indian

**LEOPOLD CAFÉ**

73 Subhash Vanmali Vaghela Civilian Indian

74 Pirpashi Mehboobali Shaikh Civilian Indian

75 Shahabuddin Sirajuddin Khan Civilian  
Indian

76 Harishbhai Durlabbhai Gohil Civilian  
Indian

77 Hidayatullah Anwarali Kazi Civilian Indian

78 Malyesh Manvendra Banarjee Civilian  
Indian

79 Gourav Balchand Jain Civilian Indian80

P.K. Gopalkrishnan Civilian Indian

81 Kamal Nanakram Motwani Civilian Indian

82 Jurgen Hienrich Rudolf Civilian German

83 Daphne Hilary Schmidt Civilian German

#### **MAZGAON BLAST**

84 Mrs. Jarina Samsuddin Shaikh Civilian  
Indian

85 Fulchandra Ramchandra Bind Civilian  
Indian

86 Mrs. Reema Mohamad Rabiul Civilian  
Indian

#### **HOTEL TAJ**

87 Major Sandip Unnikrishnan Security Force  
Indian

88 Rahul Subhash Shinde Police (Constable)  
IndianZaheen Sayyed Nisar Ali Jafary Mateen  
Civilian Indian

90 Andres Don Livera Civilian British

91 Gunjan Vishandas Narang Civilian Indian

92 Vishandas Giridharidas Narang Civilian  
Indian

93 Vijayrao Anandrao Banja Civilian Indian94  
Sadanand Ratan Patil Civilian Indian

95 Thomas Verghese Civilian Indian

96 Ravi Jagan Kunwar Civilian Indian

97 Boris Mario Do Rego Civilian  
IndianSatpakkam Rahmatulla Shaukatali  
Civilian Indian

99 Faustine Basil Martis Civilian Indian

100 Kaizad Naushir Kamdin Civilian Indian

101 Neelam Vishandas Narang Civilian Indian

102 Rupinder Devenersing Randhava Civilian Indian  
103 Eklak Ahmed Mustak Ahmed Civilian Indian  
104 Maksud Tabarakali Shaikh Civilian Indian  
105 Feroz Jamil Ahmed Khan Civilian Indian  
106 Teitelbaum Aryeh Levish Civilian Israeli  
107 Duglas Justin Markell Civilian Australian  
108 Chaitilal Gunish Civilian Mauritius  
109 Willem Jan Berbaers Civilian Belgium  
110 Nitisingh Karamveer Kang Civilian Indian  
111 Samarveer Singh Karamveer Singh Kang Civilian Indian  
112 Udaysingh Karamveer Singh Kang Civilian Indian  
113 Sabina Saigal Saikia Civilian Indian  
114 Hemlata Kashi Pillai Civilian Malaysian  
115 Rajiv Omprakash Sarswat Civilian Indian  
116 Gutam Devsingh Gosai Civilian Indian  
117 Rajan Eshwar Kamble Civilian Indian  
118 Burki Ralph Rainer Jachim Civilian German  
119 Hemant Pravin Talim Civilian Indian  
120 Shoeb Ahmed Shaikh Civilian Indian  
121 Michael Stuart Moss Civilian British  
122 Elizabeth Russell Civilian Canadian  
**NARIMAN HOUSE**  
123 Salim Hussain Harharwala Civilian Indian  
124 Mehzabin @ Maria Salim Harharwala Civilian Indian  
125 Rivka Gavriel Holtzberg Civilian Israeli  
126 Rabbi Gavriel Noach Holtzberg



Civilian Israeli

127 Gajendra Singh Security Force Indian

128 Ben Zion Chroman Civilian Israeli

129 Norma Shvarzblat Robinovich Civilian  
Mexican

130 Rajendrakumar Baburam Sharma Civilian  
Indian

131 Yokevet Mosho Orpaz Civilian Israeli

**HOTEL OBEROI**

132 T. Suda Hisashi Civilian Japanese

133 Murad Amarsi Civilian French

134 Loumiya Hiridaji Amarsi Civilian French

135 Scherr Alan Michael Civilian American

136 Neomi Leiya Sher Civilian American

137 Sandeep Kisan Jeswani Civilian American

138 Lo Hawei Yen Civilian Singapore

139 Jhirachant Kanmani @ Jina Civilian  
Thailand

140 Altino D' Lorenjo Civilian Italian

141 Brett Gilbert Tailor Civilian  
Australian

142 Farukh Dinshaw Civilian Indian

143 Reshama Sunil Parikh Civilian Indian

144 Sunil Shevantilal Parekh Civilian Indian

145 Ajit Shrichand Chabriya Civilian Indian

146 Sanjay Vijay Agarwal Civilian Indian

147 Rita Sanjay Agarwal Civilian Indian

148 Mohit Kanhaiyalal Harjani Civilian Indian

149 Monika Ajit Chabriya Civilian Indian

150 Harsha Mohit Harjani Civilian Indian

151 Ravi Dara Civilian Indian

152 Uma Vinod Gark Civilian Indian

153 Pankaj Somchand Shah Civilian Indian

154 Ashok Kapoor Civilian Indian  
 155 Anand Suryadatta Bhatt Civilian Indian  
 156 Rohington Bajji Mallu Civilian Indian  
 157 Kannubhai Zaverbhai Patel Civilian Indian  
 158 Ami Bipinichandra Thaker Civilian Indian  
 159 Jordan Geigy Fernandise Civilian Indian  
 160 Neeta Prakash Gaikwad Civilian Indian  
 161 Shaunak Jayawant Chemburkar Civilian Indian  
 162 Wilson Baburao Mandalik Civilian Indian  
 163 Sarjerao Sadashiv Bhosale Civilian Indian  
 164 JasminMahendrasingh Burji Civilian Indian  
 165 Sanjy Sambhajirao Surve Civilian Indian  
 166 Bimolchand Maibam Civilian Indian  
**LIST OF INJURED PEOPLE** Sr. No. NAME  
 POLICE/ SECURITY FORCE/ CIVILIAN  
 NATIONALITY  
**CST**Mukesh Bhagwatprakash Agarwal Civilian Indian  
 2 Nisha Anilkumar Yadav Civilian Indian  
 3 JangamVithalrao Bokade Civilian Indian  
 4 Parasnath Ramsoman Giri Railway Protection Force (Head Constable) Indian  
 Firoz Khan Khushnur Khan Ghouri Railway Protection Force (Constable) Indian  
 6 Raziyabegum Noor Qureshi Civilian Indian  
 7 Sarita Shantaram Harkulkar Civilian Indian  
 8 Neeta Gajanan Kurhade Civilian Indian  
 9 Ajamat Ali Narhu Sha Civilian Indian

