NOTE ON DRAFT/PROPOSED CHARGES:

The applicant named above most humbly and respectfully submits as under:

1. The Investigating Officer (I.O.) had submitted copies of all the Contract Notes pertaining to the dealings in Government Securities between the Complainant and the Accused Company M/s. Home Trade Ltd. On the scrutiny of the Contract Notes the following facts emerge.

i. The Home Trade Ltd. had issued Contract Notes in its capacity as a member of the National Stock Exchange (NSE).18001032341

ii. The said Contracts had been issued for the transactions undertaken by M/s. Home Trade Ltd. on "Principal to Principal" basis. It is clearly evident from the Contract Notes that the Counter Party in all these Transactions was "HOMETRADE". It is also evident from the Contract Notes that since Home Trade itself was seller of the Securities it had not Charged any Brokerage to the Buyer namely Osmanabad District Central Cooperative Bank and that is why Brokerage column in all the Contract Note is Blank. Thus M/s. Home Trade Ltd has acted as 'Principal' and not as 'Broker'.

iii. Since, M/s. Home Trade Ltd has not acted as 'Broker', no amount has been charged as brokerage in the Contract Notes of the said transactions. M/s. Home Trade's position /role in the instant transactions with the Complainant Bank was clearly communicated to the Bank by M/s Home Trade Ltd in its letter dated 31st January, 2002 , in the very first line of the said letter it was mentioned that Home Trade was a seller.

iv. To explain this further, the members of the Stock Exchange can act in different capacities. A member of the stock exchange can act as (i) Principal owner (ii) Broker (iii) Agent (iv) Jobber/market maker (v) Proprietory-Trader (vi) Arbitrager etc. In each transaction the role of the stock exchange member is decided at the time of entering into the Contract with the counter party and accordingly Contract Notes are being issued to the Counter Party clearly mentioning the status of the member either as principal or as Broker.

vi. The Contract Notes clearly reveal that against the amount received from the Complainant, M/s Home Trade Ltd had agreed to sell securities from its proprietary account. Thus in the instant transaction, M/s. Home Trade Ltd. was neither a broker nor an agent of the Complainant. Hence, the amount paid by the Complainant was not received and/or retained by M/s. Home Trade Ltd in a fiduciary capacity as a trustee (as

Broker/Agent) of the Complainant. After the contract notes were executed by M/s. Home Trade Ltd in favour of the Complainant, M/s. Home Trade Ltd was under an obligation to deliver the securities which were purchased by the Complainants under the said contract notes. Thus after receipt of the amount from the Complainant, M/s. Home Trade Ltd became owner of that money and was free to utilize that funds. After entering into the said transactions and issuance of contract notes, the relationship between the Complainant and M/s. Home Trade Ltd. was that of 'Creditor' and 'Debtor'. From the above discussion it is clear that the amount received from the complainant was not to be returned in specie by M/s Home Trade Ltd and M/s. Home Trade Ltd. was entitled to use, the amount in its own business as its own discretion. It is a well settled law that when a relation of 'Debtor' and 'Creditor' alone is created by the bailment of money, a civil liability is created. The criminal liability arises in addition to the civil liability when the beneficial ownership in the property is not transferred to the accused and he is placed under an obligation contractual or otherwise to utilize the money for the specific purpose for which it was handed over to him. In the present case, upon the facts as they appear from the records, a relation of 'Debtor' and 'Creditor' was created between the parties because the amount received from the Complainant at best can be treated as an Advance against goods. The beneficial ownership in the money so advanced to M/s.

Home Trade Ltd. was intended to be transferred to it and it could not be said that it was intended that M/s Home Trade Ltd was to keep the money intact in their possession and make no use of it at all. Hence, in view of the foregoing discussion and documentary evidences, the provision of section 406 of IPC cannot be invoked and applied to the instant case. The main ingredients required to attract the provision of Section 405 and 406 of IPC are completely missing in the transactions under consideration, hence, the Petitioner be discharged from the charges of criminal breach of trust.

2. It is pertinent to note that simple cheating is punishable under sec. 417, but where there is delivery or destruction of any property or alteration or destruction of any valuable security resulting from the act of the person deceiving then section 420 comes into operation. For an offence under this section:

(a) It must be proved that the complainant parted with his property acting on a representation which was false to the knowledge of the accused and that the accused had a dishonest intention at the outset.

(b) The intention to deceive should be in existence at the time when the inducement was made. Mere failure to keep up a promise subsequently cannot be presumed as leading to cheating.

In the F.I.R/ Complaint there is no allegation that the Petitioner had caused any deception. There is nothing in the Complaints to show that the Petitioner caused the Complainant to believe what was false or misleading as a matter of fact or lead them into error. In fact from the Complaints and the prosecution witnesses statements, it is very clear that the Petitioner had not made any representation much less the false representation nor he had ever visited the Complainant. Hence, there is not an iota of evidence against the Petitioner to bring home the offence of cheating.

3. It is pertinent to note that the charge sheet has been filed for the crime committed by the accused inter-alia under sections 406, 420 r/w 34 of IPC. It is well settled rule of law that an offence u/s 406 of IPC is in a way "Anti-thesis" of the offence u/s. 420 of IPC. In case for criminal breach of trust, the property is voluntarily kept in the custody of accused and in a case for cheating, the accused by adopting deceitful means induces the Complainant to part with property. Hence, it is well settled rule of law that an accused person cannot be tried for the offence of cheating and criminal breach of trust in the same trial.

As far as the Petitioner is concerned, from the charge sheet papers it is clear beyond doubt that he has not

made any representation of whatsoever nature to the Complainant. Hence, there is no evidence in the charge sheet to proceed against the Petitioner u/s. 420 r/w 34 of IPC.

3. The "Securities and Exchange Board Of India (SEBI)" had addressed one letter dated 9.8.2002 to Shri B.B.Porate, Dy. Superintendent of Police, State CID, Nagpur. In the said letter Deputy General Manager, Secondary Market Department, SEBI had confirmed that M/s Home Trade Ltd. has been registered as a Stock Broker on Pune Stock Exchange (PSE), The Stock Exchange, Mumbai (BSE), National Stock Exchange of India Ltd. (NSE) and OTC Exchange of India (OTCEI). In addition to the said letter there is one more letter dated 7th October, 2002 addressed by Public Debt Office, Reserve Bank Of India to Shri K. B. Bele- Deputy Superintendent of Police, State CID (Crime), Nagpur. In the said letter it is confirmed by RBI that M/s. Home Trade Ltd is registered in RBI's books for its dealing in Government Securities vide registration No.6-H/82. Copies of the letters are marked as **Exs___and____.**

From the said letter it is clear that the Contract Notes issued by M/s. Home Trade Ltd., as a member of National Stock Exchange to the Complainant were valid and enforceable.

4. From the above it is clear that no prima facie case can be made out against the Applicant u/s 406 r/w.34 and/or u/s 420 r/w 34 Of IPC.

5. In the charge sheet the Prosecution has relied upon the statement of Shri Sahebrav Manikrao Patil- employee of the Osmanabad District Central Cooperative Bank recorded by IO on 12.05.2002. From the statement it appears that the said PW was present on 31.01.2002 to 01.02.2002 in Mumbai and in Maharashtra State Cooperative Bank, Fort Branch where the entire transaction between the ODCC Bank and M/s. Home Trade took place. As per the said PW on 1.2.2002 the ODCC Bank transferred Rs.30 crores into the account of M/s Home Trade Limited. It is further stated in his statement that after completing the money transaction with Home Trade, around 5.30 in the evening PW and Shri Malavade went to the Home Trade's office at Vashi New Mumbai. In the Home Trade's office they were given 5 Government Securities receipts aggregating to Rs. 29,99,34,591/- and one cheque of Rs.65,409/-. After receiving the said receipts and cheque they left Home Trade's Vashi office around 7.30-8.00 p.m. and from their they left for Osmanabad.

From the statement of the above PW it is very clear that the alleged offence of Cheating was completed during the Banking Hours on 1.2.2002 with the transfer of Funds

into the Account of Home Trade Ltd at Fort Mumbai. Whereas the alleged forgery for cheating was committed between 5.30 p.m. to 7.30/8.00 p.m. at Vashi. Hence, to attract the provision of section 468 r/w 34 I.P.C. it has to be prima facie established that the documents were prepared before the alleged offence of cheating was committed. From the PW's statement it is very clear that first the alleged cheating was committed and subsequently the allegedly forged receipts were prepared and used by handing over the same to the PW.

It would also be appropriate to clarify that the PW has completely misread the documents handed over to him at Vashi Office. **The Documents claimed to be forged receipts are actually not the receipts but they are contract notes issued by M/s. Home Trade Ltd to Osmanabad Central Co-op. Bank Ltd.**

6. In the entire chargesheet there is not a single ingredients to attract the offence u/s.465 and 471 r/w 34 of IPC.

ODCCB Chronology

31-01-2002	Contract Note issued by HTL in favor of ODCCB for purchase of 10.52% Bihar SDL 2010 for Rs.	18,52,88,533.33
	Contract Note issued by HTL in favor of ODCCB for purchase of 11.85% Sikkim SDL 2009 for Rs.	1,17,52,172.92
	Contract Note issued by HTL in favor of ODCCB for purchase of 13.05% Nagaland SDL 2007 for Rs.	2,29,95,268.75
	Contract Note issued by HTL in favor of ODCCB for purchase of 13.05% MP SDL 2009 for Rs.	7,95,51,200.00
	Contract Note issued by HTL in favor of ODCCB for purchase of 10.52% MP SDL 2010 for Rs.	3,47,416.00
		29,99,34,590.27

01-02-2002	Telephonic Message from ODCCB to MSCB to transfer Rs. 30 Crores to Home Trade Ltd. at 11.55 AM
01-02-2002	Acknowledgement issued by HTL for receipt of Rs. 30 Crores from ODCCB signed by Subodh as AS
	Covering Letter issued by HTL enclosing cheque of Rs. 65,409.73 in favor of ODCCB signed by Subodh as AS
05-02-2002	Letter written by ODCCB to HTL and addressed to Subodh Bhandari asking for delivery of securities
06-02-2002	Letter written by HTL addressed to ODCCB signed by Sanjay Agarwal promising delivery of securities as soon as received
06-02-2002	Letter written by ODCCB to HTL asking for delivery of securities
20-02-2002	Letter written by ODCCB to HTL asking for delivery of securities
01-03-2002	Letter written by ODCCB to HTL asking for delivery of securities
06-03-2002	Letter written by ODCCB to HTL asking for delivery of securities
08-03-2002	Letter written by ODCCB to HTL asking for delivery of securities
03-04-2002	Letter written by ODCCB to HTL asking for delivery of securities
	(all the above letters were addressed to the Subodh Bhandari Authorised Signatory/Director)
12-04-2002	Letter written by HTL addressed to ODCCB signed by Sanjay Agarwal promising delivery of securities by 30/04/2002

