Neutral Citation No. - 2025:AHC:81930

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Reserved

Court No. - 76

Case :- APPLICATION U/S 482 No.- 12482 of 2024

Applicant :- Subhash Chandra And 6 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Gaurav Pundir

Counsel for Opposite Party :- G.A., Hitesh Kumar Mishra

Hon'ble Vinod Diwakar,J.

1. Heard Shri N.I. Zafri, learned Senior Counsel, assisted by Shri Gaurav Pundir, learned counsel for the applicants, Shri S.K. Mishra, learned counsel for the complainant and learned Additional Advocate General, assisted by Shri J.K. Upadhyay, learned A.G.A. for the State-respondent.

2. Succinctly, the crux of the allegations are that the complainant's father had four shops in his name bearing no.7/11, 7/1, 7/2, 7/8, and his mother had two shops in her name bearing No. 7/11 and 7/4, respectively, situated at Ramganj, Sarai Hakeem Bannaderi, District Aligarh. Petitioner no. 3, who is the elder brother of the complainant's father, in connivance with other applicants, executed two forged power of attorneys dated 06.04.2023 in which, apparently, Amita Rani- the mother of complainant, authorized Gaurav and his wife Priyanka to execute the sale-deed and appoint advocate, and to take care of the demised property for and on her behalf, and Pradeep Kumar – the father of complainant, authorized Subhash Chandra, his younger brother to execute the sale deed and appoint advocate, and to take care of the demised property for and on his behalf, besides, other

allegations of restraining, abusing and causing threat to life and property of the complainant.

3. Based on the aforesaid facts, learned Additional Chief Judicial Magistrate, vide order dated 10.01.2024 directed S.H.O. P.S. Civil Lines Aligarh to register the FIR against the applicants and consequent thereupon, FIR bearing no. 8/2024, under Sections 420, 467, 468, 471, 341, 504, 506 I.P.C. was registered against; **(i)** Gaurav S/o Subhash Chandra, **(ii)** Priyanka W/o Gaurav, **(iii)** Subhash Chandra S/o Late Shri Krishan Murari Lal, **(iv)** Saurabh S/o Subhash Chandra, **(v)** Ankur S/o Subhash Chandra, **(vi)** Richa W/o Suarabh, and, **(vii)** Priya W/o Ankur, all resident of Ramghat Road, Mahuwa Kheda, Aligarh at Police Station Civil Lines, District Aligarh.

4. The investigation was completed within <u>18 days</u> and the police choose to file the closure report relying upon the statements of the complainant, inspection report of the place of offence, statements of witnesses, C.C.T.V. footage and statements of police officers on public duty, some fruit sellers, and the statement of a stamp vendor along with the notary public. Aggrieved by the closure report, the complainant preferred the protest petition against the applicants. The protest petition was allowed by impugned summoning order dated 03.04.2024 and thus, the applicants are before this Court.

5. Shri N. I. Jafri, learned Senior Counsel for the applicants, submitted that; **(i)** the impugned summoning order is in the teeth of *Pakhandu and Others v. State of U.P. & Anr.*[1], *Harkesh Singh and Others v. State of U.P.*[2], and Anwar & Ors. v. State of U.P & Ors.[3], **(ii)** learned trial Court has erroneously placed reliance upon an affidavit containing certain documents- which were, of course not part of the closure report - filed by the complainant in support of the protest

1 *2001 SCC OnLine All 967*
2 *2001 (43) All CRIC 720*
3 *LAWS (All)-2016-5-560*

petition, **(iii)** there is a civil suit bearing Original Suit No. 567 of 2016 and 568 of 2016 has been pending between the parties, **(iv)** the Investigating Officer has rightly concluded the investigation and filed the closure report, and **(v)** both the power of attorneys dated 06.04.2023 are not a registered documents and are not supported by proper seal, signatures and stamps, and no illegal benefit has been derived out of such documents, and the entire case of the complainant has been based on a photocopy of alleged power of attorney.