10 Maltidevi Madan Gupta Civilian  
IndianSulochana Chandrakant Lokhande  
Civilian Indian  
12 Vijay Ramchandra Khote Civilian Indian  
13 Mumtaz Mohd. Yusuf Khan Civilian Indian  
14 Pappu Laldev Jawahar Laldev Civilian  
Indian  
15 Shabir Abdul Salam Dalal Civilian Indian  
16 Laxman Shivaji Hundkeri Civilian Indian  
17 Akshay Tanaji Supekar Civilian Indian  
18 Nimba Shampuri Gosavi Civilian Indian19  
Mahadev Datta Petkar Civilian  
IndianSantoshkumar Faujdarsing Yadav  
Civilian Indian  
21 Miraj Alam Ali Mulla Ansari Civilian Indian  
22 Abdul Rashid Abdul Aziz Civilian Indian  
23 Abdul Salam Shaikh S. Qureshi Civilian  
Indian  
24 Akhilesh Dyanu Yadav Civilian Indian  
25 Ramzan Sahrif Kadar Sharif Civilian  
IndianMohd. Siddiqu Mohd. Sagir Alam  
Civilian IndianSachinkumar Singh  
Santoshkumar Singh Civilian Indian  
28 Tejas Arjungi Civilian Indian  
29 Shamshad Dalal Civilian Indian  
30 Baby Ashok Yadav Civilian Indian  
31 Shital Upendra Yadav Civilian Indian  
32 Asha Shridhar Borde Civilian Indian  
33 Vatsala Sahadev Kurhade Civilian Indian  
34 Chandrakant Ganpatirao Civilian  
IndianLokhande  
35 Abdul Razak Farukh Nasiruddin Civilian

Indian

36 Afroz Abbas Ansari Civilian Indian

37 Dadarao Rambhoji Jadhav Civilian Indian

38 Suryabhan Sampat Gupta Civilian  
Indian Jagendrakumar Kailashkumar Mishra  
Civilian Indian

40 Gopal Julena Prajapati Civilian Indian

41 P. Nirmala Civilian Indian

42 P. Ponuraj Civilian Indian

43 Mohan Bharti Civilian Indian

44 Sushant Nityanand Panda Civilian Indian

45 Annasaheb Ambu Waghmode Civilian  
Indian

46 T. Thavasi Parnal Civilian Indian

47 Anand Bhimrao Arjun Civilian Indian

48 Kanhayya Kedarnath Sahani Civilian  
Indian

49 Vibha Ashokkumar Singh Civilian Indian

50 Beti Alfonso Civilian Indian 51 Indraraj  
Luise Civilian Indian

52 Jayram Harilal Chawan Civilian Indian

53 Sunita Upendra Yadav Civilian Indian

54 Sushama Akhilesh Yadav Civilian Indian

55 Raviranjana Shriram Virendra Civilian  
Indian

56 Priyanka Chitaranjan Giri Civilian Indian

57 Imran Shakur Bhagwan Civilian Indian

58 Rekha Shyam Rathod Civilian Indian

59 Barjrang Jaykaran Prajapati Civilian  
Indian

60 Satyanand Karunakaro Behra Civilian  
Indian

- 61 Manoj Prafulchandra Kanojia Civilian Indian  
62 Balaji Baburao Kharatmol Civilian Indian  
63 Mehboob Abbas Ansari Civilian Indian  
64 Asif Abdul Rafik Shaikh Civilian Indian  
65 Raghvendra Banvasi Singh Civilian Indian  
66 Ashok Keshwanand Singh Civilian Indian  
67 Radhadevi Bodhiram Sahani Civilian Indian  
68 Tapasi Taramniggam Nadar Civilian Indian  
Sayed Shahnava Sayyed Salim Mujawar Civilian Indian  
70 Arvind Gopinath Bhalekar Civilian Indian  
71 Shivram Vijay Sawant Civilian Indian  
72 Ashok Shivram Patil Civilian Indian  
73 Bharat Ramchandra Bhosale Government Railway Police (Assistant Inspector) Indian  
74 Devika Natvarlal Rotawan Civilian Indian  
75 Farukh Nasiruddin Khaliluddin Civilian Indian  
76 Nafisa Sadaf Qureshi Civilian Indian  
77 Kishor Vinayak Kale Civilian Indian  
78 Sudama Aba Pandarkar Government Railway Police (Assistant Sub- Inspector) Indian  
79 Pandurang Subrao Patil Government Railway Police (Assistant Sub- Inspector) Indian  
80 Punamsingh Santosh Singh Civilian Indian  
81 Vishal Prakash Kardak Civilian Indian  
82 Sangita Niranjana Sardar Civilian Indian  
83 Niranjana Sadashiv Sardar Civilian Indian  
Ansarallah Saudaallah Baksh Mohd.