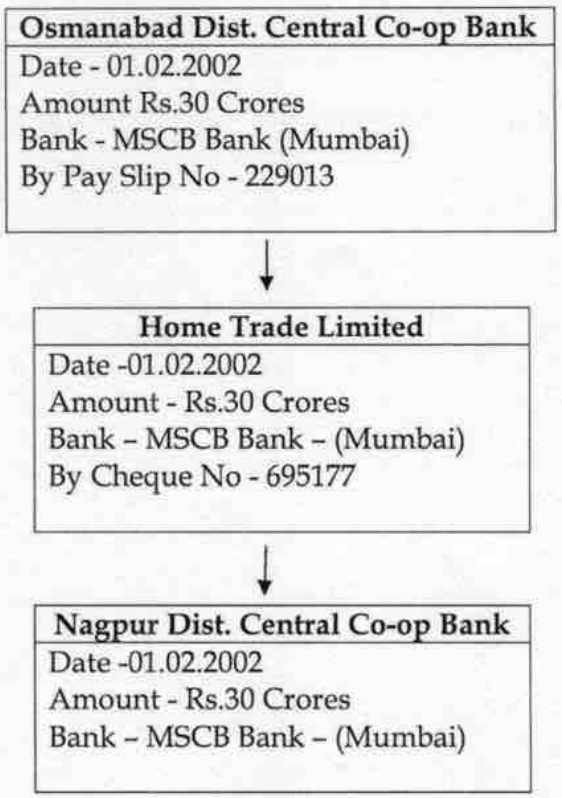
ROOT MAP OF THE OUTFLOWFROM THE MONEY RECEIVED BY HOME TRADE LTD (HTL) FROM THE OSMANABAD DISTRICTCENTRAL CO-OPERATIVE BANK LTD (ODCC)

Date	Cheque/ Pay slip No	Amount Rs. (In Crs.)	Payer	Receiver	Amount Rs. (In Crs.)	Name of the Receiving Bank	Bank A/c No.
01.02.02	Pay Slip No - 229013	30.00	ODCC	HTL	30.00	The Maharashtra State Co-op Bank Ltd (MSCB)	17031
01.02.02	695177		HTL	NDCC	30.00		

NOTE:

1. Kindly also refer the enclosed Fund Flow chart.
2. The Amount received by HTL from ODCC was deposited in the MSCB A/c No. -17031 of HTL and was paid to The Nagpur District Central Co-Operative Bank Ltd. (NDCC).

FUND FLOW CHART



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R.C.C. No. 398/2002
Exh. No. 676

Deposition of witness No. 1 for State.

I do hereby state on solemn affirmation that:

My name is : Baliram Parasram Rathod.
Age about : 58 years.
Occupation : Retired.
Residence at : Pune.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 26/4/2002 I was working as Divisional Joint Registrar, Co-operative Societies, Latur Division, Latur. My duty was to inspect the working of, supervision and control and to inspect the record and give the guidance to the co-operative societies in four districts existing in my division. On 26/4/2002 the letter was given to the Special Auditor (Bank) requesting to inspect the account of District Central Co-operative Bank, Osmanabad on certain points and to give the report as news paper and media has reported about the fraud and misappropriation of money in District Central Co-operative Bank, Osmanabad. The said letter was issued to one L.M.Pawar, Special Auditor (Bank). Accordingly, the said Pawar inspected account of the bank and submitted the report. Thereafter he submitted the report to us. In the said report it was mentioned that the bank has committed the fraud and misappropriation of the amount of Rs. 29,99,34,591/-. The said report was submitted to us on 29/4/2002. Thereafter I submitted a complaint to the City Police Station, Osmanabad. Complaint now shown to me, it bears my signature, contents are true, it is at Exh. 677. I have also submitted the inspection report with the said complaint. The said report now shown to me, it bears the signature of Pawar, its contents are true. The Divisional Joint Registrar, Co-operative Society, Latur has given the authority on 8/5/2002 to me to file the complaint. The said authority letter now shown to me, it is the same, its contents are true, it is at

Exh. 678.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

It is true to say that I have mentioned in my complaint that one Bhupalsing @ Santajirao Rajenimbalkar personally responsible for the said fraud. It is true to say that I have not filed on record any order directing Pawar to conduct the audit of the bank. It is true to say that I have mentioned in my complaint that accused though purchased securities but not submitted the receipts(RBI).

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

I have no knowledge about the securities. I have no knowledge about the Bombay Stock Exchange and National Stock Exchange. It is not true to say that anybody has pressurized me to file the complaint. It is true to say that the audit of the O.D.C.C. bank is conducted twice, one at official and another at internal. It is not true to say that due to the political pressure I filed this complaint.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

It is true to say that I have no personal knowledge about the incident. I have no personal knowledge about how to conduct the audit. It is not true to say that I field this complaint under the political pressure. It is not true to say that I deposed false.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

It is true to say that if there is an excess amount in co-operative bank required to be deposited in co-operative bank only. It is true to say that Nagpur D.C.C. Bank has deposited the amount of 30 crores in Osmanabad D.C.C. Bank.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I do not recollect for what period I asked Pawar to conduct the inspection of the bank. I don't know at what date Pawar has

conducted the inspection of the bank. The inspection report of Shri. Pawar was received on 29/4/2002. I was not aware at the time of filing the complaint which circular and the rules were contravened by the accused at the time of purchase of the security. It is true to say that when the inspection report was received I was working as the Divisional Joint Registrar. It is true to say that after receipt of the report I myself not personally visited the bank and taken the inspection of the record. I don't know whether before filing of complaint crime No. 45/2002 was registered at Mumbai on 5/5/2002. I don't know whether crime No. 158/2002 was also registered by M.R.A. Mark Police Station, Mumbai.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

It is true to say that I also worked at Osmanabad as District Deputy Registrar. It is true to say that I also aware that District Central Co-operative Bank is having its own account in Maharashtra State Co-operative Bank at Mumbai. It is true to say that I was also working as a Representative of the Government on Board of Director of O.D.C.C. Bank. It is true to say that I filed the complaint only against the Pawanraje Nimbalkar. It is true to say that I have not mentioned the name of other accused in the said complaint. I cannot state whether the internal transfer entries can be made in Maharashtra State Co-operative Bank, Mumbai. I know the name of Stock Exchange. I don't know about the branches of the Stock Exchange. I don't know about the Home Trade and about their transactions. It is not true to say that as all the transactions was taken place at Mumari I have no right to file the complainant to Osmanabad Police Station.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted the cross-examination conducted on behalf of accused No.4

Re-exam. Nil.

R.O. & A.C.

25/6/14

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :- 25/6/2014.

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15-08-14

Asst, Supdt.
Chief Judicial Magistrate, Osmanabad.

Osmanabad.

R.C.C. No. 398/2002
Exh. No. 683

Deposition of witness No. 2 for State.

I do hereby state on solemn affirmation that:

My name is : Daji Dattu Karwar.
Age about : 47 years.
Occupation : Labour work.
Residence at : Raghuchiwadi, Tq. & Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 18/5/2002 police called me in the City Police Station. Another panch Chandrashekhar Chougule was with me. In the police station one More of D.C.C. Bank was present with papers. P.I. Reddy has prepared the panchnama. Panchnama after reading over its contents I signed panchnama. Now panchnama is shown it me, it bears my signature, contents are true, it is at Exh. 684.

Now 35 articles are shown to me which were produced by the More before the Police. They were at Article A-1 to A-34. All the papers bears my signature.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

I am non matric. While I was proceeding police called me in the police station. I used to left the house at about 7 a.m. for labour work. It takes one hour to reach Osmanabad from my village. Distance between my village and Osmanabad is about 6 k.m. It is true to say that I signed on the panchnama as per the direction of the police. It is true to say that I just over the panchnama which was prepared by the police in advance.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Adopted the cross-examination conducted on behalf of accused No.7

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted the cross-examination conducted on behalf of accused No.7

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Adopted the cross-examination conducted on behalf of accused No.7

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

I do not know the contents of the panchnama.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

I went to the police station at about 10 p.m. night. Police obtained my signature over the panchnama at 10 p.m.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :- 30/6/2014.

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Exh. 690

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R.C.C. No. 398/2002
Exh. No. 690

Deposition of witness No. 3 for State.

I do hereby state on solemn affirmation that:

My name is : Dattatraya Mohanrao Bhosale.
Age about : 48 years.
Occupation : Driver.
Residence at : Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 28/5/2002 police called me in Tambri area near the house of Jadhav. P.I. Reddy was present there. One Jadhav was present there. Another panch Tanwade was also present there. Police prepared the panchnama. After reading its contents I signed over it. Police prepared the panchnama regarding seizure of the Indica. Reregistration number of said Indica is MH-25-1552. Now said panchnama is shown to me, it bears my signature, its contents are true, it is at **Exh. 691**.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

It is not true to say that police not read over the panchnama to me. I cannot tell the registration number of bus by which I travel within last two months. It is not true to say that I don't know anything about the panchnama.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

No cross.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

I do not recollect what is written in the panchnama. I cannot state the colour of the said vehicle.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-7/7/2014.

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R.C.C. No. 398/2002
Exh. No. 693

Deposition of witness No. 4 for State.