6. *Per contra*, Shri Ajay Singh, holding brief of Shri Hitesh Kumar Mishra, learned counsel for the complainant/respondent no.2, submits that the Investigating Officer has conducted a tainted and biased investigation which has curtailed the complainant's legitimate expectation of fair investigation as enshrined as part of constitutional rights guaranteed under Article 20 and 21 of the Constitution of India and thus, argues that; **(i)** the Investigating Officer has deliberately with the purpose to give undue advantage to the accused-petitioners, did not send the forged power of attorney dated 06.04.2023 for scientific examination; one was allegedly signed by the complainant's father and his mother signed the other, **(ii)** the specimen signature of Smt. Amita Rani and Shri Pradeep Kumar, the alleged executors of power of attorney and witness Gaurav Goyal, Ankita Agarwal W/o Gaurav Goyal; Notary Public, the Stamp Vendor and other persons who were signatories to the forged documents has not been taken by the I.O., **(iii)** the CCTV footage, on which the I.O. has placed reliance, has not been sent to the F.S.L., **(iv)** the investigation has not been conducted to justify the ingredients of the offence, **(v)** the I.O. made no efforts to extract the truth of the case, **(vi)** the investigation was not fair and has been conducted with ulterior motive, and **(vii)** the investigation was conducted in collusion with the accused persons.

7. After hearing both the parties, this Court *vide* order dated 22.04.2024 called upon learned A.G.A. to explain why the Investigating Officer has not taken the forensic and scientific assistance to determine the genuineness of a power of attorneys dated 06.04.2023 by way of an affidavit of S.H.O. P.S. Civil Lines explaining, **(i)** what precluded the Investigating Officer from taking the specimen signature of Smt. Amita Rani, Shri Pradeep Kumar, Shri Gaurav Goyal, Smt. Ankita Agarwal, Notary Public who had notarized the power of attorney dated 06.04.2023 and other concerned persons whom he could have deemed fit and proper to extract the truth of execution of the documents dated 06.04.2023, **(ii)** list of the cases assigned to S.I. Rajesh Kumar for investigation since his posting at P.S. Civil Lines, the lists shall include date of assignment of the case(s) with brief description of each case, status of investigation, date of filing of the charge sheet, if any, and other relevant information which discloses the details about the pendency and progress of investigation of each case from the date of registration of F.I.R. (s) (total number of cases assigned), **(iii)** as to why preference has been accorded to the instant case in concluding the investigation just within a period of 18 days, over and above the other cases pending investigation since long, and **(iv)** the S.H.O. P.S. Civil Line shall also file the list of such F.I.R.s (all F.I.R.s registered at P.S. Civil Lines) in which investigation is still in progress, in tabular form, containing date of registration of F.I.R. and status of investigation till date. The S.H.O. P.S. Civil Lines was directed to file an affidavit with the endorsement of S.S.P. Aligarh that the terms of the order dated 22.04.2024 are complied with in letter and spirit.

8. In essence, the entire futile exercise was first undertaken by the Additional Chief Judicial Magistrate and subsequently by the Police. The learned Magistrate, without *prima-facie* verifying the authenticity of the alleged forged document or properly perusing its contents, directed the registration of an FIR and later accepted the protest petition. Notably, the original copy of the purported forged power of attorney- which is the core issue in dispute - has never surfaced, nor has it ever been acted upon by either party. No property was ever transferred or even attempted to be transferred on the basis of this alleged forged document, yet summons were issued to the applicants.