Hanif Civilian Indian  
85 Harshada Suhas Salaskar Civilian Indian  
86 Pappusing Mannusingh Civilian Indian  
87 Habibul Mohd. Sukurddin Khan Civilian Indian  
88 Anilkumar Rajendra Yadav Civilian Indian  
89 Laji Jagganath Pandye Civilian Indian  
90 Sanjay Nemchandra Yadav Civilian Indian  
Ratankumarji Kanhayaprasad Yadav Civilian Indian  
92 Shambunath Munai Yadav Civilian Indian  
93 Ganesh Sitaram Sakhare Civilian Indian  
94 Ashok Bhimappa Renetala Civilian Indian  
95 Alok Harilal Gupta Civilian Indian  
96 Ganpat Gangaram Shigwan Civilian Indian  
97 Fakir Mohd. Abdul Gafoor Civilian Indian  
98 Murlidhar Chintu Jhole Police (Head Constable) Indian  
99 Balu Bandu More Police (Constable) Indian  
100 Prakash Sohanlal Phalore Civilian Indian  
101 Ramji Yabad Napit Railway Protection Force (Assistant Sub- Inspector) Indian  
102 Vishveshwar Shishupal Pacharane Home Guard Indian  
103 Adhikrao Gyanu Kale Government Railway Police (Head Constable) Indian  
104 Uttam Vishnu Sasulkar Home Guard Indian  
105 Vijaya Ramkomal Kushwah Civilian Indian  
106 Bharat Shyam Nawadia Civilian Indian

107 Anilkumar Dyanoji Harkulkar Civilian  
Indian

108 Sadahiv Chandrakant Kolke Civilian  
Indian

109 Prashant Purnachandra Das Civilian  
Indian

**CAMA-IN**

110 Harischandra Sonu Shrivardhankar  
Civilian Indian

111 Chandrakant Gyandev Tikhe Civilian  
Indian

112 Kailash Chandrabhan Ghegadmal Civilian  
Indian

113 Vijay Abaji Shinde Police (Assistant  
Inspector) Indian

114 Sadanand Vasant Date Police (Additional  
Commissioner) Indian

115 Vijay Tukaram Powar Police (Assistant  
Inspector) Indian

116 Sachin Dadasaheb Tilekar Police  
(Constable) Indian

117 Mohan Gyanoba Shinde Police (Head  
Constable) Indian

118 Hirabai Vilas Jadhav Civilian Indian

119 Vinayak Chintaman Dandgawhal Police  
(Constable) Indian

**CAMA-OUT**

120 Arun Dada Jadhav Police (Naik)  
Indian

121 Maruti Mahdevrao Phad Civilian  
Indian

122 Anil Mahadev Nirmal Civilian Indian

123 Shankar Bhausahab Vhande Police

(Constable) Indian  
124 Prashant Sadashiv Koshti Civilian Indian  
125 Mohd. Asif Abdul Gani Memon Civilian  
Indian  
126 Kalpanth Jitai Singh Civilian Indian  
**VINOLI CHOWPATY**  
127 Sanjay Yeshwant Govilkar Police  
(Assistant Inspector) Indian  
**VILE PARLE BLAST**  
128 Roldan Glandson Ayman Civilian Indian  
129 Shyam Sunder Choudhary Civilian Indian  
130 Balkrishna Ramchandra Bore Civilian  
Indian  
**LEOPOLD CAFÉ**  
131 Munira-ul Rayesi Civilian Oman  
132 Faizal Miran Sabil-ul Gidgali Civilian  
Oman  
133 Asma-un Rayesi Civilian Oman  
134 David John Kokar Civilian Australian  
135 Harnish Patel Civilian British  
136 Micheal Charles Murphy Civilian British  
137 Riyan Michael Murphy Civilian British  
138 Anamika Bholanath Gupta Civilian Indian  
139 Minakshi Raghubhai Dattaji Civilian  
Indian  
140 Bhaskar Paddu Dewadiga Civilian Indian  
141 Benjamin Jerold Methis Civilian German  
142 Pravin Pandurang Sawant Police (Naik)  
Indian  
143 Kunal Prakash Jaiswani Civilian Indian  
144 Ransale Gilbert Santhumayor Civilian  
Indian



145 Ijas Abdul Karupadan Kuddi Civilian Indian  
146 Nilesh Mahendra Gandhi Civilian Indian  
147 Prakash Satan Bharwani Civilian Indian  
148 Ramchandra Selumadhav Nair Civilian Indian  
149 Bharat Sasuprasad Gujar Civilian Indian  
150 Rasika Krushna Sawant Civilian Indian  
151 Mohd. Parvez Aslam Ansari Civilian Indian  
152 Mohd. Ayub Mohd. Abdul Ansari Civilian Indian  
153 Manoj Bahadur Thakur Civilian Indian  
154 Fanishang Misha Bhishum Civilian Indian  
155 Naresh Mulchand Jumani Civilian Indian  
156 Prashant Vasant Tambe Civilian Indian  
157 Nivrutti Baburao Gavhane Police (Naik) Indian  
158 Katherin Austin Civilian Australian  
**MAZGAON BLAST**  
159 Rajendraprasad Ramchandra Maurya Civilian Indian  
160 Abdul Salim Shaikh Civilian Indian  
161 Shahbaz Juber Khan Civilian Indian  
162 Sabira Majid Khan Civilian Indian  
163 Sohel Abdul Shaikh Civilian Indian  
164 Kabir Bablu Shaikh Civilian Indian  
165 Kulsum Babu Shaikh Civilian Indian  
166 Jasmin Babu Shaikh Civilian Indian  
167 Imran Mohd. Shafi Pathari Civilian Indian  
168 Manoharabegum Ali Ahmed Shaikh Civilian Indian

