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The “Paper Case”: Evidence and Narrative of a Terrorism Trial in Delhi

Mayur Suresh

In most Indian trial courts, the file alone bears witness to what happens inside a courtroom. Investigative and trial court processes are marked by the production of files and paperwork. Like many other common law jurisdictions in Asia and Africa, India does not use a jury for criminal trials. In contrast to an imagined “ideal” common law trial in which testimony is seen and heard by judge and jury, trials in India largely depend on what the judges, police officials and lawyers inscribe into the court file.¹ In this article, I am interested how legal truth is produced in the

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¹ The Indian legal system is not unique in its reliance upon files and the importance of files to judicial processes has been studied in several different jurisdictions (Hodgson, 2002; Scheffer, 2004, 2007, 2010; Barrera, 2008; Latour, 2012; Whyte, 2015; Oorschot & Schinkel, 2015; Mou, 2017).

investigative and trial processes, by paper and the certificatory practices that accompany it.

Given this reliance on documents and files, it is not surprising that the phrase *kagazī case* (the paper case) regularly came up during my fieldwork in Delhi's terrorism courts. Defendants accused of terrorist crimes often only come to know the full extent of the case against them when the police enter the charge sheet into the court records. They describe the horror of reading the stories of their lives as narrated by a police file. "When I read I was accused of planting twenty-two bombs, my head started spinning" one said to me. Another told me of his shock upon learning that his work as a trade union activist was interpreted as evidence of his links to Maoist guerrillas. According to another, "the police can even say that you squeezed water from a stone." Hence, the term *kagazī case* was uttered with trepidation: within these files, defendants feared, fiction could be transformed into fact. Conversely, the terror-accused knew that the versions of reality presented by the police within a court file could only be contested through the very protocols of that file. Files therefore do not record what is in the world; rather, they attempt to mediate different versions of reality into existence.

In this article, I explain the ways in which realities come to be simultaneously produced and contested by the case file. I do so by following the investigation and trial in the wake of a series of bombings in Delhi in 2008. I focus on the investigative and trial processes in the case against a person I call "Fahad," who the Delhi police have accused of planting a bomb, and of being part of a conspiracy behind another series of bombings in the state of Gujarat. Delhi's anti-terror police—the Special Cell—have alleged that Fahad placed a small bomb in a bag, and then hired an auto-rickshaw to take him to a crowded market. Upon reaching the market, Fahad allegedly

got out, leaving the bag behind and asking the driver to wait. The police claim that the bomb exploded several minutes after Fahad left the market. Several people were killed; the rickshaw driver and several others were injured. In the days following the explosion, the police arrested Fahad along with others the police claimed were part of the conspiracy. In this article, I show how this narrative was built up through documents produced during the investigation and how, during the trial, the defense challenged this narrative by questioning the validity of those documents.

Unlike some accounts of terrorism laws, which are framed by ideas of exceptionalism and the state of emergency (Singh, 2006, 2007; Rogers, 2008), my ethnography shows that terrorism *trials* in India are not exceptional in any meaningful manner and are marked by ordinary trial processes. What is often surprising about terrorism trials is precisely that they are so similar to other criminal trials. This article is part of a broader research project in which I argue for a reframing of terrorism trials from the exceptional to the ordinary. In this article I highlight a progression that is common to many other criminal trials: a narrative is built gradually, through an evidentiary process that is essentially material—and that, certainly in the Indian case, the materiality of the trial is predicated upon paper.

This article contributes to the growing body of literature around legal and bureaucratic practices and their link to epistemology. Here, I discuss the place of documentary practices in constructing narratives during evidential processes.² While

² This idea of evidence-as-a-process also is present in the Indian Evidence Act, 1872. The main author of the Evidence Act argued that word *evidence* confuses the distinction “between the testimony on which a fact is believed and the fact itself” (Stephen, 1872: 6). Hence, under the Act, “evidence” was not proof, it was not a fact, but was rather a process to prove or disprove the existence of a fact.

some authors have argued that scholars ought to be more concerned with the place of rhetoric and argument in understanding the idea of evidence (Hastrup, 2004; Twining, 2006, Engelke, 2009), I focus in this article on the documentary processes that go into producing legal knowledge. In India, legal truth critically depends on the paper file.

Accountability and Epistemological Certainty through Documentation

The centrality of the file to the investigative and trial process is a historical legacy of ideologies that see writing as ensuring accountability across time, space, and bureaucratic hierarchies (Moir, 1996; Raman, 2012; Hull, 2012). A strong connection between writing and accountability continues to the present day. The written record maintained by the police ostensibly protects the integrity of the investigative process and police accountability to trial courts. In turn, the written record maintained by the lower courts is thought to ensure the legibility of actions of lower courts to appellate courts. Further, because trials can take years—at times, more than a decade—to complete and judges are transferred so regularly, the written record also allows one judge to pass judgment on testimony recorded by another.

Paper and the practices that surround it are also thought to ensure epistemological certainty (Smith, 1985; Raman, 2012; Hull, 2012). Raman shows how, in judicial settings in early colonial South India, the move to paper was believed to enable production of juridical truth that was amenable to modes of proof known to the common law, that is, that the investigative process could be tested in court, and that facts produced by such a process could be legible at various levels of the colonial judiciary (Raman, 2012: 151). The move to paper was to ensure that the juridical truth that was produced could be subject to certain certification processes, which were not possible under previous practices. As Hull notes, the history of certification practices

of paper in South Asia was premised by a thoroughgoing rejection of trust in people (Hull 2012: 8). While courts in India and England have, historically, attempted different methods of ensuring the probity of facts “found” during the evidentiary process,³ files and accompanying certificatory processes are currently the primary way of producing facts in a trial.

Science and technology studies scholars have drawn attention to the centrality of material processes in the production of scientific truth. In order to highlight the place of paper processes in the production of scientific truth, Latour (1999) argues that the objects from the world are converted into writing by the gradual, transcription of the material world into language. Latour shows the process by which scientific “fact” is not discovered, but rather is a product of a chain of inscription and practices that depend on paper.