9. In compliance with the aforesaid order, the S.H.O. of Police Station Civil Lines filed an affidavit; however, it was in complete disregard of the terms set out by this Court. Subsequently, the S.S.P. was directed to submit a personal affidavit, and his affidavit was even more deficient than that of the S.H.O. Thereafter, the Additional Chief Secretary (Home) was called upon to explain why, despite this Court having issued directions twice, the S.S.P. failed to file a compliance affidavit in the true letter and spirit of the Court's order, subsequently the compliance affidavits have been filed in accordance with Court's direction. The police had no answer as to why priorities had been accorded to the complainant's case by deviating from the standard procedure. The counter affidavit suggests, hundred of cases are pending investigation in the police station at P.S. Civil Lines, still, in the present case the investigation has been concluded within 18 days, prompting the complainant to file protest petition. The terms of Circular bearing no. DG/Circular-06/2018 dated 19.02.2018 has not been complied with by the Investigating Officer.

10. This is not the story of one case, this Court's board is chocked with such petitions in which the Investigating Officer, despite having allegations of cheating by impersonation, mischief, making a forged document, forgery of record of Court or of public register, forgery of valuable security, forgery for the purpose of harming reputation, creating forged document or electronic record, using as genuine a forged document or electronic record, making or possessing counterfeit with intent to commit forgery, using a forged trade mark, using as genuine, forged or counterfeit currency-notes or bank notes, registration and creation of fraud property documents and publishing sexually explicit material in electronic form, video voyeurism, and breach of confidentiality, and leakage of date by intermediatory, e-commerce fraud like impersonation commonly known as phishing, identity theft and offensive massage through communication services, but the police conducts the investigation in old fashion way by recording the statement under Section 161 Cr.P.C. and files charge-sheet commonly on the basis of the disclosure statement of co-accused.

11. As the time progressed, ways and means of committing crime has drastically changed but the working of police, so far as apprehending the accused and conduct of investigation is still done by old fashion days techniques. The worst part is, it breeds corruption in police, chances of false implication are greater, the real accused are always out of the clutches of the police, the crime could not be put to justice, the real criminals could not brought before the Court to face justice. It wastes a lot of Court's time and ultimately results in failure of justice.

12. Recently, in ***Sanuj Bansal v. State of U.P. & Anr***[4]**,** the Director General of Police, Uttar Pradesh, gave an undertaking that charge-sheets in the state are not filed solely on the basis of confessional statements. However, this Court has observed that, in practice, charge-sheets are routinely filed on a daily basis relying primarily on the confessional statements of co-accused, without any discovery of corroborative evidence- an approach that is in clear derogation of the law.

4 ***SLP (Crl.) No. 10536 of 2023***

13. It is also interesting to discuss that the reports filed under Section 173 Cr.P.C. are routinely filed in template formats without having sufficient material enabling the Courts to come to a reasonable conclusion that the offences mentioned in the charge-sheet are made out *prima-facie*. The C.D. may suggest sequence of events but the C.D. cannot replace the requirement of detailed descriptions of steps taken by the Investigating Officer along with the relevant facts and evidence collected during investigation, in column-16 of the police report filed under section 173 Cr.P.C.

14. The Supreme Court in ***Dablu Kujur v. State of Jharkhand*** [5] has held that the Investigating Officers while submitting the charge-sheet/ police report did not comply with the requirements of the Section 173(2) Cr.P.C. The mandatory requirement to be complied with by the Investigating Officer in the police report/charge-sheet as laid down in Section 173 Cr.P.C., more particularly sub section (2) thereof. A charge-sheet is nothing but a final report of the police officer under Section 173(2) Cr.P.C. It is an opinion or intimation of the Investigating officer to the Court concerned that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed. The relevant portion of ***Dablu Kujur's case (supra)*** has been reproduced herein below:

> *"19. The abovereferred discussion has been necessitated for highlighting the significance of the compliance of requirements of the provisions contained in Section 173(2) Cr.P.C.*
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> *20. Ergo, having regard to the provisions contained in Section 173 it is hereby directed that the report of police officer on the completion of investigation shall contain the following:*
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> *20.1. A report in the form prescribed by the State Government stating-*
>
> *(a) The names of the parties;*
>
> *(b) The nature of the information;*

5 ***(2024) 6 SCC 758***

(c) The names of the persons who appear to be acquainted with the circumstances of the case;

(d) Whether any offence appears to have been committed and, if so, by whom;

(e) Whether the accused has been arrested;

(f) Whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(h) Whether the report of medical examination of the woman has been attached where investigation relates to an offence under [Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or Section 376E of the Indian Penal Code (45 of 1860)]

20.2 If upon the completion of investigation, there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, the Police officer in charge shall clearly state in the Report about the compliance of Section 169 Cr.P.C.