I do hereby state on solemn affirmation that:

My name is : Kumar Baburao Ohal.
Age about : 40 years.
Occupation : Labour work.
Residence at : Bhim Nagar, Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 6/6/2002 police called me in Osmanabad City Police Station. Another panch Amar Kirdatta was with me. The employees of the bank was present in the police station. One Deshpande, Malvade and More on behalf of the bank were present there. One more officer was present there on behalf of the bank. Police obtained signature of above four persons on panchnamas. Thereafter we signed over the panchnamas. The signatures of the said officers are obtained on six paper. Thereafter police prepared the panchnamas over which we signed. Now four panchnamas shown to me, it bears my signature, its contents are true. We have not signed anywhere except panchnama. Panchnamas are at Exh. 694/1 to 694/4.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

I signed six time on the date of panchnama. I signed four times in panchnama, however, I cannot state where I signed two times. I myself signed over the six papers over which the said officers has signed. I cannot state the day on six of the date. Said panchnamas are prepared at 8 a.m. It takes one hour to prepare the panchnama. It is not true to say that I depose false that signature of six bank officers were obtained on six papers. No panchnamas are prepared after 9 a.m. in my presence .

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I was not acquainted with the bank officers. It is true to say

that I cannot state the name of each officer. It is not true to say that after preparing the panchnama it was forwarded to me to sign.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Today is my first time in the Court to depose as a panch. It is not true to say that I am the habitual panch of the police station. It is not true to say that I depose false that I was called in the police station and in my presence panchnamas were prepared.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

While I was proceeding to my house police called me. Police started writing the panchnama when I reached in the police station. Panchnama was prepared in the year 2002. I can identify the person whose specimen signature were taken, if shown to me. Today the specimen signatures were not shown to me.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Adopted the cross-examination conducted on behalf of accused No.7

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Police Constable called me in the police station. The said Constable was my friend. It is not true to say that police obtained my signature over already prepared panchnama. It is not true to say that I depose falsely.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

16/7/14

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-16/7/2014.

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R.C.C. No. 398/2002
Exh. No. 708

Deposition of witness No. 5 for State.

I do hereby state on solemn affirmation that:

My name is : Chandrashekhar Maruti Chougule.
Age about : 40 years.
Occupation : Agriculturist.
Residence at : Bhise Wagholi, Tq. & Dist. Latur.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 18/5/2002 police did not call me in the police station for panchnama. Panchnama now shown to me, it bears my signature, I don't know its contents. Article A-1 to A-34 bears my signatures.

The witness is not supporting to the prosecution. Hence on the oral request of learned Spl. P.P. he is declared as hostile and permission granted for leading questions.

Cross. by Spl. P.P.

It is not true to say that on 18/5/2002 P.I. Shri.B.B. Reddy of Osmanabad City Police Station called me in a police station. It is not true to say that the officers of the bank produced the documents in a police station in my presence which were seized by the police by preparing the panchnama. It is not true to say that the said officers produced in all 37 documents in a police station. It is not true to say that police accordingly prepared the panchnama in my presence and after reading its contents I signed over it. I studied upto 8th standard. I did not sign any paper without reading its contents. It is not true to say that the said panchnama also I signed after reading its contents. It is not true to say that I depose false as per the say of the accused.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Declined.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

Date :-30/7/2014.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

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R.C.C. No. 398/2002
Exh. No. 709

Deposition of witness No. 6 for State.

I do hereby state on solemn affirmation that:

My name is : Balasaheb Kisanrao Deshmukh.
Age about : 62 years.
Occupation : Agriculturist.
Residence at : Pohner, Tq. & Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 19/8/2002 police called me in Osmanabad City Police Station. One Babruwan Deshmukh was also present with me. I don't know why police called me in a police station. Police did not prepare any panchnama in my presence. Panchnama dated 19/8/2002 is now shown to me, it bears my signature. Now proceeding book shown to me, label which is pasted on it bears my signature.

The witness is not supporting to the prosecution. Hence on the oral request of learned Spl. P.P. he is declared as hostile and permission granted for leading questions.

Cross. by Spl. P.P.

It is not true to say that on 19/8/2002 P.I. Shri.B.B.Reddy of Osmanabad City Police Station called me for preparing panchnama. It is not true to say that in my presence the proceeding bank of O.D.C.C Bank which was produced by constable Kolekar seized by the police. I studied upto S.S.C. It is not true to say that I used to sign without reading its contents. It is not true to say that I depose false as per the say of accused.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Declined.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

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R.C.C. No. 398/2002
Exh. No. 710

Deposition of witness No. 7 for State.

I do hereby state on solemn affirmation that:

My name is : Babruwan Bhagwanrao Deshmukh.
Age about : 64 years.
Occupation : Agriculturist.
Residence at : Pohner, Tq. & Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 19/8/2002 B.B.Reddy, P.I. of City Police Station, Osmanabad called me for panchnama. Another panch Balasaheb was also present with me. Police did not prepare any panchnama in my presence. Panchnama now shown to me, it bears my signature, I don't know its contents. Now the proceeding book of O.D.C.C. Bank is shown to me, the label pasted on it bears my signature.

The witness is not supporting to the prosecution.

Hence on the oral request of learned Spl. P.P. he is declared as hostile and permission granted for leading questions.

Cross. by Spl. P.P.

It is not true to say that on 19/8/2002 P.I. Shri.B.B.Reddy of Osmanabad City Police Station called me for preparing panchnama. It is not true to say that in my presence the proceeding bank of O.D.C.C Bank which was produced by constable Kolekar seized by the police. I studied upto S.S.C. It is not true to say that I used to sign without reading its contents. It is not true to say that I depose false as per the say of accused.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Declined.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-30/7/2014.

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R.C.C. No. 398/2002
Exh. No. 711

Deposition of witness No. 8 for State.

I do hereby state on solemn affirmation that:

My name is : Shivaji Vinayak More.
Age about : 70 years.
Occupation : Agriculturist.
Residence at : Naldurg, Tq. Tuljapur, Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

In the year 2002 I was working as a Deputy General Manager in O.D.C.C. Bank, Osmanabad. That time there were two post in the said bank as a Deputy General Manager. One B.N. Thorat was another Deputy General Manager that time in O.D.C.C. Bank. That time there were five divisions/departments namely, the Finance, Non-Agriculture, Recovery of loan and Planning & Development. I was looking after the said departments. There were 98 branches of O.D.C.C. Bank. There were four Chief Officer for four division. After passing the resolution of the Bank its copy is send to us and I used to see about its implementation. One A.J.Deshpande was the General Manager of the Bank. General Manager Deshpande used to take tipan/notes from all the division and used to put before the Meeting of the Directors. In the meeting of the Directors General Manager, two Deputy General Managers, Chief Officer of the Division, Spl. Auditor, Officers of the NABARD, District Sub-Registrar used to remain present. In the meeting of the Directors index of the subject are kept on which Directors used to discuss and pass the resolution. All the resolution passed in the meeting of the Directors are sent to each department for implementation. On 8/2/2002 there was the meeting of the Directors in the bank. I myself was present in the said meeting. In the said meeting the officers from the NABARD, General Manager, Special Auditor etc. were present. The representatives of the staff were also present in the said meeting. In the

said meeting memo in respect of inspection conducted by the NABARD was read over. The sanction was given to the said subject in the said meeting. On 11/3/2002 the meeting of the Directors was held. In the said meeting I myself, General Manager B.N. Thorat, representatives of the staff were present. Now I say in the meeting of 11/3/2002 sanction was given to the resolution passed in meeting held on 8/2/2002. In the said meeting casual discussion was taken place regarding investment of 30 crores rupees of Nagpur District Central Co-operative Bank in the Securities. General Manager used to prepare the minutes of each meeting. In the proceeding book General Manager and Chairman used to put their signatures. Proceeding book of meeting dated 8/2/2002 now shown to me, in which no discussion was taken place except subject No. 1. The proceeding dated 8/2/2002 and 11/3/2002 are written by Chief Officer More in the Proceeding Book. If any bank required to purchase the securities then as per the RBI direction it is to be purchased from AGL account. It is required to take the permission of Co-operative Commissioner before purchasing the securities.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

I have not make any suggestion in the meeting stating that the securities are required to be purchase from AGL account. It is not true to say that I used to remain present in the meeting just to bring the legal position to the notice of the Directors. I had not brought to the notice of the Directors that the permission of the Commissioner of Co-operative society is necessary. It is true to say that I have not stated to the police that bank required to purchase the securities from AGL account. It is true to say that the meeting which was held by the Directors has no connection with the Shri. Malvade. I don't know whether Shri. Malvade had gone to Mumbai. I know about the securities. I know that the permission of the Commissioner of co-

operative society is required for purchase of the securities.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I used to remain present in each and every meeting of O.D.C.C. Bank. It is not true to say that I have right to take part in the said meeting, in the discussion of the meeting, taking objection in the meeting and also to give the direction in the said meeting. I know the procedure followed in the meeting of the Director. I don't know whether other subject which are not on Agenda can also be discussed in the meeting with prior permission of the directors. It is true to say that the minutes of the last meeting is sanctioned in the next meeting. It is true to say that Chairman and General Manager used to sign in the proceeding book of the meeting of the Director. It is true to say that the signature of Directors and other office bearers who were present are taken on the separate register. We were not taking any decisions of our department and therefore not brought to the notice of the directors in the meeting. I don't know whether the decision taken by administrative wing is brought to the notice of directors in the meeting. It is true to say that the agenda of the meeting is given to all the Directors, Chief Officer of the division and Deputy General Manager. It is not true to say that along with the agenda the copy of minute of the last meeting is also given to the said persons. I don't know whether the sanction was given to the purchase of the security of Home Trade on 8/2/2002. It is not true to say that in the meeting held on 11/3/2002 sanction was given to the resolution passed in the meeting held on 8/2/2002. In the meeting held on 8/2/2002 no resolution was passed about purchase of security hence question does not arise to take the objection. I don't know whether the reminders were sent to the Home Trade regarding purchase of the securities. It is true to say that the O.D.C.C. Bank has

formulated the service rules for the staff members. It is not true to say that if the staff members has not followed the directions of the superiors it amounting to misbehavior on part of staff. I don't know whether in the meeting dated 8/2/2002 a sanction was given for purchase of the securities. It is true to say that the discussion which is taken place in the meeting are recorded in the minute. I don't know whether the resolution which was passed in the meeting dated 11/3/2002 were implemented. It is not true to say that I depose false that no discussion was taken place in the meeting dated 8/2/2002 except subject No.1. It is not true to say that I was not present in the meeting dated 8/2/2002 and about its proceeding. It is not true to say that due to the prejudice against the employee of the bank I depose false today.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

It is true to say that in every meeting the subject which is discussed are intimated to the in-charge of each department. It is true to say that after re-examination of the minute Chairman and the General Manager used to sign over it. I don't know whether thereafter proceeding are written in the book maintained for that purpose. It is not true to say that I depose false that the handwriting of the proceeding in a proceeding book is of Shri.S.B.More.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

I don't know about the Stock Exchange. I don't know whether the Home Trade company is connected with the Stock Exchange. I don't know who is the Director and Chairman in Home Trade company. I came to know about the Home Trade at the time of recording the statement.