In contrast to his work on science, Latour’s seminal ethnography of France’s Conseil d’Etat (2010) gives little space to understand how the law produces facts (Oorschot & Schinkel, 2015; Pottage, 2012). As he tracks the file’s movement in the court’s bureaucracy, Latour’s work on law is concerned with the “processes of enunciation” (Pottage, 2012) and the movement between different types of writing (Latour, 2010: 86). Latour does not engage with how “facts” are constituted by the file and seems to assume that they are simply brought on record by the various parties to a case (79)

³ From the eighteenth century onwards, English law began to experiment with a number of ways to ensure the truth of facts found by the trial process. Bentham thought the probity of testimony presented in courts could be ensured by the publicness of the trial (Bentham, 1843). Schneider (2015) describes methods employed by Victorian courts in England and India—from increased perjury prosecutions, to punitive tattooing for lying in court, to testing testimony against the reputation of classes of people. Singha (1998, 46–47) looks at oaths and truth telling in courts in early colonial India.

and the various iterations of the file are meant to “constitute a domain of unquestionable fact” (229) which will allow for an “unquestionable decision” (230). While he is correct to focus on the procedures which makes the file “ripe for use,” that is, enabling the transformation of “facts” into questions of law, Latour does not understand that these “facts” themselves are brought into being by this step-by-step procedure that he details in his work on science.⁴

In bringing attention to the chain-like processes by which legal facts are brought into existence, this article makes two contributions to the scholarship on documentary practices and their relation to the production of legal truth.⁵ The first is to show how juridical truth is simultaneously produced and undermined by the official practices that create and certify documents. There is a rich sphere of scholarship which has shown how the truth claims made by government paper are undermined when official documents circulate through bureaucratic networks and the communities that come in contact with these documents. (Tarlo, 2003; Das, 2004; Hull, 2012; Kafka, 2012; Raman, 2012). These scholars have shown how non-official documentary practices undermine the truth claims of government paper. This article however attempts to analyze not only how official papers gradually enact juridical truth, but also how truth claims are undermined by the same official practices through which these documents are created.

Secondly, while scholars have shown how bureaucratic documentary practices have produced objects and people, I show how files also produce time and narrative. This

⁴ This is perhaps because he is focused on an appellate court or because he was not present during the birth of the file (as he was, in his scientific work mentioned above).

⁵ This idea of the ability of the file to produce its own regime of facts has been noted by a number of scholars such as Tarlo (2003), Dery (1998) and Vismann (2008).

ethnography shows how documentary practices enact different objects and place them in a certain narrative chain of past events. The evidentiary process is not just an attempt to prove that the referents of the file, the objects, exist, but also an attempt to weave a story around these objects, connecting them to each other. The file therefore does not just enact objects, but in weaving a narrative around the objects, also enacts time.

The Accretion of Narratives through Documentary Records

Socio-legal scholars have pointed to the centrality of narratives to the working of the law (Ewick and Silbey, 1995; Twining, 2006: 286–292; Mertz, 2007: 79–82; Scheffer, 2010: 1). Some have noted that narrative is essential to rhetorical forms of claim-making and persuasion (White, 1985; Constable, 2014). Mertz notes that the stories told by courts—especially appellate courts—in their judgments are structured by the legal issues at stake in a particular conflict (2007: 61, 146). She argues that narratives that are presented in cases are made to fit certain conceptual categories, which are in turn generated by statutes and precedent.

These ways of thinking about narrative imagine a story being told at a single moment—say in final arguments, or by a judge in a decision. This article shows that while linked to both claim-making and legal categories, the narratives in a case are the sum of smaller narratives dispersed through the documentary record. I argue that facts which are eventually relied upon by courts to produce their judgments are themselves produced by the creation and reading of more humble legal texts—such as the memos, certificates, and other documents that I detail in this article. The totality of the “facts of a case” is produced by the slow accretion and contestations of these minor documents.

In his ethnography of English criminal trials, Scheffer (2004, 2010) draws attention to how the stories that defense lawyers built into their legal arguments were not only presented in court orally, but also how they were distributed through their files. He approaches “case-making” (2010) through narrative by defense lawyers as practices that are dispersed in time and through various documents that comprise of the defense lawyers’ case file. He shows that the defense lawyers’ stories are put together gradually over time and through several documentary iterations (2004, 384).

While Scheffer concentrates on the dispersed production of narrative of a case through the file, the file also contains another narrative—of itself. As Hull (2003) points out, a file is a “chronicle of its own production” and “signs of its own history are continuously and deliberately inscribed upon the artifact itself” (296).⁶ Thus a file contains (at least) two narratives: its own history and that of objects and people referred to outside of itself.

By examining the growth of the file in Fahad’s case, I show how these two narratives are intertwined, because of the materiality of the file. I show how the police’s file reveals its own birth and history and in doing so gives us a narrative of the investigation. In telling us of its own history—a history of the investigation—the file in the Fahad case also reveals a narrative of the events leading up to the bomb-blast. I show that since the narrative of the bomb-blast is so dependent on the narrative of the investigation, the defense lawyers’ aim has been to discredit the paper documenting the investigation. In doing so, the defense lawyers have inserted their own counter-narrative into the court record.

Here, I will demonstrate the relevance of documentary practices in producing

⁶ See also, Vismann, 2008: 7, 77–78.

narrative by looking at three key documents pertinent to the case against Fahad. These documents pertain to the seizure of the auto-rickshaw after the explosion and the medical treatment provided to the driver. To present a coherent narrative, each sheet of paper produced during the investigative process needs to link with another. But writing is not sufficient to produce juridical truth, and I describe the variety of certificatory practices—signatures, countersignatures, stamps, seals, identification—that shore up the truth produced by these documents.

Certification and the Making of Legal Facts

What emerges in my account is that the production of juridical truth depends upon evidential processes that consist of chains of smaller certificatory practices related to documents. For the defense, this has meant that questioning these certificatory procedures could displace the narrative that the prosecution tried to build. Further, the defense has inserted a counter-narrative into the court's record by challenging the validity of these certificatory procedures. I therefore show that documentary practices are implicated in the production of juridical truth, and juridical truth is vulnerable because of the very documentary practices upon which it depends.

I show the significance of the certificatory practices in producing narratives by following the examinations-in-chief (direct examinations) and cross-examinations of witnesses who produced the documents. By looking at the examinations-in-chief, I detail the prosecution's attempts to inscribe its narrative of the investigation and the bomb blast into the court record. Because the prosecution's narrative of the bomb blast is so tied to the narrative of the investigation, which is in turn dependent upon the investigative documents, if the prosecution can prove that the police investigated the offence in the way that the documents say that police did, it can also prove its

narrative of the bomb blast. In order to prove that the investigation proceeded as the police have claimed that it did, the prosecution needs to prove that the documents prepared during the investigation were done so in the proper manner.

The defense strategy then is not to directly question the events that the prosecution narrates, but to impugn the validity of the investigative documents. It is through the questioning of the validity of the investigative documents that the defense can insert a counter-narrative into the court's record. In this case, Fahad's defense is simple: (a) he did not place the bomb in the auto-rickshaw, and (b) the police concluded that he was guilty prior to beginning the investigation. Therefore, the defense's aim is twofold: to show that the narrative of the investigation is false and to insert the allegation that Fahad was a convenient suspect into the court record. If the defense can show that the police's narrative of the investigation is false, then the entire police version of the bomb blast will lose credibility. In order to do this, the defense must attack the validity of the documents produced during the investigation. The defense's strategy is premised on the "ideology [that] the validity of records (or more precisely, their referential correctness) is ensured by following the procedures established for their production." (Hull, 2012: 203).

This highlights the importance of the certificatory practices in ensuring the referential correctness of documents, such as, whether the objects, people, and places referred to in the document actually exist. I show how the defense's line of questioning builds up the case that the police did not properly create and certify the investigatory documents; which means the documents they produced in the investigative process cannot be valid, which in turn means that the narrative of the investigation produced by the police could not be valid. If the narrative of the investigation is not valid, then

this would mean that the official narrative of the bomb-explosion is not valid.