20.3. When the report in respect of a case to which Section 170 applies, the police officer shall forward to the Magistrate along with the report, all the documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation; and the statements recorded under Section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

20.4. In case of further investigation, the police officer in charge shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed and shall also comply with the details mentioned in the above sub paras 20.1 to 20.3.

21. It is further directed that the officer in charge of the police stations in every State shall strictly comply with the afore-stated directions, and the non-compliance thereof shall be strictly viewed by the courts concerned in which the police reports are submitted."

15. For clarity, Section 173 of the Code,1973 has been reproduced herein:

"173. Report of police officer on completion of investigation.

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

(1-A) The investigation in relation to [an offence under sections 376, 376A, 376AB, 376B, 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code shall be completed within two months.] [Inserted by the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009), Section 16 (a).] from the date on which the information was recorded by the officer-in-charge of the police station.

(2) (i) As soon as it is completed, the officer-in-charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating -

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(h) Whether the report of medical examination of the woman has been attached where investigation relates to an offence under [Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] [Inserted by the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009), Section 16 (b).]] [or section 376E of the Indian Penal Code of the Indian Penal Code, 1860.] [Substituted for the words "or 376D of the Indian Penal Code" by Criminal Law (Amendment) Act, 2013.

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer-in-charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report -

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceeding or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer-in-charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).”

16. In ***R.K. Dalmia etc v. Delhi Administration***[6] the Supreme Court held that the charge-sheet is hardly a complete or accurate thesis of prosecution case. However, clause (a) of sub-section (1) of Section 173, requires the office In-charge of the police station shall forward the report in prescribed form setting forth, the name of the parties, the nature of information, and the names of the persons who appear to be acquainted with the circumstances of the case.

17. The Supreme Court in ***Sharif Ahmed and another v. State of Uttar Pradesh & Anr***[7] held that the charge-sheet, must contain the detailed steps taken by the investigating officer. The relevant portion has been extracted herein below:

“22. Recently a three Judge Bench of this Court in Zakia Ahsan Jafri v. State of Gujarat (2022) 6 SCR 1: 2022 INSC 653, has observed:

“11. This Court in Dayal Singh noted that the investigating officer is obliged to act as per the Police Manual and known canons of practice while being diligent, truthful and fair in his/her approach and investigation. It has been noted in the reported decision that an investigating officer is completely responsible and answerable for the manner and methodology adopted in completing his investigation. Concededly, upon completion of investigation, the investigating officer is obliged to submit report setting out

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6 ***1962 SCC OnLine SC 83***
7 ***2024 SCC OnLine SC 726***

prescribed details, to the Magistrate empowered to take cognizance of the offence referred to therein, without unnecessary delay. The report so presented is the conclusion reached by the investigating officer on the basis of materials collected during investigation. The duty of the investigating officer is to collate every relevant information/material during the investigation, which he must believe to be the actual course of events and the true facts unraveling the commission of the alleged crime and the person involved in committing the same. He is expected to examine the materials from all angles. In the event, there is sufficient evidence or reasonable ground that an offence appears to have been committed and the person committing such offence has been identified, the investigating officer is obliged to record his opinion in that regard, as required by Section 173(2)(i)(d) of the Code. In other words, if the investigating officer intends to send the accused for trial, he is obliged to form a firm opinion not only about the commission of offence, but also about the involvement of such person in the commission of crime.