169 Hawa Abdul Salim Shaikh Civilian Indian  
170 Sanju Kurshna Ghorpade Civilian Indian  
171 Manorabagum Ali Akbar Shaikh Civilian  
Indian  
172 Saiddiqui Firoz Shaikh Civilian Indian  
173 Shamin Rauf Shaikh Civilian Indian  
174 Rahaman Ali Akbar Shaikh Civilian Indian  
175 Heena China Shaikh Civilian Indian  
176 Mukhtar Shriniwas Shaikh Civilian Indian  
177 Kanhaikumar Harikishor Paswan Civilian  
Indian  
**HOTEL TAJ**  
178 Deepak Narsu Dhole Police (Inspector)  
Indian  
179 Samadhan Shankar More State Reserve  
Police Force Indian  
180 Sanjay Uttam Gomase State Reserve  
Police IndianForce  
181 Rafal Godas Civilian Spanish  
182 Maria Roza Romero Civilian Spanish  
183 Simond Helis Civilian British  
184 Eyujin Tan Jhonsi Civilian Philippines  
185 Hanifa Bilakiya Civilian Indian  
186 Anjum Gaful Bilakiya Civilian Indian  
187 U.T Bernad Civilian German  
188 Vinay Keshavaji Kuntawala Civilian  
Indian  
189 Deepak Pramod Gupta Civilian Indian  
190 Pragati Deepak Gupta Civilian Indian  
191 Mohanlal Pratap Taware Civilian Indian  
192 Sunil Kumar Jodha Security Force Indian  
193 Vishvanath Maruti Gaikwad State

Reserve Police Force Indian  
194 K.R. Rammurthi Civilian Indian  
195 Adil Rohengtan Irani Civilian Indian  
196 Ashish Ankush Patil Civilian Indian  
197 Nitin Digamber Kakade Police  
(Sub-Inspector) Indian  
198 Naushir Firoz Sanjana Civilian Indian  
199 Jagdish Waman Gujran Civilian Indian  
200 Nitin Satishkumar Minocha Civilian  
Indian  
201 Sajesh Narayan Nair Civilian Indian  
202 Rakesh Harischandra Chawan Civilian  
Indian  
203 Amit Raghnuath Khetle Police  
(Constable) Indian  
204 Ashok Laxman Pawar Police (Naik) Indian  
205 Arun Sarjerao Mane Police (Naik) Indian  
206 Saudagar Nivrutti Shinde Police  
(Constable) Indian  
207 Shankar Shamrao Pawar Police  
(Constable) Indian  
**NARIMAN HOUSE**  
208 Prakash Rawji Surve Civilian Indian  
209 Bablu Rajsing Yallam Civilian Indian  
210 Sanjay Laxman Katar Civilian Indian  
211 Vijay Ankush Falke Civilian Indian  
212 Ashok Babu Sunnap Civilian Indian  
213 Pradosh Prakash Perekar Civilian Indian  
214 Anil Sakharam Varal Civilian Indian  
**HOTEL OBEROI & HOTEL TRIDENT**  
215 Shabbir Tahirna Naruddin Civilian Indian  
216 Amardeep Harkisan Sethi Civilian Indian

- 217 Sidharth Rajkumar Tyagi Civilian Indian  
218 Drrissuz Sobizutski Civilian Poland  
219 Linda Oricistala Rangsdel Civilian  
American  
220 Alisa Micheal Civilian Canadian  
221 Andolina Waokta Civilian American  
222 Helan Connolly Civilian Canadian  
223 Jahid Jibad Mebyar Civilian Jordanian  
224 Shi Fung Chen Civilian Japanese  
225 Reshma Sanjay Khiyani Civilian Indian  
226 C.M. Puri Civilian Indian  
227 Capt. A.K.  
Singh Security Force Indian  
228 Camando Manish Security Force Indian  
229 Apurva Natwarlal Parekh Civilian Indian  
230 Dinaj Puranchand Sharma Civilian Indian  
231 Chandresh Harjiwandas Vyas Civilian  
Indian  
232 Imran Jan Mohd. Merchant Civilian  
Indian  
233 Appasaheb Maruti Patil Civilian Indian  
234 Anil Bhaskar Kolhe State Reserve Police  
Force Indian  
235 Gangaram Suryabhan Borde Civilian  
Indian  
236 Ranjit Jagganath Jadhav State Reserve  
Police Force Indian  
237 Joseph Joy Pultara Civilian Indian  
238 Virendra Pitamber Semwal Civilian  
Indian

**SCHEDULE II LIST OF ACCUSED  
PERSONS SR. No. NAME  
ACCUSED ON TRIAL**

1 Mohammad Ajmal Mohammad Amir Kasab  
@ Abu MujahidFahim Arshad Mohammad  
Yusuf Ansari @ Abu Jarar @ Sakib @ Sahil  
Pawaskar @ Sameer Shaikh@ Ahmed  
HasanSabauddin Ahmed Shabbir Ahmed  
Shaikh @ Saba @ Farhan @ Mubbashir @  
Babar @ Sameer Singh @ Sanjiv @  
Abu-Al-Kasim @ Iftikhar @ Murshad @  
Mohammad Shafik@Ajmal Ali

**ACCUSED WHO DIED IN COMMISSION OF  
OFFENCE**

1 Ismail Khan @Abu Ismail  
2 Imran Babar @ Abu Aqsa  
3 Nasir @ Abu Umar  
4 Nazir @ Abu Omair  
5 Hafiz Arshad @ Abdul Rehaman Bada @  
Hayaji  
6 Abadul Reheman Chhota @ Saqib  
7 Fahad Ullah  
8 Javed @ Abu Ali  
9 Shoaib @ Abu Soheb

**WANTED ACCUSED**

1 Hafeez Mohammad Saeed @ Hafiz @ Hafiz  
Saab  
2 Zaki-Ur-Rehaman Lakhvi  
3 Abu Hamza  
4 Abu Al Kama @ Amjid  
5 Abu Kaahfa  
6 Mujjamil @ Yusuf  
7 Zarar Shah  
8 Abu Fahad Ullah  
9 Abu Abdul Rehman