Method and Case Selection

The object of this study is not the outcome of cases in the form of judgments, but the process of constructing cases via files over years. I have chosen to follow the path of the files pertaining to one case, rather than look at files more generally (Oorschot and Schinkel, 2015; Mou, 2017), as it allows me to show how narratives of a specific case are enacted through various documents.

I followed the Fahad case for about five years, from its inception in 2008 until 2013. As of the publishing of this article in 2018, the trial is still incomplete, and witnesses are still being examined. The documents I write about in this article are public documents, and I could have applied to the courts to obtain copies of them. However, during my fieldwork, I came to know the defense lawyers and their clients well, and I was given access to files of a number of cases. The defense lawyers gave me access to the trial court records of the Fahad case, and I had the consent of the man I call Fahad to access and use his case papers for research and publication.

In order to protect the confidentiality of my ethnographic interlocutors—the terror-accused, lawyers, police officials, and court witnesses—I have given them all pseudonyms. I have also changed key dates, names of places, and other details. In the figures and extracts of court documents that I describe in this article, I have altered any identifying information.

The Bomb-Blast Creates a File

Recall that the Fahad was accused of planting a bomb in Delhi and being part of the conspiracy to bomb a city in Gujarat. He and most of the others accused in Delhi were

subsequently arrested and charged with coordinating the bomb-blasts in both cities. Because he and his co-accused were being tried in two trials in two different cities, Fahad and most of his co-accused were “present” for their trial in Delhi via a video-conferencing link. As will be seen in the last section, this becomes pertinent when the prosecution’s main witness attempted to identify Fahad.

To recap the police’s case against Fahad: Fahad hired an auto-rickshaw (with registration number 1438) to a market in central Delhi, say, Gole Market—leaving a bomb in the rickshaw and asking the driver to wait for a couple of minutes. When Fahad left, the driver—Dhyan Chand—parked the rickshaw and walked several feet away. Several moments later, the bomb that was placed in the auto-rickshaw exploded, leaving several dead and many more injured—although the auto-rickshaw driver himself survived the blast. Both the auto-rickshaw and its driver play a crucial part in the evidence against Fahad, and they both go through various documentary iterations. As will be seen in this section, this narrative is not told in a single document, but rather is slowly built up through various papers.

During the investigation, there were two sets of files: the court’s file and the police’s file. When the police registered the first complaint or the First Information Report (FIR), they sent it to a magistrate to be authenticated. A copy of the complaint was kept in the magistrate’s file, and the original—which had now been stamped and certified by the magistrate—was returned to the police (this process is to ensure that the police make no alterations later to the FIR). At this point, the court file only consisted of a few pages of the FIR. When the police made arrests, the court file reflected this in the form of arrest memos and applications for remand made by the police. This file also contained orders by the magistrate, allowing or refusing remand. Over the course of the following weeks, the police made applications to the court for

permission to take voice, handwriting, and body tissue samples and for further time to interrogate the accused. These applications were made in writing and kept in the court file. If the accused had a lawyer, the court asked counsel for their replies to these applications, which were placed in the file as well, along with the magistrate's decisions on them.

In parallel, the police compiled their own records documenting the progress of their investigation. This file was periodically presented to the magistrate to monitor the investigation. In the next section, I will show how the police file came into being. Or more precisely, how the police file says it came into being.

The File Narrates its own Birth: the Auto-Rickshaw at the Scene of the Explosion

One of the first documentary iterations of the explosion was the FIR registered by the jurisdictional police station. This is the beginning of the police's narrative of the investigation. In this case, the FIR was registered as "FIR No. 176/2008 Police Station Gole Market" and all paperwork that resulted from this FIR ought to bear this number.

According to the FIR, Sub-inspector Rajinder was the complainant, and in the FIR he stated that the police station received information about the bomb-blast and that he was sent to the site. According to the FIR, when he reached the spot he found a number of people "in injured condition," who were shifted to hospitals with help from the public. He said he saw one auto-rickshaw with license plate number 1438 that was in a badly damaged condition. A part of it was hanging from a nearby pipal tree. He said he also saw a damaged fuel cylinder from this auto-rickshaw. He further said that he also saw several damaged vehicles and listed their license plate numbers. He also

stated that the area was then cordoned off to “preserve” the scene, and he handed the investigation over to a senior officer, Inspector Akash Thakur. The FIR concluded with the statement that investigation should proceed for offences under several criminal provisions.

The police record what they say they did next from a series of documents called “seizure memos,” which were prepared by the police. These documents record the taking of certain objects from the blast site and detail the descriptions of the objects taken and the manner in which they were preserved for future analysis. Recall that Sub-inspector Rajinder Singh had seen the badly damaged auto-rickshaw and recorded this in the FIR. The fact that he recorded this, justified what he did next: he seized it. This act of seizing the auto-rickshaw (or TSR in police parlance) was documented in the seizure memo that I have translated in Figure 1.

<Figure 1 here>

Fig 1: A translation of the seizure memo.

The seizure memo contains a brief description of the objects taken into custody by the police and reasons for doing so. It was signed by Sub-inspector Rajinder Singh and another officer, Akash Thakur, who signed as a witness to the seizure. These two signatures seek to certify that the objects were seized and that memo was an accurate account of the seizure. Similar memos were prepared for other items seized from the scene of the blast. Each item was packaged in a cloth bag called a *pulanda*, and then sealed with wax and a seal bearing the initials of the investigating officer, in this instance A.T. Significantly, the same process was followed for the seizure of a “burnt plastic bag” containing the driver’s license and other registration documents for the driver of the auto-rickshaw. Each of these seizure memos maintains a link to the

original FIR through its heading, in which it states the FIR number and the jurisdictional police station, and each of these memos documents its own certification, that is, the signature of Akash Thakur, the officer who witnessed the seizure by Sub-inspector Rajinder Singh. The signatures certify that the document accurately reflects the actions of Sub-inspector Rajinder Singh. As I will show in the next section when these memos are presented to the court, it is the accuracy of these papers that is called into account, in order to question the seizure itself.

Like Latour's (1999) idea of the "circulating reference," every step that the seized articles subsequently took were documented and rendered into paper. After their seizure, the branch and other articles were deposited in an evidence storeroom, called the *malkhana* or the MHC(M) (Malkhana Head Constable (Moharir)), and details of the seized articles were entered into a register of articles deposited in the storeroom. When the materials including the remains of the auto-rickshaw were taken to the Central Forensic Science Laboratory for analysis, they were entered into the Laboratory's register.