Cross. exam. by Adv. Shri.V.V.Shinde for accused No.9

I have stated to the police at the time of recording the statement that one A.J. Deshpande was the General Manager at the time

of meeting held on 8/2/2002 and Shri. B.N.Thorat was the General Manager at the time when the meeting was held on 11/3/2002. I have not stated the police that meeting was held on 11/2/2002. I have not stated to police that in the meeting dated 8/2/2002 and 11/2/2002 of the Directors one Bhupalsing @ Pawanraje Santajirao Nimbalkar was the Chairman and he signed as a Chairman on the proceeding. I cannot assign any reason as to why this fact is mentioned in my statement by police. It is not true to say that I deposed false.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

I worked in Osmanabad District Central Co-operative Bank for last 31 years out of which I worked as a In-charge of the division for last 7 years. I was present almost in all meetings in last 7 years. I don't know the subject which are taken in emergency. It is true to say that the main business of the ODCC Bank is to accept the deposit and to advance the loan. I don't know whether other district co-operative banks have kept the deposits in Osmanabad District Co-operative Bank. I don't know whether the Nagpur District Co-operative Bank kept the deposit in O.D.C.C.Bank, Osmanabad and also no discussion was taken place in my presence in respect of that. It is true to say that I don't have personal knowledge about the said deposit. It is true to say that I used to receive agenda of every meeting. It is true to say that on each agenda there is also one clause regarding taking for discussion any subject, if necessary. It is true to say that if necessary any subject can be discussed in the meeting . I don't have any documentary evidence showing that I was present in two meeting.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

In view of order passed below Exh.712 cross-examination is differed till next date.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-30/7/2014.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7 resumed on oath.

I was working as a Deputy General Manager in the Bank. It is true to say that in the proceeding book or any other document there is no entry regarding my presence in the meeting. Police has recorded my statement. It is not true to say that in the said meeting discussion was also taken place in respect of loan of finance department. It is true to say that the loan proceedings were sent by my own signature as per the discussion in the said meeting. It is not true to say that discussion regarding other subject was also taken place in the said meeting and therefore I had issued the letters accordingly. The proceeding book and the minute book are kept in the custody of Chief General Manager. I don't know about Bombay Stock Exchange and National Stock Exchange. I don't know that RBI has given licence to the brokers to dealings with the transaction in shares. I don't know whether the Home Trade has engaged any broker in respect of the transaction of the security. I don' t know whether the Nagpur District Co-operative bank has deposited Rs. 30 crores in our bank. It is not true to say that I depose falsely.

Re-exam. Nil.

R.O. & A.C.

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Chief Judicial Magistrate,
Osmanabad.

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R.C.C. No. 398/2002
Exh. No. 718

Deposition of witness No. 9 for State.

I do hereby state on solemn affirmation that:

My name is : Hanumant Vishwambhar Bhusare.
Age about : 57 years.
Occupation : Managing Director, Dist. Co-operative Bank.
Residence at : Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

Since 8/2/1980 I am working in District Central Co-operative Bank, Osmanabad. In the year 2002 I was appointed as a Chief Officer in Audit Department of the Bank. There were 99 branches of Osmanabad District Co-operative Bank. My duty was to take the inspection of the branches of the said bank. There were two Deputy Chief Officer, one Clerk and one Peon were available to assist me. One Deputy Chief General Manager was my superior. After inspection of the branches if any objectionable is found then I used to brought to the notice of Deputy General Manager of the bank. I myself and one Vasant Shinde were the representatives of the staff. If there is any grievance of the staff or demand made by them then we used to put the same in the meeting of the directors. I used to receive agenda of the meeting of the directors. The Administrative Department of the Bank used to prepare the agenda of the meeting. In the meeting of the directors, all the directors, the Chief of each department, Chief General Manager, Deputy Chief General Manager, District Registrar, District Development Officer of NABARD used to remain present. On 8/2/2002 the meeting of the directors was called in respect of the inspection of the bank conducted by the NABARD. I received the agenda of the said meeting. I myself was present in the said meeting. I signed in the register kept for that purpose in token of my attendance in the said meeting. I am producing today the said register which is at **Article 35**. Now page No. 193, 194 is

shown to me, it bears my signatures showing that I was present in the said meeting. It is at Exh. 719. Now the agenda dated 8/2/2002 is shown to me, it bears the signature of then Chief General Manager B.N.Thorat, I identify his signature, its contents are true. It is at Exh. 720. In the meeting dt. 8/2/2002 a discussion was taken place in respect of inspection conducted by NABARD. No other discussion was taken place in the said meeting. Now proceeding dated 8/2/2002 is shown to me, it bears the signature of accused Nos. 1 and 2, I identify the same, it is at Exh. 721. Out of the same the resolution No.1 is true and correct. No other resolution was taken place on that day. On 11/3/2002 the meeting of the directors was taken place. I was present in the said meeting. In the meeting dated 11/3/2002 the sanction was given to the meeting dt. 5/1/2002 and 8/2/2002 and also discussion of other subject as per agenda was taken place. I received the agenda of the meeting dated 11/3/2002. The agenda of the said meeting now shown to me, it is the same, its contents are true, it is at Exh. 722. We can receive the deposit of co-operative societies in the said district. I don't know anything about the transaction of Home Trade.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

It is true to say that in the year 2002 I was working as a representative of the staff in the Board of Director. I know the procedure of the meeting of the directors of the bank. It is true to say that in respect of the meeting of the directors there is separate register kept in respect of the endorsement about the presence of the Chief of each department and other office bearers. It is true to say that the discussion of the meeting of the directors is noted in the proceeding book. It is true to say that in the said book after the meeting the

signature of the Chairman and the Chief General Manager was taken at the last. It is true to say that along with agenda the copy of the discussion which was taken place in the last meeting is also sent. It is true to say that in respect of meeting dated 11/3/2002 I received the agenda with the minute of meeting dated 8/2/2002. It is true to say that in the meeting dt. 11/3/2002 sanction was given to the minute of meeting dt. 8/2/2002. The proceeding dt. 11/3/2002 is at Exh. 723. Resolution No.1 was taken place in the meeting dated 11/3/2002. In the meeting of the directors I could take the part in the discussion. It is true to say that I was elected as a representative of staff for the benefit of bank. It is not my responsibility to take the objection in the meeting when the decision was taken in respect of the bank. In the proceeding book there is reference of 9 subject in meeting dt. 8/2/2002. It is true to say that in the proceeding book after recording the 9 subject the Chairman and General Manager signed over the proceeding book. It is true to say that in the meeting dated 8/2/2002 the subject Nos. 3 to 8 is in respect of recovery of the loan. It is true to say that in the meeting of the directors if the resolution is passed sanctioning the loan then from the said department disbursement is made. The disbursement of loan was taken place or not can be seen only from the particular register. I can produce the record in that respect. I have to see whether the said record is available or not. It is not true to say that in the meeting dt. 8/2/2002 the sanction was given to resolution No.2. It is true to say that in respect of the meeting dt. 11/3/2002 I received the copy of the proceeding dt. 8/2/2002 along with the agenda. I was present in the meeting dt. 11/3/2002. It is not true to say that I depose false that in meeting dt. 8/2/2002 the resolution No.1 was only passed. It is not true to say that due to the prejudice against the accused and to avoid the

responsibility as a director I depose false today.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted the above cross-examination.

Cross.exam. by Adv. Shri.M.S.Patil for accused No.7

I have not taken objection to the resolution in meeting dt, 8/2/2002. I say that the resolution No.1 was taken place in meeting dt. 8/2/2002. I have not taken the objection regarding prior proceeding in the meeting date 11/3/2002. It is not true to say that in order to avoid to add as accused in the present case I am saying that only one resolution was passed in meeting dt. 8/2/2002. I have not taken the written objection in respect of the proceeding dt. 8/2/2002. On 11/3/2002 I came to know about the transaction regarding Home Trade. There is account of our bank in M.S.C. Bank, Mumbai. In the meeting dt. 8/2/2002 there is entry of resolution No.2 but that resolution was not taken place. It is true to say that on 31/1/2002 the amount of Rs. 30 crores deposited by Nagpur District Co-operative Bank was available in M.S.C. Bank Fort Mumbai in the account of the bank bearing No. 17031. it is true to say that the said amount was transferred in the account of Home Trade from Mumbai. It is true to that MSC bank cannot transfer the said amount as per his own. It is true to say that as per the directions of O.D.C.C. Bank the said amount was transferred in the account of Home Trade. It is true to say that in the meeting the Chairman has right to take any other subject for discussion. It is true to say that as per the agenda proceeding was conducted. It is not true to say that I depose false that no resolution except subject No.1 was taken place dt. 8/2/2002. It is not true to say that I depose falsely.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Adopted.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Adopted.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Akola District Central Co-operative Bank has deposited 2 crores in our bank in the year 2001 as can be seen from the letter which is now shown to me. It is true to say that on 29/1/2002 the Osmanabad Central Co-operative Bank has written a letter to the General Manager, Nagpur co-operative Bank showing willingness to accept Rs. 40 crores @ 10 % per annum as a deposit. The said letter now shown to me, it is the same, it is at Exh.724. It is not true to say that thereafter Nagpur District Central Co-operative Bank has deposited Rs. 30 crores in our bank in M.S.C. Bank, Fort, Mumbai. Now I say that, Nagpur Central Co-operative Bank has deposited Rs. 30 crores in M.S.C. Bank in the account of our bank. I cannot state for what purpose the said amount is deposited in the account of our bank. Since 1/11/2011 I am working as a Managing Director in a bank. On 31/1/2002 nothing was due from our bank to Nagpur District Central Co-operative Bank. I have not made any inquiry to Nagpur District Co-operative Bank for what purpose Rs. 30 crores were deposited in our bank. The object of the bank to disburse the loan after accepting the deposit.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-6/8/2014.