- 10 Abu Anas
- 11 Abu Bashir
- 12 Abu Imran
- 13 Abu Mufti Saeed
- 14 Hakim Saab
- 15 Yusuf
- 16 MursheedAakib18 Abu Umar Saeed
- 19 Usman
- 20 Major General Sahab - Name not known
- 21 Kharak Singh
- 22 Mohammad Ishfak
- 23 Javid Iqbal
- 24 Sajid Iftikhar
- 25 Col. R. Saadat Ullah
- 26 Khurram Shahdad
- 27 Abu Abdur Rehman
- 28 Abu Muavia
- 29 Abu Anis
- 30 Abu Bashir
- 31 Abu Hanjla Pathan
- 32 Abu Saria
- 33 Abu Saif Ur Rehman34 Abu Imran
- 35 Hakim Saheb

#### **SCHEDULE III DNA EVIDENCE**

SR. NO. NAME OF THE TERRORIST  
FORWARDING LETTER TO FSL FOR DNA  
PROFILING ARTICLES SEIZED DURING  
INVESTIGATION IN M.V. KUBER OPINION

1. Kasab Exhibit No. 658 Jacket (Art. 186  
Colly.) The DNA profile from the control  
sample

***matched*** with the DNA profile from sweat

detected in jacket - report is Exhibit No. 205-F

2. Abu Ismail Exhibit No. 216 Blanket (Art. 184 Colly.) The DNA profile from the control sample **matched** with the DNA profile from sweat detected on blanket - report is Exhibit No. 205- B

3. Imran Babar Exhibit No. 683 - -

4. Abu Umar Exhibit No. 683 Monkey Cap (Art. 187 Colly.) The DNA profile from the control sample **matched** with the DNA profile from sweat detected on Monkey cap - report is Exhibit No. 205-E

5. Abu Omair Exhibit No. 671 Colly Jacket (Art. 186 Colly.) The DNA profile from the control sample **matched** with the DNA profile from sweat detected on jacket - report is Exhibit No. 205-G

6. Abdul Rehman Bada - - -

7. Abdul Rehman Chhota Exhibit No. 665 Israeli Cap (Art. 187 Colly.) The DNA profile from the control sample **matched** with the DNA profile from sweat detected on Israeli cap - report is Exhibit No. 205-D

8. Fahadullah Exhibit No. 666 - -

9. Abu Ali Exhibit No. 671 Colly. Handkerchief (Art. 206) The DNA profile from the control sample **matched** with the DNA profile from sweat detected on handkerchief - report is Exhibit No. 205-C

10. Abu Soheb Exhibit No. 671 Colly.

**CHANDRAMAULI KR . PRASAD, J .**

I agree.

However, I wish to add few words of my own. In all human affairs absolute certainty is myth. Prof. Brett puts it, “all exactness is fake”. Ordinarily, E.L.Dorado theory of “absolute proof” being unattainable, the law accepts for it probability as a working substitute. Hardly one come across a case, where Court does not resort to “certain probability” as working substitute for proof beyond all reasonable doubt. However, in the case in hand, from the evidence, oral and documentary, reference of which have copiously been made in the judgment by my noble and learned Brother Aftab Alam, J. make me believe that “absolute certainty” may not necessarily be a myth or fake in all cases and can be a reality. The present case is an exception. Here, I am more than certain that the planning and conspiracy to commit the crime were hatched in Pakistan, the perpetrators of crime were Pakistani trained at different centres in that country, and the devastation which took place at various places in the city of Mumbai, were executed by the appellant in furtherance thereof.

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[1] A complete list of people killed and injured is appended at the bottom of the judgment as Schedule No. I, forming part of the judgment.

[2] A complete list of the accused in three categories, i.e., (i) the three who faced the trial, (ii) the nine who died in course of commission of the crimes and (iii) the thirty five (35) who remain to be apprehended is appended at the bottom of this judgment as Schedule No. II, forming part of the judgment.

[3] A term used by the appellant; vernacular adaptation of buddy.

[4] To reconstruct the events at the CST the prosecution has examine fifty-three (53) witnesses. Leaving aside the forensic experts and other witnesses of a formal nature such as panch witness, the number of eye witnesses who gave ocular accounts of the events is not less than twenty- five (25). Out of these, ten (10) are policemen and members of Railway Protection Force (RPF) and Home Guard; among them three (3) are injured witnesses. Of the remaining fifteen(15), nine (9) are passengers, of whom eight (8) are injured witnesses. Of the remaining six (6), four (4) are railway employees, of whom two (2) are injured.

The remaining two (2) are photographers from the Times of India, one of the prime English dailies of the country.

[5] According to the appellant's confessional statement before the magistrate, before lobbing the hand grand at the crowd of passengers, Abu Ismail had placed the bag containing the RDX bomb, with the timer set for blast, among the passengers' luggage. 2012 STPL(Web) 464 SC 156 Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra Supreme Court Judgements @ [www.stpl-india.in](http://www.stpl-india.in) Fortunately, however, the bomb failed to explode. The bomb along with the bag was later seized after it was diffused by the bomb disposal squad, but that forms part of the forensic evidence to which we will advert in due course.

[6] The fake identity card with Hindu name given to each member of the group of terrorists by Abu Kafa before leaving for Mumbai

[7] Independently established through mobile phone call records

[8] As we shall see presently this was Assistant Sub-Inspector Sudama Aba Pandarkar (PW-62)

[9] As we shall see presently this was Police Constable Ambadas Pawar (one of the policemen falling down to the terrorists' bullets)

[10] All the three pictures clearly show Kasab, carrying a haversack on his back and an AK-47 in his hands. In the first picture he is shown moving forward, with the left hand raised and the right hand holding the AK-47 with the barrel pointing downwards. In the second picture he is raising the gun with the right hand and the left hand is coming down towards the gun for providing support. In the third picture he is stepping forward with both hands holding AK-47 at waist level in firing position.

[11] As we shall see presently these two were Police Inspector Shashank Shinde and Police Constable Ambadas Pawar (who fell down to the terrorists' bullets).