From this brief description of how a part of an auto-rickshaw becomes evidence of a bomb-blast, I want to highlight three points. First, the eventual truth-value of the objects seized by the police depends upon the chain of documents that mediate their seizure and attest to their movement from the blast site to the evidence storeroom. For the truth-value of these objects to be maintained later on through to the end of the trial, the chain of mediations must remain unbroken, like "electricity through a circuit." (Latour, 1999: 69). Each of these documents must link with each other. If the FIR number is not written at the top of the seizure memo, this might indicate that the material was seized in another case or that it was prepared prior to the FIR being registered (indicating that it has been fabricated). If the Forensic Science Laboratory

fails to enter an object into its register, it would be uncertain whether analysis had occurred. Thus, these documents are prepared so as to form a continuous chain.

Second, the truth-value of these objects is not just maintained by documentary linkages, but also by elaborate certification procedures. Akash Thakur countersigned the seizure memo that had been prepared by Rajinder Kumar Singh. Akash Thakur then sealed the evidence and affixed his personal seal—a seal that should remain in his custody alone. This is aimed at ensuring that he alone is responsible for any objects that are in the *pulanda*. The entries in the registers and the signatures and countersignatures are all aimed to certify that the objects were collected and preserved in a proper manner and in the manner stated in the documents. Thus, the referential correctness of the documents is built up by following a chain of smaller certification practices (Hull, 2012: 162-209; Power, 1997: 12, 69-90). Again, as I will show in the next section, the defense will attempt to undermine the particular certification procedures that were undertaken in this case.

Third, the police file starts to document its own time and begins to build a narrative of the investigation and of the bomb blast. The first indication of the narrative of the auto-rickshaw is in the FIR where Sub Inspector reports seeing the badly damaged auto-rickshaw; this narrative is built upon in the seizure memo, where he states: “By looking at its state it seems as if the blast happened in this TSR.” Another memo seizing the license and registration of the driver reveals the first documentary glimpse of the auto-rickshaw driver, Dhyan Chand. The narrative around the auto-rickshaw is therefore built up by the slow accretion of different documents, until at the end of the investigative process when the police present the court with two completed narratives around the auto-rickshaw: the investigations around the auto-rickshaw and of the bomb being placed in the auto-rickshaw. The narratives that are built up around the

auto-rickshaw bring in other objects and people—notably the driver, Dhyan Chand, whose medical records I discuss in the next section.

Dhyan Chand: the Second Documentary Layer

Recall that the auto-rickshaw driver, Dhyan Chand, survived the blast. In the FIR No. 176/08, Sub-inspector Rajinder stated that when he arrived at the scene, he saw several people lying on the ground in an injured condition, and, with assistance from unnamed members of the public, these people were taken to a nearby hospital.

Though the documents do not reveal how he got there, Dhyan Chand was one of the people who were seen at the emergency ward of this hospital.

There, a doctor—let us call him Dr. Pasha—examined him. Dhyan Chand was one of fourteen patients that Dr. Pasha examined that evening. For each of these patients he filled out a Medico Legal Certificate (MLC) which detailed the injuries of each patient, their blood pressure, and the preliminary treatment they were given before they were moved to specialist wards. In Dhyan Chand's MLC, Dr. Pasha noted that Dhyan Chand had suffered "grievous injury," several "lacerated wounds," and "moderate bleeding," and that he was put on a drip. According to the MLC, Chand's blood pressure was 110/70, and he had an elevated heart rate. Crucially, the MLC also noted that Dhyan Chand was fit enough to give a statement to the police. In the next section I will discuss relevance of this statement. This document was signed by Dr. Pasha and sent to the police.

So far, dispersed through the documentary record what the police present is a narrative that the bomb was placed in an auto-rickshaw (from the FIR and the seizure memo discussed above), that the auto-rickshaw was seized (from the seizure memo), that Dhyan Chand was the driver of the auto-rickshaw (from another seizure memo),

and that he survived the blast (from the MLC). Thus, these documents (together with other documents not discussed in this article) weave a narrative of the bomb-blast. This narrative is not created in a single instant, but through the slow accretion of documents. Without these different documents, this narrative of the case could not exist.

In the next section I look at how the various documents enter the court file. This process involves the production of another layer of documents. Let us fast-forward three years and revisit these documents and the people in the courtroom.

The File Goes on Trial: Narratives and Counternarratives through Certificatory Procedures

After a prescribed period, the police filed the final report, more commonly known as the charge sheet, before the magistrate's court. This charge sheet opened with a statement regarding the chronological narrative of the investigation through which a narrative of the events surrounding the bomb blast was revealed. It was here that the defense officially read the full narrative of the investigation and the case against Fahad. The charge sheet also listed the offences against the accused, the witnesses, their testimony as told to the police, and all documentary evidence relied upon by the police, including memos that documented the seizure of certain evidence, forensics reports, and many other papers that documented the police's actions. The charge sheet listed the documents that I discussed in the previous section and scores of other documents. At this stage, the police file was submitted to court and merged with the court's file. The court file dramatically expanded in girth and weight, now running into hundreds of pages.

After the magistrate's proceedings concluded, the trial commenced before a Sessions Court. But because systems of verification are so essential to Indian evidentiary practices, and because of historic suspicion of police investigations, and because the adversarial trial demands that the defense be allowed to confront the witnesses, the judge could not simply rely on the police file. The prosecution had to prove that the investigation took place in the way that the police claimed it did. Through courtroom testimony, the prosecution had to prove that the documents the police prepared were done so in accordance with proper procedures, that is they were properly certified.

The rest of this section will look at how the narrative presented in the police documents was mediated once again by the court file. Another link is added to the documentary chain, enabling objects collected from the blast site to become part of the court record. Testimonies of police officers and witnesses, and the documents pertaining to them, are inserted into the court file. Again, this enables both the narrative of the investigation and the narrative of the bomb blast to be entered into the court's record.

This section also highlights the place of certificatory procedures in producing narrative. The police aim to prove the referential correctness of the document by highlighting that the documents were properly certified. Conversely, if the defense can undermine the certifications on the documents, then the referential correctness of the documents comes into question. Through repeatedly questioning whether the certifying procedures were adhered to during investigation, the defense will introduce its own narrative into the court file: that the certification procedures were not adhered to properly, and as a result the file falsely implicates Fahad.

The centrality of certification to producing legal truths is highlighted by the manner in

which witnesses testify in courts. The deposition of a witness is more than a question-and-answer affair. During an examination-in-chief the lawyer or judge asks the witness a question, and the witness replies. The lawyers and/or the judge then dictate to the stenographer the witness's answer. A similar process happens during the cross-examination of the witness. The witness examination-in-chief and his cross-examination are not usually recorded in a question-and-answer format but in the form of a narrative. Often if it is a "pro forma witness" —that is, a witness who needs to be deposed for a formal, rather than substantive reason—the lawyer or judge will dictate the testimony without actually questioning the witness. After the testimony is completed, it is printed out in court and signed by both the witness and the judge, certifying that it accurately reflects what happened in court. It was common for things that were said in courtroom testimony not to be recorded in file. Conversely, "pro forma witnesses" often said nothing more than their names for the court, but nevertheless the court record that they and the judge signed, showed them as having made extensive statements. This again highlights how certification by the signatures produces the truth of what the witness 'said' in court. It is important to also note that this document is not merely a transcript of everything that was said in court, but rather *becomes* the oral testimony.