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R.C.C./S.C.C./M.A. 398/02

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R.C.C. No. 398/2002
Exh. No. 730

Deposition of witness No. 10 for State.

I do hereby state on solemn affirmation that:

My name is : Yashwant Parshuram Giri.
Age about : 43 years.
Occupation : Service.
Residence at : Pune.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

In the year 2002 I was working as a District Deputy Registrar, Co-operative Society, Osmanabad. As a D.D.R. I was under duty to supervising all the co-operative societies in the district, its registration and implementation of Government policies. Being a D.D.R. I was the Ex-officio Director of District Co-operative Bank, Osmanabad. I used to remain present in the meeting of the Board of the Director. I was present in the meeting of the Board of the Director on 8/2/2002. The meeting dated 8/2/2002 was held for discussion in respect of the inspection conducted by the NABARD of the said bank. In the said meeting the squad of the NABARD has given the guidance to the Board of the Director in respect of the objection in the said inspection report. In the said meeting the officers from the NABARD, Directors, Chairman and other officers were present. Thereafter the meeting was completed. Again on 11/3/2002 meeting of the director was held. I was present in the said meeting. In the said meeting there was a subject of sanction of the minute of the previous meeting and also other subject for discussion. In the meeting held on 11/3/2002 the minute of the last meeting was sanctioned. In the said meeting also some other subjects were discussed and meeting was closed.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

It is true to say that in the meeting on 11/3/2002 the minute of meeting dt. 25/1/2002 and 8/2/2002 were read and sanctioned. I was

present in all the three meetings. I used to see the resolution passed in the meeting. It is true to say that in the meeting dt. 11/3/2002 sanction was given to the resolutions passed in meeting dt. 5/1/2002. In the meeting dt. 8/2/2002 the resolution No.2 is now read over to me was not discussed and sanctioned. Now the resolution No.1 of the meeting dt. 11/3/2002 is now read over to me, it was not read over and sanctioned. In April, 2002 I have taken the objection regarding the said resolution. I am ready to produce the documentary evidence in that support.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

It is true to say that as I used to remain present in the meeting of District Co-operative bank. I know the procedure of the meeting. It is true to say that along with agenda of the meeting the minute of the last meeting is enclosed. It is true to say that the copy of the minute is sent with agenda to raise any objection about the same in the meeting. It is true to say that I had right to take the objection regarding any resolution passed in the meeting which were against the interest of the bank. It is not true to say that along with the agenda for the meeting dt. 11/3/2002 I received the minute of meeting dt. 8/2/2002. I myself have not taken any objection regarding the subject which were discussed in the meeting dt. 8/2/2002 and 11/3/2002. It is not true to say that I know the transaction of purchase of the security being a Director. It is not true to say that in the meeting dt. 8/2/2002 the sanction was given by the Director regarding purchase of securities being the subject which was discussed in emergency. It is not true to say that I depose false to avoid the responsibility being a Director of the Bank.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

It is true to say that action was taken place against me. It is true to say that I was also suspended which is pertaining to the present case.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

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R.C.C. No. 398/2002
Exh. No. 735

Deposition of witness No. 11 for State.

I do hereby state on solemn affirmation that:

My name is : Sahebrao Manikrao Patil.
Age about : 49 years.
Occupation : Service.
Residence at : Shingoli, Tq. & Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

In the year 2002 I was working as a Junior Clerk in Osmanabad District Central Co-operative Bank, Osmanabad. I was working in Account Department as a Junior Clerk. Liquidity, investment and application filed for the membership by Co-operative society are work allotted to me. Accused No.3 was my superior officer. If there was any difficulty or grievance in respect of our department we used to prepare the notes and hand over to the accused No.3 for putting before the meeting of the Director. On 30/1/2002 as usual I came to the Bank. At about 12:00 noon accused No.3 called me. He told me to prepare the list of the deposit of Rs. 50 crores which is kept in the Maharashtra State Co-operative Bank. Accordingly I prepared the list and forwarded to the accused No.3. Accused No.3 asked me to collect the list of the F.D., receipt of the F.D. and cheque issued for collection and accompany him to the Mumbai. Accordingly on the same day at about 3 to 4 p.m. I myself and accused No.3- Malvade Saheb went to Mumbai in a hired car provided by the bank. On next day morning we reached to the Mumbai. I myself and accused No.3 went to the rest house of Maharashtra State Co-operative Bank at Colaba where our Chairman Shri.Pavanraje Nimbalkar was present. On the same day at 8 a.m. morning we met to Shri. Pavanraje Nimbalkar. Pavanraje Nimbalkar asked us to accompany him to Hotel Oberoi. Accordingly we went with him to Hotel Oberoi. We went in one of the room of the said hotel situated

on 4th or 5th floor. Before us three persons were waiting in the said room. The Pavanraje introduced said persons to us. Said persons came there on behalf of the Home Trade. Out of three one was Subohdh Bhandari another was Thakre but I do not recollect the name of the third person. The discussion was taken place in between Pavanraje and said three persons in respect of the Government securities. Thereafter we proceeded in the office of Maharashtra State Co-operative Bank. Pavanraje thereafter asked me to verify whether the amount of Rs. 30 crores of Nagpur District Co-operative Bank is transferred in their account in Maharashtra State Co-operative Bank or not. Thereafter I went to the concerned table and verify and came to know that the said amount was not transferred in our account. Accordingly I informed to the Pavanraje Nimbalkar. Thereafter the discussion was taken place about the Government securities in between the Pavanraje, the representative of Home Trade and the officers of Maharashtra State Co-operative Bank. Thereafter at evening the representative of the Home Trade went away and we came to Colaba Rest House. On next day on 1-2-2002 I myself, accused No.3 and Pavanraje went to the office of Maharashtra State Co-operative Bank. That time also Pavanraje asked me to verify whether the 30 crores is transferred to our account or not. Thereafter again I went to concerned table. I verify and found that the 30 crores of Nagpur District Co-operative transferred in our account kept with Maharashtra State Co-operative Bank. That time also the representative of the Home Trade were present in the bank. Accordingly I informed to Chairman Pavanraje that amount is transferred in our account. Thereafter discussion was taken place in between Pavanraje, Malvade Saheb and the representative of Home Trade regarding Government securities. Thereafter the Pavanraje and Malvade Saheb made telephone to Deputy Chief Officer Tambe- accused No.4 who was

present in the Osmanabad branch. They accordingly informed to Tambe to transfer the said 30 crores amount in the account of Home Trade kept in Maharashtra State Co-operative Bank by telephone code. The said message which was forwarded from Osmanabad District Co-operative Bank, Osmanabad was received in Maharashtra State Co-operative Bank. Accordingly the Maharashtra State Co-operative Bank have transferred the 30 crores from our account to the account of Home Trade. Thereafter again the discussion was taken place in between Pavanraje, Subodh Bhandari, Thakre and other one person from Home Trade and Shri. Malvade- accused No.3 about purchase of the Government securities. Thereafter Pavanraje and accused No.3 told me to accompany the officers of Home Trade in their office and collect the receipts. Thereafter I myself and accused No.3 - Malvade went to the office of Home Trade at Washi. Accordingly they had given five receipts to us. I say that the said receipts were kaccha receipts. The said five receipts were pertaining to the amount of Rs. 29,99,34,591/-. They also had given me a cheque of Maharashtra State Co-operative bank of Rs. 65409/- regarding remaining amount. The said cheque and the receipts are given to us by Subodh Bhandari. Now said cheque is shown to me, it is the same, it is at Exh. 736. Now the said receipts are shown to me, they are the same, they are at Exh. 737/1 to 737/5. On the same day at evening I myself and Shri. Malvade came to Osmanabad. On next day morning at about 5 a.m. we reached at Osmanabad. In the office hour I myself and Malvade came at the Bank. Thereafter we sent the cheque of Rs. 65409/- for collection to the Maharashtra State Co-operative Bank. The said cheque was honoured and amount was transferred in our account. After two month Pavanraje demanded Rs. 29,99,34,591/- from Home Trade. On 20/4/2002 the Home Trade had given the cheque of

Rs. 30,89,07,975/- to us. The said cheque was submitted to the State Co-operative Bank for collection. The said cheque was dishonored and therefore returned back. On 2/5/2002 Malvade asked me to take the challan from the bank and visit the Colaba rest house where Pavanraje was present, collect the cheque from him and deposit in our account of State Co-operative Bank. Accordingly on 2/5/2002 at evening I came to Mumbai. On next day morning I visit the rest house and met the Pavanraje. Accordingly I collected the cheque from him and deposited in our account in State Co-operative Bank with challan. The said cheque was dishonored due to insufficiency of the funds in the account and therefore it was returned to us. When the cheque was returned to me the Pavanraje was present in the bank. Accordingly the said cheque and return memo was shown to the Pavanraje. Pavanraje asked me to keep the said cheque in account department. Thereafter I came from Mumbai on 4/5/2002 and reached at Osmanabad on 5/5/2002. Accordingly I handed over the said cheque with return memo to accused No.3 - Malvade.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I don't know whether in the meeting dt. 5/1/2002 it was decided to break the F.D. and to invest the said amount in the Government securities. It is not true to say that I prepared the list of fixed deposit for the purpose of breaking the said receipts and to invest the said amount in the securities. I cannot assign any reason why I went to Mumbai with fixed deposit receipts along with a list. It is not true to say that I went to Mumbai for purchasing the securities. The discussion regarding purchase of security is taken place in my presence. In the said discussion it was decided to invest the said amount in the securities. It is true to say that in the Oberoi Hotel also the discussion was taken place regarding purchase of the securities. I cannot state whether Pavanraje

and accused No.3 make the telephone on land line or mobile. I cannot state the number on which the telephone was made. It is not true to say that when phone was connected I was at the distance of 10-15 feet. It is not true to say that I depose false that message was given to transfer the amount. It is true to say that the said message was not given in my presence and I have no personal knowledge about it. After collecting the receipt I don't know whether correspondence was made by the bank regarding purchase of the securities. It is true to say that being in the investment department I know about the investment made by the bank. It is not true to say that I also know about all the correspondence made in respect of the investment. It is true to say that the said dishonored cheque was received by the account department. I don't know whether the criminal case under section 138 of N.I. Act was filed by the Bank in Osmanabad Court. It is not true to say that though I have no knowledge about the purchase of the securities in spite of that I depose on the say of bank officers.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