[12] Ext. nos. 410-A, 410-B and 410-C are pictures taken when Kasab and Abu Ismail were at CST. All the three pictures appear to be taken from the front. In the pictures they appear behind what appears to be the frames of a set of two metal detectors. In Ext. no. 410-A Kasab and Abu Ismail are standing about three ft. apart peering ahead; in Ext. no. 410-B they appear

standing close together in the frame of the metal detector looking ahead. In Ext. no. 410-C Abu Ismail is hidden behind a pillar but Kasab is clearly shown carrying a haversack on his back and an AK-47 in both hands.

[13] Ext. no. 410-D clearly shows Kasab coming down from the foot-over-bridge. The picture was taken with a flash and, therefore, it shows Kasab both startled and angry with the haversack hanging from the shoulder and the AK-47 held in both hands ready to fire.

[14] PW-62, Injured: shown in photograph Ext. no. 245

[15] Ambadas Pawar, killed; shown lying down with Shashank Shinde in photograph Ext. no. 242

[16] PW-61, D'souza

[17] Though Devika was not examined by the police earlier and she was only a child aged 10 years, on an application made by the prosecution the trial court by order dated June 10, 2009 allowed her to be examined as one of the prosecution witnesses under oath after being satisfied that she was capable of understanding the meaning of oath. We feel that the trial court was quite

justified in examining Devika as one of the witnesses of the occurrence.

[18] For this part of the case the prosecution examined thirty-two (32) witnesses. Leaving aside the doctors, forensic experts and other witnesses of a formal nature, such as panch witnesses, the number of eye witnesses who gave an ocular account of the events is not less than eleven (11). Of the eleven (11), two are policemen both of whom received injuries at the hands of Kasab and Abu Ismail, five (5) are from the public of whom one (1) is injured, and four (4) are hospital staff of whom two (2) are injured.

[19] The number relates to the persons killed and injured by Kasab and Abu Ismail both in the lane before they entered Cama hospital and inside the hospital.

[20] They were 1. Timesh Narsing Chinnekar (PW- 123) whose wife Gracy was admitted in the hospital on November 22, 2008, for delivery; 2. Thomas Sidhappa Uledhar (PW-108), brother-in-law of Chinnekar; and 3. Soman, a friend of Uledhar

[21] The only issue on which the two judges hearing the case were unable to agree completely was what would be the

witnesses' feelings towards the saint. The author of these lines felt that he would never again go to the shrine holding him responsible for getting nearly killed on November 26. The other judge, on the other hand, maintained that the occurrence would have greatly enhanced his devotion for the saint, whom the witness would see as his savior.

[22] The New Hospital building of Cama Hospital had two lifts, apart from the stairs, for going to the upper floors. The lifts could take one up to the sixth floor but the stairs would go beyond, right up to the terrace of the building.

[23] For this part of the case the prosecution examined eighteen (18) witnesses. Leaving aside the doctor, forensic expert and other witnesses of a formal nature, such as panch witnesses, the number 2012 STPL(Web) 464 SC 157 Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra Supreme Court Judgements @ [www.stpl-india.in](http://www.stpl-india.in) of eye witnesses who gave an ocular account of the events is not less than seven (7). Out of the seven (7), six (6) are policemen one (1) of whom received injuries at the hands of Kasab and Abu Ismail and one (1) is the driver of a car who received

gunshot injuries when his car was fired upon by the terrorists.

[24] The number relates to the persons killed and injured by Kasab and Abu Ismail from the point they came out of Cama hospital and until they snatched the Skoda car.

[25] Thorawade (PW-128) was earlier examined on July 14, 2009, before Kadam (PW-138) who was examined on July 27, 2009. But on July 14, 2009, he only stated before the court that, from November 28, 2008, he was handling the investigation of Crime No.245-08 till it was taken over by DCB, CID, on December 2, 2008. Later, Kadam, in his deposition before the court, stated that Thorawade was also among the policemen stationed in front of the entrance to Cama Hospital when Kasab and Abu Ismail came out of the Hospital, and he too had witnessed the whole incident. Thereupon, the court recalled Thorawade and he was re-examined by the court on November 23, 2009.

[26] Peter Mobile is the name given to a vehicle fitted with a wireless system. One such Peter Mobile is provided to each police station under the direct control of the Sr. PI in charge of the police station.

[27] Abu Ismail was firing at the crowd assembled at the Metro junction while driving the Qualis police vehicle which the two terrorists had snatched after killing all but one of its occupants. Actually both the two persons, namely, police constable driver Chitte and a civilian Surendra Bindu Ram, were killed, vide PW-654 (Ashok Dattatraya Khedkar, Assistant Police Inspector)

[28] Pydhonie Division Jeep was assigned to Shantilal Arjun Bhamre, Assistant Commissioner of Police, Pydhonie Division (PW-133) and he had come there on that Jeep.

[29] For this part of the case the prosecution examined six (6) witnesses. Of these three (3) are policemen. One of them is formal, the other recorded the statement of the person from whom the car was taken away at gun-point and, since he was not the jurisdictional policeman, he handed over the recorded statement to the jurisdictional policeman who is the third police witness. Of the remaining three (3), two (2) are the occupants of the car and the third is the person whom they were going to rescue after he was evacuated from Oberoi Hotel.

[30] For this part of the case the prosecution has examined ten (10)



witnesses. Leaving aside two (2) panch witnesses and a formal police witness, there are seven (7) police witnesses of whom three (3) are members of the team that overpowered Kasab and Abu Ismail and took them in custody (one of them is injured), two (2) reached the spot after Kasab was apprehended and had taken him and Abu Ismail to hospital, one (1) maintained the police logs and the last secured the area after the incident.

[31] According to the Post-Mortem of Abu Ismai (Ext. no. 97) there were six (6) bullet wounds on his person; among the other parts of the body, he was hit on the right eye and on the rear side of head, the front portion of the arm of the right hand shoulder and also at a distance of seven (7) cm down from the right hand shoulder. It would thus appear that he was hit by shots fired by both, Kadam and Bavthankar.