When the court gives its final judgment, it can only take into account what is in the court file. For this reason, the content of the file is often a matter of great argument and negotiation as both the prosecutors and defense lawyers must insert their own arguments, questions, and submissions into the file. If it is not in the file, it does not exist. The court file is, therefore, socially produced, though unlike some other documentary practices is not a product of negotiation and agreement (Harper, 2000). Rather, the court the file is a product of contentious collaboration between the

prosecutors, the judges, defense lawyers, and at times the accused persons themselves. This process is contentious because the content of the file is often a matter of argument. The process is collaborative because all parties are invested in the ability of the file to take on a greater number of documents. With this, I now discuss Dr. Pasha's testimony in Fahad's trial.

The Doctor's Testimony: the Defense Narrative and the Creation of Certificatory Missteps

As a first step, the prosecution had to prove that the bomb explosion actually occurred and that it resulted in deaths and injuries. After eyewitnesses to the bomb blast were examined, the doctors who tended to the injured and who made declarations of death were summoned to court to testify to those injuries and deaths. Given that the defense strategy was to deny—not the bomb explosion—but that their clients planted the bombs, it made little sense to cross examine the overwhelming majority of these witnesses. The prosecutor treated the doctors as “pro forma” witnesses, often dictating their examinations-in-chief to the stenographer without any questions for the witnesses themselves, and with little or no cross-examination by the defense lawyers. All except Dr. Pasha—who is prosecution witness number 10 (PW10)—because he tended to the injuries of the prosecution's only witness who could place Fahad in the auto-rickshaw: Dhyan Chand.

What follows is an excerpt from the examination-in-chief by the prosecutor of Dr. Pasha. From this excerpt, the reader can tell that the prosecutor dictated the deposition to the stenographer and that the doctor actually said very little—it was highly unlikely that the doctor had memorized all the patient details and the MLC numbers, three years after the event!

PW-10. Dr. Miraz Pasha . . . On the intervening night of 13 and 14.07.2008 I was posted and working at . . . hospital . . . as a Casualty Medical Officer. At that time I examined 14 patients—Ram Singh, male, age 36 years MLC No. 6531; Arvind Kumar age 58 years, male, vide MLC No. 6352; Radha Krishna aged 47 years, male, vide MLC No. 8631; Siddharth Kapur aged 21 years, male, vide MLC No. 3931; *Dhyan Chand, aged 40 years, male, vide MLC No. 3151.* (emphasis supplied)

The deposition goes on to name the other people Dr. Pasha examined and their respective MLC numbers. After this, the prosecutor enters all the MLC's prepared by Dr. Pasha in evidence in a list-like manner

Ex. PW⁷-10/A; Ex PW-10/B; Ex. PW-10/C; Ex PW-10/D; Ex PW-10/E... (14 in number) are prepared by me and all bear my signature at point X... I after examining the patient made a note about the injuries at point P to P-1 on all the MLCs [*sic*].

As he dictated this, the prosecutor took a red pen, and wrote the exhibit number (ExpW10/A) on each of the documents, placed an "X" next to each of Dr. Pasha's signatures, and wrote "P" and "P1" next to the injury notes on each MLC. In this way, the prosecutor has certified in court that Dr. Pasha prepared each of the MLC's and has entered the MLC's into the court's file. Further, through the various red marks on the MLC's (ExpW10/A, X, P, P1) the court file now refers to specific points on the MLCs in the police file. With this done, it was now the turn of the defense lawyers to cross-examine the doctor.

⁷ "ExpPW" translates as "Exhibit Prosecution Witness." This is followed by the witness number (10) and the number of the document being exhibited (A,B.)

As I stated earlier, the defense's counter-narrative was that Fahad had not put the bomb in the auto-rickshaw and that the police had zeroed in on Fahad even before their investigations had begun. Thus, the aim of Fahad's lawyer was to insinuate that the doctor falsified Dhyan Chand's MLC on the behest of the police.

With specific regard to Dhyan Chand, the defense lawyer told me that this would be their narrative arc: that it was Dhyan Chand who ought to have been the police's first suspect, since the bomb was in his auto-rickshaw and he survived. The fact that the police did not even question Dhyan Chand showed that even before the investigation had commenced in earnest, the police had already zeroed in on Fahad as a suspect. Accordingly, she told me, their argument would be that the police massaged the evidence to take attention away from Dhyan Chand and place it on Fahad.

In order to build that bigger narrative, the defense had to create a smaller narrative around Dhyan Chand's MLC. They attempted to show that, on the instigation of the police, Dr. Pasha made it look like Dhyan Chand was *more* seriously injured than he actually was. The eventual point being that since he was not that seriously injured, the police could have questioned Dhyan Chand.

The defense lawyers inserted the contention that the notation that Dhyan Chand had sustained "grievous injuries" was not supported by the rest of the facts recorded by the MLC and placed into the court record. Through her questions, the lawyer built the narrative that Dhyan Chand was not as injured as the MLC recorded, that is, they were questioning its referential correctness. The defense lawyer asked about the notation on the MLC which stated that the "Patient is conscious, oriented and fit for Statement." The next and concluding part of the deposition concerns this sentence.

Certification on the MLC ... about fitness of the patient to give statement are

not by me. ... I have not given any certification on the day of the examination of the patient about fitness of the patient to make statement on 13.09.2008 [sic]...It is wrong to suggest⁸ that the injuries sustained by the injured Dhyan Chand were simple and I have deliberately shown [them] as grievous on the asking of the IO [Investigating Officer].

This shows how doubts over the certificatory procedures can be created—even inadvertently. In their attempt to suggest that Dhyan Chand was fit for statement and ought to have been the police’s first suspect, the lawyer suggested to the witness that he fabricated the MLC on the instigation of the police. In response, Dr. Pasha denies ever having written this statement on the MLC, thus calling into question the rest of the MLC as well. The fact that he does not know who wrote the statement that Dhyan Chand was “fit for statement” would indicate that there was no way to certify the rest of the document—a point that will probably be brought up at the time of closing arguments at the end of the trial.

What will be seen in the next section is how the defense’s narrative—that the documents were fabricated by the police only to falsely implicate Fahad—will be repeated in different forms in the cross-examination of the officer who seized Dhyan Chand’s rickshaw. Again, this is done through questioning about the preparation of documents and their certifying practices.

The Auto Rickshaw: Building Narratives

The prosecution had to prove that the bomb was placed in the auto-rickshaw. To prove this, they first had to demonstrate that the objects collected at the scene of the

⁸ As Berti (2015: 31) notes, these types negative sentences “are aimed at providing the lawyer’s version of the story through the witness’s denial of what he [the lawyer] appears to be stating.”

bomb blast were collected and stored in a proper manner. They could only do this through the documentary traces that these material objects left in different official records (the seizure memos and registers). They then had to bring the physical items to court in order to prove that these items actually existed, and to prove the referential correctness of the seizure memo. The fact that they brought the physical items, which were then identified as the same seized items, then also had to be recorded in the court file.