It is true to say that on 20/4/2002 the cheque of Rs. 30,89,07,975/- is received by Pavanraje.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

It is true to say that after resolution of the director in the meeting of the board of the director any decision of the bank is implemented. It is true to say that it was the duty of myself and my superior to implement the resolution passed in the meeting. It is not true to say that as per the resolution passed in the meeting of the Director I was asked by Malvade to go to Mumbai. It is not true to say that I went to

Mumbai to do any illegal work. It is not true to say that I go to Mumbai on the basis of resolution passed in the meeting. I have not confirmed about the passing of the resolution in the meeting of the directors about purchase of the securities. It is true to say that transaction of Home Trade was conducted at Mumbai. It is true to say that we have received the receipts of the amount given to the Home Trade at Mumbai. I cannot state reason why again we received the cheque from Home Trade. I cannot state the reason why Pavanraje demanded Rs. 29,99,34,591/- form Home Trade. I cannot state what happened about the cheque which was deposited to the head of account department.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

I have not taken any other things except receipt from Home Trade. It is true to say that contract notes are the part of the receipts only. I had not read the said receipts while taking. I had not seen the said receipts and its amount. I don't know how the transaction of Home Trade takes place. I don't know the categories of Trade company. I don't know whether the said receipts are pertaining to the purchase of the securities. I don't know whether the said amount is received along with the interest. I don't know whether the said receipts are pertaining to the amount where it was invested. I don't know about the Contract Notes and about its clauses. I had gone to Oberoi Hotel. I cannot state about the number of floors of Oberoi hotel and in which area it is situated. I had not seen Bhandari and Thakre before that. There is no reason for knowing them to me. It is not true to say that I never went to Mumbai. I cannot state the reregistration number of S.T. Bus by which I had gone to Mumbai. It is not true to say that I deposed as per the say of the police. It is not true to say that I depose false that Bhandari had given the receipts. I have not made inquiry about the Director of Home

Trade company.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Adopted.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

It is not true to say that I deposed false.

Re-exam. Nil.

R.O. & A.C.

Date :-22/8/2014.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

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R.C.C. No. 398/2002
Exh. No.743

Deposition of witness No. 12 for State.

I do hereby state on solemn affirmation that:

My name is : Kashinath Nivrutti Gore.
Age about : 65 years.
Occupation : Pensioner.
Residence at : Prakash Nagar, Latur.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

In the year 2002 I was working as a Special Government Auditor Class No.1. I was working as a Special Auditor from 3-10-1997 to 28-2-2002. Osmanabad District Co-operative Bank and Latur District Co-operative Bank were under my jurisdiction. I was under duty to conduct the audit of both bank during the financial year. After conducting the audit I was under duty to brought to the notice of Board of Director and my Superior about any irregularities while conducting the audit. Police made inquiry to me about the fraud which was taken place in Osmanabad District Central Co-operative Bank. Before my retirement inspection of the Osmanabad District Central Co-operative Bank was conducted by the NABARD. On 30/1/2002 The Osmanabad District Central Co-operative Bank by letter informed me to attend the meeting to be held on 8/2/2002. In the said meeting the subject regarding the inspection conducted by the NABARD of the bank was put up for the discussion. Accordingly I remain present in the meeting of the Board of Director held on 8/2/2002. I signed over the register in token of my presence in the said meeting. In the said register bears my signature at Sr. No.22 regarding my presence. In the said meeting a discussion was taken place in respect of the irregularities regarding the inspection conducted by the NABARD of the bank. In the said meeting only one subject was on agenda and therefore it was discussed and meeting was ended.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

It is true to say that after retirement I have no concerned with the bank. I have not forwarded the letter dt. 30/1/2002 given to me by the bank to the police. I myself have not seen the proceeding of meeting dated 8/2/2002. It is true to say that I did not remain present in every meeting of the bank. It is not true to say that I depose false that no other subject was discussed except the inspection conducted by the NABARD.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I have not handed over the agenda of the meeting to the police when my statement was recorded. It is true to say that in the meeting of the bank dt. 8.2.2002 Directors of the Bank, District Registrar, Officers from the NABARD and other Officers were present. It is true to say that after discussion regarding the inspection by NABARD, I myself and officers from the NABARD left the meeting. It is true to say that in the meeting after discussion regarding inspection of NABARD is over which was regarding me hence I left away.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

During my span of service I remain present only one time in the meeting. It is true to say that before calling the meeting agenda is used to be given. I have not given the said agenda to the police and also not brought today. It is not true to say that in the said agenda there were mention of many other subject. It is true to say that proceeding is to take place of the meeting. It is not true to say that many other subjects were discussed in the said meeting as per the proceeding book. It is true to say that I have not made any complaint regarding the proceeding book. It is not true to say that I depose false that in the said meeting other subjects are not discussed except NABARD in apprehension that I

shall be added in the present case. In Jan. and Feb. 2002 except this meeting I was not present to any other meeting. I do not recollect which meeting I was attended before this meeting. I cannot state the meeting which was attended by me at Latur.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Adopted.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

I have no personal knowledge about the fraud and the meetings of the bank and other transactions. It is not true to say that I depose false.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Absent – no cross.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-6/9/2014

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R.C.C. No. 398/2002
Exh. No.749

Deposition of witness No. 13 for State.

I do hereby state on solemn affirmation that:

My name is : Shivaji Ganpatrao Patil.
Age about : 52 years.
Occupation : Agri.
Residence at : Kadaknathwadi, Tq. & Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

I was the Director in Osmanabad District Central Co-operative Bank. I was the Director of the said Bank in the year 2002. The work of the Director was to remain present in the meeting of the bank, discuss the subject kept in the meeting and to pass the resolution. On 11/3/2002 the meeting of the Board of Director was called. I received the agenda of the said meeting. I myself was present in the said meeting. In the said meeting all the directors and staff members were present. In the said meeting only the subject in respect of NABARD inspection was kept for discussion. As the report of the NABARD was not received and therefore no discussion on the said subject No.1 was taken place. No other subject was discussed in the said meeting.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I worked as a Director in the bank for 6 to 7 years. I know about the agenda and minutes of the meeting of the bank. It is true to say that with the agenda minute of the last meeting is to attached. It is true that I was present in the meeting of board of director held on 5/1/2002. I do not recollect that whether discussion was taken place about the purchase of the government securities in the meeting held on 5/1/2002. It is true to say that there is a signature of Chairman and General Manager on the said proceeding. It is not true to say that 34 resolutions were passed in the said meeting dated 11/3/2002. It is true to say in the meeting the first resolution regarding sanction of the minute of

previous meeting was taken place. In the meeting dt. 11/3/2002 there was no subject No.1 discussed regarding sanction of the minutes of the previous meeting.

Question :- In a meeting dt.11/3/2002 in all 34 subject regarding distributing loan to the members were discussed ?

Answer :- I do not recollect.

I do not recollect whether all the 34 subjects discussed in the meeting and resolutions were implemented. It is true to say that in the said meeting I was the proposer of some of the subjects. It is true to say that in the meeting if any decision was taken against the interest of the bank, being a director I could take the objection and even make a complaint. It is true to say that at that time I was also the Vice Chairman of the said bank. I don't know about the purchase of the government security by the bank. I do not recollect when I came to know this. I have not taken the objection after coming to know about the said transaction. I have not make any complaint to co-operative Court regarding mentioning of purchase of securities by the Bank in the proceeding book. I do not recollect about the discussion taken place on 34 subjects in the meeting dt. 11/3/2002. It is not true to say that I depose false to absolve the responsibility as a Director.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

I was present in the meeting dated 9/4/2002. I was sitting by the side of Chairman in the said meeting. I don't know what proceeding was written. It is not true to say that usually I used to remain present in the office. The resolution No.1 of the meeting dt. 9/4/2002 was not passed. The fact that I was a proposer subject No.1 in proceeding book is false one. I received the notice under section 88 of the Co-operative

Society Act and accordingly inquiry was conducted. It is not true to say that in the said inquiry I admitted about the passing of such type of resolution. It is true to say that in the said inquiry I was held guilty. I don't know from where 30 crores was received by the bank and it was transferred. I cannot state the reason of dissolution of the board of director. It is true to say that board of director was dissolved before my retirement. I have taken the allowances of the meeting. The record of the proceeding book was prepared later on. During the period of 7 years when the Pawanraje was a Chairman the proceeding was prepared later on. I have not make any complaint that proceeding book was written later on. It is not true to say that I deposed false that in the meeting dt. 11/3/2002 the work was started with subject No.2.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

It is true to say that I was the proposer of subject No.34. It is true to say that on that subject only action was taken place against me. Our bank used to grant the cash credit facility. I don't know the procedure of the cash credit. I was held guilty in the said inquiry. It is true to say that today I am stating first time that proceeding book was written later on.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

It is not true to say that I signed over the presenty register after verifying the proceeding book. It is not true to say that to absolve from the liability I am deposing false.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Adopted.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Adopted.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-15/9/2014.

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C/336

R.C.C. No. 398/2002
Exh. No.750

Deposition of witness No. 14 for State.

I do hereby state on solemn affirmation that:

My name is : Bhuddiwant Yashwant Ammashetti.
Age about : 69 years.
Occupation : Retired.
Residence at : Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

I was working in Osmanabad District Central Co-operative Bank. I was working there from 1972 to 2003. In the year 2002 I was the Chief Officer of the Bank. The Non-Agricultural Department was with me. One S.V.More was my superior. We used to verify all the applications filed for loan and to show the same to the General and Dy. General Manager and thereafter to put the same in the meeting of the Board of Director. The meeting of the board of director used to take place in every month. In the said meeting all the directors and staff members used to remain present. The meeting of the board of director was taken place on 5/1/2002. I was present in the said meeting. In the said meeting I had given the information about the application for loan to the directors present in the said meeting. In the said meeting discussion was taken place about the subject concerning to us and also not concerning to us. On 8/2/2002 also the meeting of the board of director was taken place. I was present in the said meeting. In the said meeting the discussion was taken place regarding subject about the inspection taken by the NABARD. After discussion of the said subject the meeting was over. Police recorded my statement. I don't want to say anything more. I came to know about the deposit of 30 crores by Nagpur D.C.C Bank in O.D.C.C. by which O.D.C.C. bank purchased the securities.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

It is not true to say that along with the agenda of the meeting the minutes of the last meeting is used to enclose. I cannot state to whom agenda and meeting is given. In the agenda it is also mentioned about emergency subject. It is true to say that the inquiry was taken place under section 88 of Co-operative Societies Act. There were other Directors with me in the said inquiry. It is not true to say that on the basis of the resolution of the directors only the securities were purchased. It is true to say that in the meeting dt. 8/2/2002 after discussion of subject regarding inspection by the NABARD as I had no concerned with other subject I left away.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Adopted.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

It is true to say that I came to know about the purchase of the securities of 30 crores from the police.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

It is true to say that in the proceeding book it is mentioned about the discussion on the subject taken place in the meeting. It is not true to say that I am depose false to absolve from the guilt.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Adopted.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Adopted.

