

## Mumbai Attack Trial May Touch on Pakistan-Based Terror Groups

By Andrew Harris – May 16, 2011

A Chicago businessman faces trial today on charges he helped plan the 2008 Mumbai attacks that killed 164 people, including six Americans, in a case that may touch on claims of involvement by Pakistan's intelligence services and alleged terrorist groups based there.

Tahawwur Rana, 50, is accused of using his immigration services agency to provide cover for David Coleman Headley, a Pakistani-American who scouted targets in India's largest city and also in Denmark. A separate attack was planned there on a newspaper that in 2005 printed inflammatory cartoons depicting the Islamic prophet Muhammad. The U.S. claims they were aided by the head of a Pakistan-based terror group and a retired Pakistan army officer.

A Pakistani native and Canadian citizen, Rana is charged with three counts of providing material support and resources to terrorists and faces a possible life sentence if convicted. Jury selection in federal court in Chicago is set to begin today, and Headley, who has pleaded guilty, is likely to be called as a government witness, his lawyer said.

The trial comes two weeks after President Barack Obama announced al-Qaeda leader Osama bin Laden was killed by American forces in a raid on his compound in Abbottabad, Pakistan. The discovery that bin Laden was living about a mile from a military academy spurred some U.S. officials to seek information on how he and other terrorists may have gone undetected. Pakistan-based Lashkar-e-Taiba was blamed by the U.S. for the Mumbai attack.

### **Terrorist Group**

Those charged with Rana include Ilyas Kashmiri, who the U.S. said commands Harakat-ul Jihad Islami, a Pakistan-based terrorist group with ties to al-Qaeda. Another defendant, Abdur Rehman Hashim Syed, is allegedly a retired Pakistani army officer, while a third -- identified only as "Major Iqbal" -- also reportedly helped plan the Mumbai assault. The three aren't in U.S. custody.

Rana is accused of conspiring to provide Headley with false documentation and identification to assist in scouting missions to India and Denmark, as well as aiding Lashkar-e-Taiba by relaying messages from Major Iqbal to Headley, according to the most recent indictment in the case.

Rana's lawyers told prosecutors in January that he planned to assert as a defense that he was acting "pursuant to his actual or believed exercise of public authority on behalf of the government of Pakistan and Pakistan's Inter-Services Intelligence Agency," and not Lashkar-e-Taiba, U.S. District Judge Harry Leinenweber said in an April 1 ruling.

### **Prosecutors Opposed**

Prosecutors opposed Rana's bid to raise the ISI defense, as well as a bid to subpoena the Federal Bureau

of Investigation and Department of State for any cabled messages between the U.S., Pakistani and Indian governments concerning Rana, Headley, the ISI or Major Iqbal.

Supporting his bid, Rana's lawyers cited Headley's grand jury testimony in which he'd allegedly testified that Headley told Rana he had met with Major Iqbal, and that Headley had been asked to work for the ISI and to conduct surveillance in Mumbai.

Leinenweber rejected Rana's bid to defend himself by claiming he believed his actions were in service to the Pakistani government and the ISI.

"Defendant's proposed defense that Pakistani government and ISI officials sanctioned his violations of U.S. federal law is objectively unreasonable," Leinenweber ruled. "Regardless of whether defendant believed Headley conducted surveillance on behalf of the ISI or Lashkar in Mumbai, his argument that a non-federal official can have actual or apparent authority to exempt him from violating a federal law fails."

### **Subpoena Quashed**

The judge then quashed the FBI subpoena, holding his rejection of the ISI defense rendered that evidence irrelevant.

Patrick Blegen, Rana's lawyer, declined to comment. He has previously described Rana as a "respected businessman in the Chicagoland community."

"Defendant has shown no violent tendencies and instead routinely condemns the violence that occurs in the Muslim world," Blegen said in a court filing last year while arguing unsuccessfully for his client's pretrial release on bail.

In a court filing this month, the lawyer said "Rana was not participating in a serious international terrorism conspiracy with Headley or anyone else."

Pakistan's government has cooperated with the U.S. and Indian government investigations into the Mumbai attacks, said Imran Gardezi, a spokesman for the country's Washington embassy, in a telephone interview.

"Sharing of this information has been done. This is the status," he said.

### **Seven Men**

Seven men were indicted with Rana over the planning of the Mumbai attacks and the plot to attack the Morgenavisen Jyllands-Posten newspaper in Copenhagen and artist Kurt Westergaard.

Depictions of Muhammad are forbidden in the Islamic faith. Publication of the Westergaard works, including a caricature of Muhammad wearing a turban with a bomb in it, touched off protests in Muslim communities worldwide.

A former military schoolmate of Rana in the Pakistani town of Hasan Abdal, Headley pleaded guilty to 12 criminal counts last year, admitting in court that he was part of plots to kill people.

Headley, who allegedly had ties to Lashkar-e-Taiba, was accused of scouting the targets in Mumbai and in Copenhagen and traveling as an agent of Rana's immigration business, which also has offices in Toronto and New York.

Major Iqbal gave Headley \$25,000, partly to establish a Mumbai office of Rana's First World Immigration Services, according to the indictment last month.

### **Video Surveillance**

While in India, Headley conducted video surveillance of sites including the Taj Mahal Hotel, the Oberoi Hotel, a café, a train station and a Jewish community center, all of which were later attacked, according to his plea agreement.

The son of an American mother and Pakistani father, Headley, 50, was born Daood Gilani. Prosecutors said he changed his name to pass more easily as an American during reconnaissance missions.

Headley faced a possible death sentence if convicted after a trial. He still may be sentenced to life in prison.

"The plea agreement anticipates his continued cooperation," Headley's lawyer, John Theis, said in a telephone interview. "If called upon, that would include his testimony."

**Headley's likely appearance as a witness in Rana's trial "raises challenges for the defense," said John Kocoras, a former federal prosecutor.**

**"As is the case of anybody who has pleaded guilty with the hopes of avoiding a substantial penalty -- in this case death -- there will certainly be a vigorous cross-examination." he said.**

### **Juror Safety**

Judge Leinenweber, warning of a possible risk of reprisals against jurors, ordered Rana's jury be empanelled anonymously and remain in the courthouse for meals.

"After Sept. 11, 2011, residents of the U.S. have heightened sensitivities and fears in regard to foreign terrorism," Leinenweber said. "Jurors cannot face a situation in which they deliberate in fear that their verdict may subject them or their family to any form of retaliation."

**Kocoras said the jury can render an impartial verdict.**

**"This case is a little different than other terror trials we have seen," said the lawyer, a partner at the Chicago-based law firm McDermott Will & Emery, said in a telephone interview. "The alleged targets of the terror plots were not specifically U.S. citizens, although Americans were killed in the Mumbai attacks."**

The case is U.S. v. Kashmiri, 09-cr-00830, U.S. District Court, Northern District of Illinois (Chicago).