To prove that the auto-rickshaw and other objects were seized by the police in the manner that they said it was seized, Sub-inspector Rajinder Singh (who was listed as the main complainant in the FIR and who purportedly signed the seizure memos that were discussed in the previous section) was summoned to court to depose to this effect. He is witness number 143.

He first repeated what he stated in the FIR: the time and manner in which he reached the blast site and the fact that he saw a portion of the rickshaw hanging from a tree. He also stated: “on seeing the TSR, one could say that the bomb had been planted in the TSR.” He then described seizing pieces of the auto-rickshaw documented by the memos discussed in previous sections. Recall that, in that seizure memo, he described the parts of the auto-rickshaw that were collected, made into parcels, and seized. In the following excerpt from his deposition, these memos are all entered into the court’s record as exhibits:

From the spot, we also collected eight different parts of above referred TSR.

These were turned into separate parcels. These were seized vide memo ExPW143/G.

I may mention that the large portion of the TSR referred to above, found

hanging from the tree, was cut into pieces and then those pieces were seized after [being] turning into parcels and sealed with the aforesaid seal bearing impression AT vide memo ExPW133/J.

Sub-inspector Singh's testimony shows how the pieces of the rickshaw are located in the narrative of the investigation: he proceeded to the bomb blast site, saw the blown-up auto-rickshaw, reasoned that the bomb was placed in it and hence seized the pieces of it, prepared a memo documenting this seizure, and then packaged and sealed the pieces. The narrative justifying the seizure of the auto-rickshaw pieces has now been inserted into the court file. Furthermore, the seizure memos themselves have been inserted into the court file—extending the chain of documents from the bombsite to the evidence depository to the police file and finally now into the court file.

But this is not enough; at this point all that Sub-inspector Singh has managed to tentatively establish is that he prepared the seizure memos. The materials that he says he seized must be presented in court to prove their physical existence. The fact that they physically exist must then be recorded in the court file. Hence, at a later point the Sub-inspector states that if the physical objects, such as the pieces of the auto-rickshaw, are brought to court, he can certify (by pointing them out) that it was those physical objects that he had seized.

On the next date of hearing, the representative from the police evidence depository presented the various articles associated with this case number. As the larger pieces of the rickshaw could not be brought into the courtroom, I went with several of the defense lawyers and some police officers to the parking area adjacent to the court complex. There we saw several large, rusted pieces of twisted metal that were painted in the distinctive green and yellow of a Delhi auto-rickshaw heaped in the back of a

small open-backed truck. Some of the court staff hauled the metal pieces on to the ground, where one of the police officers explained that one piece was the chassis and the other was a part of front frame of the auto-rickshaw. The police officer pointed to a part of the metallic frame where the registration number 1438 was painted.

We all went back to the courtroom where the prosecutor dictated the following paragraph into the deposition

During investigation, at the aforesaid spot... I also picked up one iron piece, i.e., bottom portion of the above referred to TSR which is ExPW143/20, one metallic piece of the said TSR which is ExPW143/21, a metallic [*sic*] of the said TSR bearing owner's name which is Ex PW143/22, front portion of TSR having its registration number which is Ex PW 143/23.

After the deposition was completed, an official from the evidence depository affixed labels stating the exhibit number on the relevant pieces of the auto-rickshaw. Again, this was done to ensure that the court record referred to something outside of it.

This discussion shows how the auto-rickshaw is transported from the world into the court file. From one layer of inscription to another, it has moved from being an object in the world, to being first rendered into documentary form by the seizure memo, to being sent to the evidence depository where it is again registered, to being sent to the Forensic Science Laboratory, where again it leaves a documentary trace, to its actual physical presence in court, to once again being transformed into a document by this last excerpt. Observe how each document maintains a link by reciting the FIR number at its beginning. By following the pieces of the auto-rickshaw we can see how it was translated into the file and became evidence in the case of Fahad. By following the procedures and certification protocols, the police and prosecution have managed to

establish a continuous documentary chain that mediates the auto-rickshaw from bomb-blast site to courtroom. Furthermore, following the various documentary iterations of the auto-rickshaw in the investigative process, demonstrates the process through which the “bomb-in-the-auto-rickshaw” narrative is created.

I now turn to the Sub-inspector’s cross-examination. As I will show, these documentary layers in evidence against Fahad form the basis of the defense counter-narrative.

Again, since it was pointless to contest that a bomb-blast had in fact taken place, the cross-examination was aimed at questioning whether the objects were seized in the manner stated by the police officer—by suggesting that procedures for seizing the objects were not followed. Take for example:

It is correct that the area where the occurrence took place is a public case [*sic*] where there are many shops. It is correct that I did not join anyone from the public during the investigation conducted by me at the spot.

Here the defense asked if there were any non-police witnesses who could independently certify that the search and seizure actually did take place. The underlying logic behind this line of questioning is this: if there were independent public witnesses who were around the blast site, why were they not made to officially witness the seizure? The answer must be: because the seizure was not conducted in the manner stated by the police.

The defense then also tried to suggest that the memos were fabricated and could not have been written and the parcels could not have been prepared because the police officer did not have any of the requisite materials with him:

At the time I left the police station for the spot, I was empty handed. The material used in preparing parcels at the spot was requisition by me through my staff [*sic*]. But I do not know as to from where my staff had arranged the same.

This point is made more directly later on when the transcript states:

It is wrong to suggest that the entire writing work was done at the police station and not at the spot.

In addition to alleging that the seizure memos were fabricated, the second aim of the defence is to show that the auto-rickshaw was seized only to construct the case against Fahad. Take for example, the following excerpt

In addition to the above referred TSR, one or two other vehicles had suffered severe damage while other vehicles were partially damaged. I did not taken [*sic*] any steps as to who were the owners of these other vehicles which suffered damages. I also did not collect any certificates of registrations of other vehicles which suffered damage.

By suggesting that the police did not seize other vehicles “severely damaged” in the blast, the defense was trying to create doubt as to which vehicle might have contained the explosive. The defense further was attempting to suggest that the police invented the “bomb-in-the-auto-rickshaw” theory as a preconceived plan to implicate Fahad. Recall in the previous section, the defense began to build the narrative that the police deliberately ignored the most obvious suspect (Dhyan Chand) in order to deliberately implicate their client. This is reflected in the following excerpt:

It has come to my notice during investigation by me at the spot as to who the

registered owner of the above TSR but I did not conduct further investigation regarding the registered owner, the reasons being that other senior police were there to investigate this part of the story.

Here, the defense was trying to push the argument that if the police knew who the registered owner was (when they seized Dhyan Chand's license and registration from the blast site) and thought that the bomb had exploded in the auto-rickshaw, the first thing they should have done was to find the driver. The fact that they did not could indicate that they zeroed in on Fahad without any reason. Pushing this further, the defense then questioned the police officer's expertise and his ability to state that the explosion had taken place in the auto-rickshaw. If he did not have the expertise to state that the bomb was placed in the rickshaw, then the "bomb-in-the-auto-rickshaw" theory loses credibility.