R.C.C. No. 398/2002
Exh. No.750

R.O. & A.C.

Re-exam. Nil.

Date :-15/9/2014.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

4340

R.C.C. No. 398/2002
Exh. No.755

Deposition of witness No. 15 for State.

I do hereby state on solemn affirmation that:

My name is : Suresh Manikrao Birajdar.

Age about : 49 years.

Occupation : Agricultural.

Residence at : Balsud, Tq. Omerga, Dist. Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

I was one of the Director of Osmanabad District Central Co-operative Bank since 1999. There were in all 13 Directors including the Chairman over the said Bank. The work of the director was to frame the policy of the bank and also to fix the subject for meeting and discuss the same in the meeting. I received the agenda of meeting dt. 11/3/2002 and accordingly I remain present in the said meeting. In the meeting dt. 11/3/2002 the subject No.1 was to read the minute of last meeting and to sanction it. However as the report of the NABARD regarding inspection of the bank is not received and therefore it was not discussed and therefore discussion was started form subject No.2 . There were in all 20 subject for discussion in the said meeting. Thereafter the discussion was taken place on other subject and meeting was closed. Police recorded my statement. From the media I came to know that the Chairman and M.D. of the bank has invested the amount in the Home Trade and committed the fraud.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

At present also I am one of the Director of the bank. I am also the Chairman of Urban Bank. I know substantial regarding the meeting of the Co-operative bank. It is true to say that there is presenty register and the person who present in the meeting used to sign over it. It is

true to say that we used to receive the agenda before the meeting. The agenda of both meeting dt. 11/3/2002 and 9/4/2002 is issued by the bank they are at **Exh. 758 and 759**. I do not recollect whether I received the agenda of the meeting dt. 9/4/2002. It is true to say that in the meeting the discussion was taken place as per the agenda. It is not true to say that in the meeting dt. 11/3/2002 the minute of the last meeting was read and sanctioned. It is true to say that I have authority to take the objection against the resolution passed against the interest of the bank. It is not true to say that it is our duty to see whether the resolution which is passed in the meeting after discussion are implemented or not. It is not true to say that discussion was taken place on 33 subject in meeting dt. 11/3/2002. I say that the proceeding book itself is bogus and fabricated one. I cannot state about the correctness about the contents in the proceeding book as it is fabricated one. I do not recollect whether I was received the allowance of the meeting dt. 11/3/2002. It is true to say that the inquiry was taken place against me u/s. 88 of Maharashtra Co-operative Society Act. It is not true to say that in the said inquiry I was held guilty. I have made the complaint about the bogus and fabricate proceeding book. I have not submitted any written document in that respect to the police. It is not true to say that I depose false that no discussion of subject No.1 was taken place in meeting dt. 11.3.2002.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

It is true to say that one Subhash More was also the Director of the bank at that time. It is true to say that I myself and other Directors had filed the dispute No. 242/2002 before the Co-operative Court against D.C.C.Bank and Y.P. Giri, Dist. Dy. Registrar, Osmanabad. I do not recollect whether the said dispute was pertaining to the meeting dt. 8/2/2002 and 11/3/2002. I do not recollect whether the said dispute

was withdrawn on 21/9/2007. I do not recollect whether the Subhsh More also filed the dispute No. 243/2002. I do not recollect whether the said proceeding was dismissed on 27th December. I cannot state whether the said proceeding was withdrawn as there was no complaint in respect of the meeting dt. 8/2/2002 and 11/3/2002.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

It is true to say that in every meeting there is subject No.1 regarding reading and confirmation of the minute of the last meeting. I have not read the minute of the meeting dt. 11/3/2002. At present also Chairman and Managing Director used to sign over the minute. I have taken the information after reading the news in a news paper about the deposit of Rs. 30 crores by Nagpur District Bank in O.D.C.C. Bank. I was acquitted in inquiry u/s. 88 of the Act. It is true to say that in the said inquiry there was charges of irregularities regarding without sanction of the board of the director, chairman invested the amount in the Home Trade as a security. It is not true to say that I depose false that in the meeting dt. 11/3/2002 the discussion was started from subject No.2. It is not true to say that I depose false that I came to know from the news report about the investment in the home trade.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

It is not true to say that after registration of the crime in the present case just to absolve from the liability we filed the dispute before the Co-operative Court Nanded against the said meeting. It is not true to say that all the subject on agenda are taken for discussion in the meeting. The subject which is dropped no resolution is passed. It is true to say that the subject which are discussed in the meeting in that respect resolutions are passed. I have not filed any complaint after coming to know about the information in news paper.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Today I have taken the information about the investment in the Home Trade though I have no personal knowledge at that time. The proceeding of the meeting kept in the bank. It is not true to say that I depose false today to absolve from the liability.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Adopted.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Absent - No cross.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-23/9/2014.

4347

R.C.C. No. 398/2002
Exh. No.780

Deposition of witness No. 16 for State.

I do hereby state on solemn affirmation that:

My name is : Chandrakant Pandharinath Bhalerao.

Age about : 62 years.

Occupation : Retired.

Residence at : Washind, Tq. Shahapur, Dist. Thane.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

In the year 2002 I was working as a Junior Officer in Maharashtra State Co-operative Bank, Mumbai. I was looking after the work of verifying the entries taken by ledger keeper which was taken on the basis of voucher. I was looking after the work of Nagpur, Amravati and Ahmadnager District Central Co-operative Bank. On 31/1/2002 the amount of Rs. 30 crore of Nagpur Central District Co-operative bank was deposited in Osmanabad District Central Co-operative Bank. I had verified the ledger and voucher entries in the account. Now said voucher is shown to me, it is at **Exh.781**. On 1/2/2002 Home Trade, Washi has issued the cheque of Rs. 29,99,99,766/- in the name of Nagpur Central District Co-operative Bank. Accordingly amount was deposited in the Nagpur District Central Co-operative Bank. Accordingly entry was taken in the ledger. Nagpur District Central Co-operative Bank has deposited 30 crore in Osmanabad District Central Co-operative Bank and accordingly debit entry was made by Nagpur District Central Co-operative Bank. That said voucher is produced on record, it is at **Exh. 782**. On 1/2/2002 Home Trade Washi deposited 29,99,99,766/- in Nagpur District Central Co-operative Bank and verified the ledger entry for the same, its verified copy is filed on the record, it is now shown to me, it is the same, it is at **Article 'A'**.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Kalbhor was the Ledger Keeper and therefore he has deposited amount in the Nagpur District Central Co-operative Bank.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

It is true to say that I myself not taken the entries personally in the ledger book.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

It is true to say that I have not signed on the voucher in respect of which I deposed today. No cheque was received by me in respect of deposit of Rs. 30 Crore from Nagpur District Central Co-operative Bank to Osmanabad District Central Co-operative Bank. I myself not signed Article 'A' as a verified. Original papers of Article 'A' was not produced on record. I cannot state the entries in Article 'A' are true and correct without perusing the original record. Exh. 781 and Exh.782 does not bear my signature. I myself not written the contents of said document. Since last four years I am retired. I myself not produced the original record. I have not produced any documentary evidence showing that the work of verifying ledger was given to me. I cannot state how the amount of Rs. 30 crore from Nagpur District Central Co-operative Bank is deposited in Osmanabad District Central Co-operative Bank. Now I say that the said amount is deposited in Osmanabad District Central Co-operative Bank by means of FAX by secrete code. The said FAX is not produced on the record. All the transaction was taken place in Maharashtra State Co-operative Bank Mumbai. I myself not made the inquiry to the Nagpur District Central Co-operative Bank. I cannot state what happened thereafter after deposit of 30 crore in ODCC Bank. I myself not seen the cheque given by Home Trade, Washi to Nagpur

District Central Co-operative Bank. On Article 'A' there is no reference of Home Trade. Police has recorded my statement. I cannot state its date. It is not true to say that though I have no concerned to the transaction only as per the say of police depose falsely.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Adopted the cross-examination of Adv. of accused No.7.

I worked in Bank for 33 years. The banking transaction was taken place as per Board of Directors.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

It is true to say that the entries are being taken in ledger in respect of the account transaction. It is true to say that account transactions are used to take place during banking hours. The bank hours was 10:15 a.m. to 5:15 p.m. It is true to say that the transaction in between Nagpur District Central Co-operative Bank, Osmanabad District Central Co-operative Bank and Home Trade as per their consent.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Adopted.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-17/11/2014.

9/352

R.C.C. No. 398/2002
Exh. No.786

Deposition of witness No. 17 for State.

I do hereby state on solemn affirmation that:

My name is : Sunil Digambar Patil.

Age about : 50 years.

Occupation : Service.