[32] Their identity was established by DNA profiling of the remains of the bodies found in the destroyed taxi.

[33] All calls established through mobile call records.

[34] One (1) the “Nakhva” on the Kuber; fifty-two (52) at CST; seven (7), “Cama in”;

nine (9), “Cama out”; one (1) at Vinoli Chowpaty; and two (2) in the Vile Parle taxi blast.

[35] One hundred and nine (109) at CST; ten (10), “Cama in”; seven (7), “Cama out”; one (1) at Vinoli Chowpaty; and three (3) at Vile Parle taxi blast.

[36] From the ballistic analysis of the AK-47 bullets recovered from dead bodies, (only such that were not fragmented and were capable of identification), it came to be established that at least six (6) persons, namely, Sitaram Sakhare, Rahamtulla Ibrahim, Vinod Madanlal Gupta, Ambadas Ramchandra Pawar, Abbas Rajab Ansari (at CST) and Tukaram Gopal Ombale (at Vinoli Chaupaty) were hit by shots from the AK-47 rifle, Article 10, held by the appellant. Ashok Kamte, according to the forensic evidence, was hit by shots fired from Article 427, the AK-47 rifle used by Abu Ismail.

[37] See letter dated January 5, 2009 from the Chief Investigating Officer to the Police Surgeon, Mumbai, 2012 STPL(Web) 464 SC 158 Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra Supreme Court Judgements @ [www.stpl-india.in](http://www.stpl-india.in) Article 991

[38] See Wasim Ahmed Bashiruddin Shaikh (PW-225) and Mohammad Rabiul Mohammad Kiramal Shaikh (PW-176)

[39] All this can be witnessed in the CCTV recordings of the Hotel.

[40] After having taken Ramamoorthy captive, the terrorists were talking with their handlers and collaborators from across the border on a mobile phone. The collaborators asked them to find out Ramamoorthy's identity so as to ascertain whether he was sufficiently important to be used for any bargains or negotiations with the Indian authorities. Ramamoorthy first said that he was a teacher at which the terrorists mocked him, saying how could he stay at the Taj on a salary of Rupees twenty thousand a month. They sarcastically asked him whether he was a smuggler and whether he was teaching his pupils how to kill Muslims. Ramamoorthy finally disclosed his true identity. Before he was able to escape, Ramamoorthy had a most harrowing time with his captors, and one may appreciate his plight by recalling a few verses from a contemporary poem reflecting the feelings of a person taken as one of the hostages by the terrorists. "I feel entrapped Just like you do. You by your acts and I by you. "You target me yet you are blind product of an

imprisoned mind. Your freedom comes with your last breath for me, when I escape from death. No questions asked when you will die those mourning me will question why.” (from ‘Retaliate’ by Kapil Sibal, in My World Within)

[41] On being questioned by the terrorists, Adil Rohinton Irani gave his name as Adil, and said that he was a Muslim, in the hope that this would endear him to his captors. On the contrary, it only provoked the ire of the terrorists, who were particularly rough with him, calling him a “traitor Musalman”.

[42] This was in all probability the explosion of the RDX bomb placed by the terrorists themselves on the fifth floor of the hotel.

[43] Both the bombs planted by the terrorists exploded causing considerable damage; see Rambuval Chandrapati Yadav (PW-202).

[44] See the evidence of Kazi Zakir Hussain (PW-239).

[45] It is reported that it was at the Taj Mahal Hotel ballroom that, on February 20, 1918, at her eighteenth birthday party, Ruttie had accepted Mr Jinnah’s hand in marriage while the band was playing the Chopin tune, So Deep is the Night. It is also

reported that both Mr. Jinnah, the creator of Pakistan, and Mrs. Sarojini Naidu, the President of the Indian National Congress, often held court at Taj Mahal Hotel. Mr. Jinnah also had an intimate connection with Mazgaon, where the bomb planted by two terrorists in a taxi exploded, killing three (3) and wounding nineteen (19) people. It is reported that Mr. Jinnah devoted Thursday afternoons to visiting the grave of his wife Ruttie at the Khoja Shiite Isna'ashri Cemetery, situated at Mazgaon, Mumbai. One wonders what Quaid-e-Azam would have thought of the terrorist attack on his favourite city in the subcontinent and especially on Taj Mahal Hotel, with which he had a personal relationship of a very intimate kind.

[46] In conversations (Talks no.3 and 4) on mobile phones between the terrorists at Hotel Taj and their collaborators from across the border, the latter gleefully tell the former that a minister was trapped inside the hotel and that, on the orders of the Prime Minister, a helicopter was likely to come to his rescue, and further that the terrorists should find and catch him and not allow him to flee.

[47] See the evidence of Additional Commissioner of Police Saravanaswamy

Jagannathan (PW-37) and Commandant Prabhdeep Singh Malhotra (PW-26), and Exhibits no. 172A and 140.

[48] See Exhibit no. 160, the office copy of the original registration certificate.

[49] It may be stated here that the witness was giving the list of the articles from his memory. At this stage, in answer to a court question, he sought permission to refer to the Panchnama Ext. no. 182 and, on referring to the Panchnama, he said that there were fourteen (14) to fifteen (15) shirts.

[50] \* A reference to the panchnama, Ext. no. 182 would show that each of these articles had markings/writings that unmistakably indicated that all the articles originated in 2012 STPL(Web) 464 SC 159 Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra Supreme Court Judgements @ [www.stpl-india.in](http://www.stpl-india.in) Pakistan.

[51] Vermicelli

[52] It may be noted here that among the one hundred and sixtysix (166) persons killed in the terrorist attack, six (6) were US citizens. Consequently, FBI case no.LA252196 was instituted and

investigations were also made in America. This facilitated some coordination between the investigating agencies in the two countries. The FBI rendered some forensic assistance to investigators in India and also responded to some letterogatories sent by the Indian court (See PW-153, Geoffrey Maron, Special Agent, FBI).