I am a graduate in Economics. However, during in service training, I have learnt to assess explosives. It is wrong to suggest that I have no such expertise even in service training. It is wrong to suggest that I had no expertise to say that "on seeing the TSR, one could say that bomb had been planted in the said TSR." It is wrong to suggest that no part of the said TSR was found embedded in the tree as stated by me in chief examination. It is wrong to suggest that evidence was introduced falsely to show that bomb had been plated in the said TSR with a view to falsely implicated the accused persons.

It is wrong to suggest that [the] front portion of TSR had not got [*sic*] severely damaged.

Thus, the defense is attempting to build on its narrative which it started with the implication that the doctor may have fabricated the MLC on behest of the police.

Here, the defense attempted to undermine the referential correctness of the memo documenting the seizure of the auto-rickshaw by questioning whether the procedures that ought to have gone in producing the document (i.e., the seizure memos) were actually followed. The defense lawyer repeatedly asked questions about procedural steps that the police could have taken to certify the production of the document—focusing on the lack of public witnesses, the lack of interest in other damaged cars, the lack of knowledge of explosives—in order to bring the police officer’s testimony into question. Recognizing that if the certifying procedures were not followed in producing the papers during the investigation, then the police’s version of the bomb blast would also be called into question, the defense lawyer introduced the defense’s version of events through cross-examination and made sure that this version was also incorporated in the court file.

Dhyan Chand’s Deposition: Narrative Tripped up by Certifying Procedures.

To cement its case against Fahad, the prosecution summoned Dhyan Chand to corroborate its story that Fahad had planted the bomb in the auto-rickshaw. Chand was the prosecution’s most important witness, as only he could tie Fahad to the bomb blast. Recall that Fahad and most of his co-accused were present for their trial in Delhi via a videoconferencing link, as they were being physically detained in Gujarat. Hence Dhyan Chand was asked to identify Fahad on a video screen in the courtroom.

Chand was prosecution witness no. 161. He was sworn in, and then in response to questions put by the prosecutor, he provided a narrative of the bomb blast in a manner that everyone had expected: a young man carrying a bag hired his rickshaw and asked to be taken to Gole Market; they reached Gole Market where the man asked Chand to

wait while he went to a shop; the man left the bag in the rickshaw; after about fifteen minutes Chand stepped out of his rickshaw and walked some distance away from it; a blast occurred; the next thing he knew he was in the hospital and had suffered injuries on his back.

Apart from providing a narrative of the case until the moment of the bomb blast, his deposition links to previous testimony. The statement by Chand links to various documents that have been entered into the court's file: that he was the owner of the auto-rickshaw (corroborated by the seizure of his license, documented by a seizure memo); that the rickshaw was parked under the pipal tree (referred to in the seizure memo); that he suffered injuries as a result of the blast (referred to in the MLC). Thus, Dhyan Chand's testimony builds upon previous statements made by other witnesses and documents produced by the police.

After this, Dhyan Chand was asked to identify Fahad. Identification is a procedure by which a witness is asked to physically point to the accused to certify to the court that the witness is speaking about a particular person. This process is similar to the marking of the MLC and the pasting of labels on the auto-rickshaw in that it ensures that the court record refers to something outside of it, and that it does so correctly.

Unfortunately for the prosecution, Dhyan Chand's testimony dramatically collapsed. Chand was asked to pick out Fahad from amongst the different accused 'present' on the video screen. The judge recorded the following excerpt in the court file:

I can identify the said boy if shown to me.

At this stage, [the prosecutor] has asked the witness to point out from the screen of the video conferencing as to who out of the six persons visible on the

screen is the concerned boy whom he can identify [*sic*].

Chand took his time. He asked that each of the accused come forward to the camera so that he could take a closer look at each of their faces, and then he asked the operator in Gujarat take long shots of each of the accused so that he could look at their height and build. He was clearly struggling and one police officer, tried to signal to him which person to identify. The defense lawyers protested and the judge ordered this police officer to leave the courtroom immediately. One of the lawyers asked the judge to record the fact that the police officer was trying to prompt the witness. The judge merely ignored this, and official record makes no mention of the fact that the lawyers accused the police officer of prompting the witness or that the officer was ordered to leave.

After a tense forty-five minutes, Chand said that he was unable to identify the accused. The prosecutor then casually said “he probably wants to see all of them in person.” Dhyan Chand took up the not-so-subtle suggestion, said that he could identify Fahad if he could see all the accused in person.

Fahad's lawyer made a tentative objection that gathered steam over the next few minutes. With increasing tempo, she argued that if another opportunity were given to the witness to identify Fahad, the police would use the time to coach the witness on who to identify, and his testimony would undoubtedly be tainted. The judge agreed with the defense and temporarily discharged the witness, and dictated the following order into the court file:

In the given circumstances... providing another opportunity to the prosecution may lead the concerned authorities to show the concerned accused to the witness in the meanwhile. Therefore, this court does not find any ground

to allow the submission of the witness...for identification [*sic*] of the concerned accused by way of another opportunity.

This document was printed and signed by Chand and the judge, securing its place as the authoritative account of what happened in court that day. The failure of the prosecution's main witness to identify the accused man was a massive relief for the defense. Had Dhyan Chand correctly identified Fahad, I can only speculate on the nature of the questions he may have been faced with. He would have been questioned about the chain of events after the bomb blast: How did he get to the hospital? Was he really grievously injured? Given that the defense's narrative was that the police had already decided to implicate Fahad prior to the investigation, Dhyan Chand would have probably been accused of fabricating his testimony at the behest of the police.

But let us pause for a moment to consider the defense lawyer's objection to another opportunity for Chand to identify Fahad. The defense's lawyer's apprehension was not only that Dhyan Chand would be coached into identifying Fahad. Her objection was also based on the grounds that the court record would then have documented a procedurally valid identification, while Dhyan Chand might have been coached behind the scenes. For all intents and purposes, this would have been a valid identification because was certified as such by the judge.

Conclusion

In this article, I have shown the relationship between the ideas of evidence, narrative, and files. I have shown how legal scholarship can approach epistemological questions, not through rules of evidence, but by understanding the material and narrative elements of investigative and courtroom practices. Further, I hope to have

provided an understanding of how legal files come to represent and enact the outside world through slow and laborious material processes. In doing so, I have shown how the evidentiary process enacts not just people and things, but also produces narratives of the world.

Through a granular reading of the various papers and certificatory practices that go into constructing narratives, I have also shown how the investigation and trial of terrorism offences are not marked by the idea of the exception. Rather, I have shown how terrorism cases are “normalized” through the mundane bureaucratic process that are a feature of all criminal trials in India.