Residence at : Kalyan.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 01/02/2002 I was working as a Ledger Keeper in Head Office of Maharashtra State Co-operative Bank, Mumbai. On 1/2/2002 the amount of Rs. 30 crore of Osmanabad District Central Co-operative Bank was deposited in Home Trade. I received the voucher from the voucher department. The said voucher now shown to me, it is the same, it is at **Exh. 787**. Accordingly I taken the entry in the ledger. Now the verified copy of the ledger entry which is verified from the original shown to me , it is the same, it is at **Exh.788**. On the same day Home Trade has deposited Rs. 29,99,99,766=67/- in Nagpur District Central Co-operative Bank vide cheque. I myself made the entry regarding deposit of Rs. 30 Crore of Osmanabad District Central Co-operative Bank in Home Trade. Its voucher now shown to me, it is the same, it is at **Exh. 789**. On 5/2/2002 Home Trade had given the cheque of Rs. 65,409/- to deposit in Osmanabad District Central Co-operative Bank. I can identify the said cheuqe if shown to me. The cheque at Exh. 736 is the same. I myself had taken the entry in ledger book. The ledger entry which is shown to me, it is the same as per original ledger. It is at **Exh. 790**.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

During the period from 1/2/2002 to 5/2/2002 except 30 Crore no other transaction was take place to Home Trade. It is true to say that

before deposit of 30 crore the amount of Rs. 1,15,969=11 ps. was balanced in the name of Home Trade. It is true to say that during the period 1/2/2002 to 5/2/2002 no amount was deposited by Nagpur District Central Co-operative Bank in the name of Home Trade. I cannot state for what purpose Rs. 30 Crore was deposited in the account of Home Trade.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

It is true to say that over Exh.789 there is no signature of the officer of the ODCC Bank.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Adopted.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Adv. for the accused No.7 filed application Exh. 791 seeking time for cross-examination which was rejected. Hence no cross by adv. of accused No.7

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Adv. for the accused No. 8 filed application Exh. 785 seeking time for cross-examination which was rejected. Hence no cross by adv. of accused No.8

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

It is true to say that the transaction regarding giving of voucher and cheque used to take place during banking hours. It is not true to say that one Kalbhor was assigned the work for making the entry on the ledger. It is true to say that if any transaction was taken place by the employee of the bank after office hours to which bank shall not remain responsible. All the ledger entries are taken immediately after transaction.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Adopted.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-17/11/2014.

R.C.C. No. 398/2002
Exh. No.802

Deposition of witness No. 18 for State.

I do hereby state on solemn affirmation that:

My name is : Vilas Ananda Kamble.

Age about : 66 years.

Occupation : Retired.

Residence at : Kasegaon, Tq. Walwa, Dist. Sangli.

4395

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 1/10/2002 I was working in Maharashtra State Co-operative Bank, Mumbai. On 1/10/2002 one Shri. S.D.Bangar, Inspector of Local Crime Branch, Osmanabad, came into the bank. He called me in the Head Office of Maharashtra State Co-operative Bank. Police called me in the cabin of Bhosale saheb. That time in my presence police inspector has taken into the custody the documents from the Bhosale saheb. Accordingly police prepared the panchnama. Panchnama now shown to me, it bears my signature, contents are true, it is at **Exh. 803**.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

I cannot state exactly which documents were seized of which date.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Adopted

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

It is not true to say that I signed over the panchanam as per the direction of the police inspector or my superior. It is not true to say that police already prepared the panchnama and I just signed over it.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Adopted.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Adopted.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-1/12/2014.

d405

R.C.C. No. 398/2002
Exh. No.804

Deposition of witness No. 19 for State.

I do hereby state on solemn affirmation that:

My name is : Amarsing Vasantrao Kirdatta.

Age about : 42 years.

Occupation : Agri.

Residence at : Anand Nagar, Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 6/6/2002 I went to the Osmanabad City Police Station. In police station panchnama was ready I signed over it. Panchnama now shown to me, it bears my signature, I don't know its contents.

The witness is not supporting to the prosecution. Hence on the oral request of learned Spl. P.P. he is declared as hostile and permission granted for leading questions.

Cross. by Spl. P.P.

It is not true to say that P.I. Reddy called me in the Osmanabad City Police Station for preparing the panchnama. It is not true to say that in a police station police obtained the specimen signature and handwriting of one Arun Jivanrao Deshpande on separate six papers. It is not true to say that after obtaining the specimen of handwriting and signature I signed over the 12 papers. Now the 12 papers of specimen signature and handwriting are shown to me, it bears my signature as a panch, they are at Exh. 805/1 to 805/12 (witness is admitting his signature over the 12 papers hence to that extent only exhibit is given).

It is not true to say that on the same day police also obtained the specimen handwriting and signature of one Vinayak Digambarrao Malvade on six paper each. Now 12 papers are shown to me, it bears my signature, they are at Exh. 806/1 to 806/12(witness is admitting his signature over the 12 papers hence to that extent only exhibit is given).

It is not true to say that on the same day police also obtained the specimen handwriting and signature of one Harischandra Kashinath Tambe on six paper each. Now 12 papers are shown to me, it bears my signature, they at **Exh. 807/1 to 807/12**(witness is admitting his signature over the 12 papers hence to that extent only exhibit is given).

It is not true to say that on the same day police also obtained the specimen handwriting and signature of one Shivaji Bhaurao More on six paper each. Now 12 papers are shown to me, it bears my signature, they at **Exh. 808/1 to 808/12**(witness is admitting his signature over the 12 papers hence to that extent only exhibit is given).

I studied up to graduation. It is true to say that being a graduate I did not sign without reading the paper. It is not true to say that the police in my presence prepared the panchnama and obtained the specimen of signature and handwriting of above mentioned persons. It is not true to say that I depose false to save the accused.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Declined.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

R.C.C. No. 398/2002
Exh. No.804

R.O. & A.C.

Re-exam. Nil.

Date :-1/12/2014.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

R.C.C. No. 398/2002
Exh. No.809

Deposition of witness No. 20 for State.

I do hereby state on solemn affirmation that:

My name is : Arjun Pandurang Ghule.

Age about : 53 years.

Occupation : Service.

Residence at : Barshi, Dist. Barshi, Dist. Solapur.

c/483

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

In the year 2002 I was working as a Clerk in Account Department in Osmanabad District Central Co-operative Bank, Osmanabad. Sub-Accountant Gangne was my superior. Similarly one H.K.Tambe and V.D.Malvade were the Chief Officer. I used to issue the cheque on permission of the Chief Officer if the cash is called by the bank. I also used to make the payment of sanction bill. On 31/1/2002 Nagpur District Central Co-operative Bank has deposited 30 crore in the account of Osmanabad District Central Co-operative Bank, Osmanabad maintained in Maharashtra State Co-operative Bank, Mumbai. On 22/2/2002 Malvade Saheb has sanctioned the voucher and directed to make entry in the kird book. Accordingly I have taken the entry in the kird book. The certified copy of the extract of the kird book is shown to me, it is the same, it is at **Exh.810**. Today I brought the original kird book.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

I do not recollect whether Malvade was Chief Officer at that time. It is true to say that Head Office not entitled to put the amount in fixed deposit. It is true to say that due to that I have diverted amount of Rs. 30 crore in Zilha Parishad account. I do not recollect whether fixed deposit receipt was prepared in the name of Nagpur District Central Co-operative Bank. I don't know whether Zilha Parishad branch has given

the fixed deposit receipt. I don't know whether the fixed deposit receipt is lying in the Head Office. I don't know whether 30 crore were received in the Maharashtra State Co-operative Bank. It is not true to say that I depose false that Malvade saheb asked me to take the entry in day book. It is not true to say that Malvade saheb never sanctioned the voucher of 30 crore rupees.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

It is true to say that in day book there is no separate entry regarding 30 crore on 22/2/2002.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-1/12/2014.

R.C.C. No. 398/2002
Exh. No.817

Deposition of witness No. 21 for State.

I do hereby state on solemn affirmation that:

My name is : Vaibhav Vishwanath Patil.

Age about : 30 years.

Occupation : Agriculturist.

Residence at : Kadaknathwadi, Tq. Washi.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 18/8/2002 I was present in the police station. Police obtained the signature on the blank paper. Panchnama now shown to me, it bears my signature. I don't know its contents. Now six papers are shown to me, it bears my signature.

The witness is not supporting to the prosecution. Hence on the oral request of learned Spl. P.P. he is declared as hostile and permission granted for leading questions.

Cross. by Spl. P.P.

It is not true to say that police called me in the police station and asked to remain present for preparing the panchnama regarding obtaining specimen signature of Pawanraje Nimbalkar in crime No. 106/2002. It is not true to say that accordingly in my presence Pawanraje Nimbalkar signed over six papers. It is not true to say that accordingly police prepared the panchnama and after reading its contents I signed over it. I studied up to 12th standard. It is true to say that generally I did not sign without reading the paper. It is not true to say that today I depose false to save the accused.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Declined.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-9/12/2014.

R.C.C. No. 398/2002
Exh. No.818

Deposition of witness No. 22 for State.

I do hereby state on solemn affirmation that:

c/495

My name is : Muniroddin Naimoddin Kazi.

Age about : 38 years.

Occupation : Business.

Residence at : Anand Nagar, Osmanabad.

Exam-in-Chief by Spl. P.P. Shri.B.N.Karanjkar for State.

On 18/8/2002 I was present in the police station. Police obtained the signature on the blank paper. Panchnama now shown to me, it bears my signature. I don't know its contents. Now six papers are shown to me, it bears my signature.

The witness is not supporting to the prosecution. Hence on the oral request of learned Spl. P.P. he is declared as hostile and permission granted for leading questions.

Cross. by Spl. P.P.

It is not true to say that police called me in the police station and asked to remain present for preparing the panchnama regarding obtaining specimen signature of Pawanraje Nimbalkar in crime No. 106/2002. It is not true to say that accordingly in my presence Pawanraje Nimbalkar signed over six papers. It is not true to say that accordingly police prepared the panchnama and after reading its contents I signed over it. It is true to say that generally I did not sign without reading the paper. It is not true to say that today I depose false to save the accused.

Cross.exam. by Adv. Shri.S.T.Tanwade for accused No.3

Declined.

Cross.exam. by Adv. Shri.S.V.Tambe for accused No.4

Declined.

Cross.exam. by Adv. Shri.A.D.Gapat for accused No.5

Declined.

Cross.exam. by Adv. Shri.M.S. Patil for accused No.7

Declined.

Cross.exam. by Adv. Shri.R.R.Garad for accused No.8

Declined.

Cross.exam. by Adv. Shri.V.V.Shinde for accused No.9

Declined.

Cross.exam. by Adv. Shri.P.M.Nalegaonkar for accused No.10

Declined.

Re-exam. Nil.

R.O. & A.C.

(U.T.Pol)
Chief Judicial Magistrate,
Osmanabad.

Date :-9/12/2014.

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उस्मानाबाद