[53] The full description of the pink foam piece is given at Exhibit no. 32, in the Panchnama dated November 27, 2008, Ext. no. 486.

[54] See Ext. no. 182 and PW-41 Gorakh Nalawade (for seizure of the foam pieces on Kuber), Ext. no. 269 and PW-74 Pandharinath Yeram (for seizure of the foam pieces from CST), Ext. no. 486 and PW-115 Nazimuddin Sheikh (for seizure of the foam pieces from Cama Hospital) & Ext. no. 736 and PW-182 Prakash Bhoite (for seizure of the foam pieces from Hotel Taj): The foam pieces were numbered in the forensic science laboratory as Ext. no. 75 of DNA-443B-08 in Ext. no. 1011 (on Kuber), Ext. no. 1 M.494-08 in Ext. no. 1012 (from CST), Ext. no. 53 of BL No. 990/C/08 in Ext. no. 1009 (from Cama Hospital) and Ext. no. 1 of M.516-08 & Ext. no. 3 of M.516-08 in Ext. no. 1010 (from Hotel Taj): And finally see the deposition of the Forensic Examiner

Ramchandra Mavle (PW-247) and his report  
Ext. no. 1013

[55] Described in the transcripts of  
intercepted calls from Hotel Taj: Talk no.2

[56] Nariman House, Talk No. 26 (Ext. no.  
990)

[57] Hotel Taj, Talk No. 4 (Ext. no. 971)

[58] Hotel Taj, Talk No. 8 (Ext. No. 972)

[59] Hotel Oberoi, Talk No. 4 (Ext. no. 979)

[60] Hotel Taj, Talk No. 3 (Ext. No. 970)

[61] (2006) 3 SCC 374 (paragraphs 33-39 with  
special reference to paragraph 38

[62] (2008) 5 SCC 633 (paragraph 8, page  
636)

[63] (2008) 16 SCC 417 (paragraphs 71, 113,  
114)

[64] (2008) 16 SCC 497 (paragraph 5, page  
499)

[65] (2009) 7 SCC 104 (paragraph 53, page  
127)

[66] (2009) 14 SCC 677 (paragraph 10, page  
680)



[67] (1955) 1 SCR 613 (page 653, 2nd paragraph, 654)

[68] (1985) 3 SCC 545 (paragraph 28 and 29, page 569, 570)

[69] This statement is factually inaccurate but in fairness to Mr. Ramachandran it must be stated that, as the facts unfolded and the correct picture emerged, he immediately corrected himself and adapted his submissions, as we shall see in due course, to the correct facts.

[70] (1978) 2 SCC 424

[71] 384 US 436 (1966)

[72] (1981) 1 SCC 627

[73] (2005) 11 SCC 600

[74] (1994) 3 SCC 569

[75] (1997) 1 SCC 416

[76] (2010) 7 SCC 263

[77] [1962] 3 SCR 10

[78] 512 US 452 (1993)

[79] 130 S.Ct. 2250 (2010) [State Compilation 1, pg. 138]

[80] 130 S.Ct. 2250 at 2260 (2010) [State  
Compilation 1, pg. 151]

[81] [1992] 177 CLR 292

[82] [2010] 2 S.C.R. 310

[83] (2009) 49 EHRR 19

[84] [2011] UKSC 43

[85] [2011] UKSC 54

[86] (1992) 3 SCC 259

[87] (2011) 12 SCC 362

[88] AIR 1957 SC 637 (644)

[89] 309 US 227: 84 L Ed 716: 60 S Ct 472  
(1940)

[90] 384 US 436: 16 L Ed 2d 694 (1966)

[91] 378 US 478:12 L Ed 2d 977 (1964)

[92] AIR 1952 SC 75

[93] (1980) 1 SCC 98

[94] Hussainara Khatoon (IV) v. Home  
Secretary, State of Bihar, (1980) 1 SCC 98

[95] (1986) 2 SCC 401

[96] A detailed form prescribed after this Court's decision in D.K. Basu, which every police officer in Maharashtra is required to fill up at the time of making arrest in compliance with the directions of this Court.

[97] Criminal Appeal No.284 of 1968, decided on December 17, 1968

[98] (1969) 1 SCR 32

[99] (1974) 3 SCC 581 (para 1)

[100] We may recall here the injunction by the collaborators to the terrorists against being caught alive as appearing in the transcripts of their phone calls.

[101] On an enquiry made by the court as to how the appellant, being under judicial remand, came to learn that Pakistan had acknowledged him to be his national, it came to light that the appellant learnt about the fact from the guards on duty. Actually, on February 12, 2009, the Interior Minister of Pakistan acknowledged that the appellant is a citizen of Pakistan in a press conference. But the appellant came to know about it much later and used it as an excuse to make a statement before the court.

[102] (1999) 5 SCC 253 (para 111)

[103] 2011 (8) SCALE 328

[104] Recall here the “plea of guilty” statement made by him in the midst of his trial. In this statement he artfully and very subtly changed his earlier statement, recorded under Section 164 CrPC, thus cleverly 2012 STPL(Web) 464 SC 160 Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra Supreme Court Judgements @ [www.stpl-india.in](http://www.stpl-india.in) offering himself for conviction but trying to escape the extreme penalty.

[105] (1980) 2 SCC 684

[106] (1983) 3 SCC 470

[107] (2011) 5 SCC 317, paras 23-24

[108] (2008) 13 SCC 767, para 43, 48-53

[109] (2009) 6 SCC 498, para 64-66, 71-72, 80-89

[110] (2009) 11 SCALE 327, para 11-23: (2010) 14 SCC 641

[111] (2009) 5 SCC 740, para 83-84, 107-110

[112] (2011) 2 SCC 764

[113] (2010) 3 SCC 508, para 80

[114] (2010) 1 SCC 775, para 66-67

[115] (1996) 9 SCC 502, para 15

[116] (2001) 9 SCC 1, para 1, 63

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