In highlighting the contours of the “paper case,” I have argued a trial’s epistemological processes are fundamentally material ones. In the Indian case, evidentiary questions are intimately bound up with paper. This is not to deny that there are other aspects of the materiality of the trial (Scheffer, 2004), but to explore how epistemological questions are tied up with the referential correctness of paper, and the certificatory practices that went into producing them. If there was no seizure memo of the auto-rickshaw, then the police would have not been able to present it as evidence in the trial court. If, another officer had not witnessed and affixed his signature to the seizure memo, then more doubt would have been cast upon the seizure itself. If Dhyan Chand’s MLC had not been recorded, the court could not have been told of his injuries and even more doubt would have been cast on his “innocent” role in the bomb explosion. Indeed, if the trial court did not record testimony on paper, no judgment could have been given; if a witness’s signature was missing from a particular deposition, it could not be relied upon at the time of judgment.

Objects and people are not mediated into existence by a single sheet of paper. Rather,

as I have shown they are gradually enacted by the various investigative and courtroom documents. These people and things are mediated by several documents, as the police and prosecution attempt to establish continuous chains of reference (Latour, 1999). The slow layering of documents allows objects and people that are in the world to gradually enter into the court file.

The file does not merely enact objects and people (Hull, 2012), but also narrative. The narrative emerges through the linking of various documents. In Fahad's case, the prosecution's aim was not merely to prove the existence of certain objects and people (such as the auto-rickshaw and Dhyan Chand) or to merely prove that the bomb explosion took place. Their aim was to show that Fahad had planted the bomb. Hence these various things and people had to be placed in a particular narrative. This too was enabled by these documents. As I discussed earlier, the FIR about the bomb blast was linked to the seizure memo of the auto-rickshaw which was linked to the MLC of Dhyan Chand. This linking of the documents enabled the prosecution to weave together a narrative that Fahad hired Dhyan Chand's auto-rickshaw in which Fahad placed the bomb, which then exploded.

Further, I argued that one narrative produces another: in particular, I have shown how the narrative of the investigation produces a narrative of the bomb blast. As the police file contains an account of how the first police officers saw the blown-up auto-rickshaw, lead to the theory that that the bomb was placed in the auto-rickshaw, which then lead them (belatedly) to the auto-rickshaw driver, who in turn provided them with the narrative about Fahad – and each of these steps is documented by paper. As the police file documented the investigation and its own growth, it simultaneously produced a narrative of the bomb-blast and Fahad. Thus, the narrative of the bomb-blast crucially depends upon the narrative of the investigation. In turn,

the narrative of the investigation depends on the validity of its documents.

What is as important to the judicial process is not just inscription but also, certification. Everything that the police do, all material they seize, all information that they receive, and all testimony before the court must be transcribed into paper. But for these documents to have a truth-value they must to be signed, countersigned, stamped and registered. Juridical truth in a courtroom setting is contingent upon both the police and the courts following set processes that attempt certify the referential correctness of these documents. It is because the referential correctness of the police's paper is dependent upon the evidentiary procedures that went into producing the paper, the defense's strategy was to question whether these procedures were followed. The defense's aim was to undermine the documents by attacking the procedures that the police undertook to certify these documents. If the documents were not produced in a procedurally correct manner, then the objects, things and events they refer to could not have existed.

In particular, the defense's strategy was to attack the layers of certificatory practices that mediated the transition of people and things from the world into the file. It aimed to show that the police did not collect the auto-rickshaw in the way the documents said they did. It aimed to show that the MLC about Dhyan Chand was falsified by Dr. Pasha or by someone else. In other words, it aimed to break the link between the police file and the world. In order to do this, it had to produce certificatory missteps. If it could do this, then it breaks the narrative of the investigation, which in turn breaks the narrative of the bomb blast. The defense's counternarrative is therefore built up by repeatedly questioning the certificatory practices that went into producing these documents.

The spectacular failure of Dhyan Chand's testimony also gestures towards the infelicities of evidence when thought of as a certificatory process linked to the file.

The aim of courtroom identification is to ensure that the court file refers to the correct person. His failure to do so meant that a link could not be drawn between his narrative and the court file, on the one hand, and Fahad, on the other. This failure of this certificatory process meant that the court file could not refer to a person outside of it.

As I hope I have shown in this paper, narrative is as important to the case as the materiality of the evidentiary process. Narrative is not just a story of the case as told in final arguments, but is also dispersed through various documents. Through small steps, both the prosecution and defense attempted to weave a story around things and people that have now entered the court's file. In Fahad's case, as with other trials, these stories are woven around the minutiae of the various documents the police have produced, each document adding another layer of narrative. For the defense as well, narrative matters and I hope to have shown how the defense narrative is inserted through questioning of certificatory practices. If evidence is thought of as a process by which a narrative of events is stitched together by the careful linking of papers that documents this process, then this narrative chain is vulnerable at every link—a vulnerability that the defense will try to exploit. What emerges in the account I have provided is that juridical truth is less a matter of finding “what really happened,” and more about the competition between two narratives that depend on the certificatory correctness of humble sheets of paper.

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Case FIR No 176/08 dt. 14/10/2008 u/s 307, 323,121 IPC, 3,4,5 Explosive Substances Act 1908 & 10, 12, 13, Unlawful Activities (Prevention) Act, 1967, PS Gole Market New Delhi Seizure Memo Badly Damaged T.S.R Different parts of T.S.R. No DL IGH 1438—Suspected I.E.D Exploded in the T.S.R.

Below mentioned witness states that at Lakshmi Road near numbers 42 and 43, MCD Gole market, west side, New Delhi some expert teams came there to suggest what exhibits to seize, and after that they saw the Badly Damaged T.S.R. No. DL IGH 1438, upon which the bomb (IED) was probably exploded and badly damaged pieces of it were thrown in different directions and different parts of it were taken from the below-written places to one spot <illegible>

1. Iron piece which was the lower part upon which the tyre would fit, which was taken from the site and was on the pilkhan/peepal tree that was in between shop no. 42 and 43.
2. Back seat along with piece of metal which was stuck at about 15 feet up in the pilkhan/peepal tree.
3. The back portion upon which was written the name of the owner which was hanging from some cables near shop no. 43, at about 8-9 feet above the ground.
4. The front side portion upon which the number was written ...This piece was fallen about 20 meters away, near an electronic transformer, behind the WagonR Car No....
5. CNG cylinder which belonged to the TSR on whose side there were many marks made by pellets (made of iron). This was found fallen near shop no. 43 on the road.
6. Three tyres of the TSR, were taken from about about 5-7 feet away, in the direction of <illegible>
7. <Illegible> portion of the front mud-guard part, found in front of shop no. 42, below the peepal tree
8. Apart from this, several smaller and bigger pieces, which were thrown in the four directions, which were about 15-16 in number, were collected together in one place.

The witness, from carefully looking, found that the TSR number was DL IGH 1438. In the upper pieces of the TSR there are holes and it is badly broken. By looking at its state it seems as if the blast happened in this TSR only. All above pieces <illegible> were seized by memo in the above named case and has been written up by the police

Memo is complete.

Signed:

Rajinder Kumar Singh

Witnessed by:

Akash Thakur

Figure 1