12. Such opinion is the culmination of the analysis of the materials collected during the investigation - that there is "strong suspicion" against the accused, which eventually will lead the concerned Court to think that there is a ground for "presuming" that the accused "has" committed the alleged offence; and not a case of mere suspicion. For being a case of strong suspicion, there must exist sufficient materials to corroborate the facts and circumstances of the case; and be of such weight that it would facilitate the Court concerned to take cognizance of the crime and eventually lead it to think (form opinion) that there is ground "for presuming that the accused has committed an offence", as alleged - so as to frame a charge against him in terms of Section 228(1) or 246(1) of the Code, as the case may be. For taking cognizance of the crime or to frame charges against the accused, the Court must analyze the report filed by the investigating officer and all the materials appended thereto and then form an independent prima facie opinion as to whether there is ground for "presuming" that the accused "has" committed an offence, as alleged. (It is not, "may" have or "likely" to have committed an offence, but a ground for presuming that he has committed an offence). The Magistrate in the process may have to give due weightage to the opinion of the investigating officer. If such is to be the eventual outcome of the final report presented by the investigating officer, then there is nothing wrong if he applies the same standard to form an opinion about the materials collected during the investigation and articulate it in the report submitted under Section 173 of the Code. It may be useful to refer to the decisions adverted to in Afroz Mohd. Hasanfata including in the case of Ramesh Singh and I.K. Nangia.

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63. Needless to underscore that every information coming to the investigating agency must be regarded as relevant. However, the investigating agency is expected to make enquiries regarding the authenticity of such information and after doing so must collect corroborative evidence in support thereof. In absence of *corroborative evidence, it would be merely a case of suspicion and not pass the muster of grave suspicion, which is the pre-requisite for sending the suspect for trial. This is the mandate in Section 173(2)(i)(d) of the Code, which postulates that the investigating officer in his report must indicate whether any offence appears to have been committed and if so, by whom. The opinion of the investigating officer formed on the basis of materials collected during the investigation/enquiry must be given due weightage. That would only be the threshold, to facilitate the concerned Court to take cognizance of the crime and then frame charge if it is of the opinion that there is ground for presuming that the accused has committed an offence triable under Chapter XIX of the Code."*

23. In K. Veeraswami v. Union of India and others (1991) 3 SCC 655, K. Jagannatha Shetty, J. pronounced the judgment for himself and M.N. Venkatachaliah, J. (as His Lordship then was) on the question of contents of the chargesheet and observed:

"75. In the view that we have taken as to the nature of the offence created under clause (e), it may not be necessary to examine the contention relating to ingredient of the offence. But since the legality of the charge-sheet has been impeached, we will deal with that contention also. Counsel laid great emphasis on the expression "for which he cannot satisfactorily account" used in clause (e) of Section 5(1) of the Act. He argued that that term means that the public servant is entitled to an opportunity before the Investigating Officer to explain the alleged disproportionality between assets and the known sources of income. The Investigating Officer is required to consider his explanation and the charge-sheet filed by him must contain such averment. The failure to mention that requirement would vitiate the charge-sheet and renders it invalid. This submission, if we may say so, completely overlooks the powers of the Investigating Officer. The Investigating Officer is only required to collect material to find out whether the offence alleged appears to have been committed. In the course of the investigation, he may examine the accused. He may seek his clarification and if necessary he may cross check with him about his known sources of income and assets possessed by him. Indeed, fair investigation requires as rightly stated by Mr. A.D. Giri, learned Solicitor General, that the accused should not be kept in darkness. He should be taken into confidence if he is willing to cooperate. But to state that after collection of all material the Investigating Officer must give an opportunity to the accused and call upon him to account for the excess of the assets over the known sources of income and then decide whether the accounting is satisfactory or not, would be elevating the Investigating Officer to the position of an enquiry officer or a judge. The Investigating Officer is not holding an enquiry against the conduct of the public servant or determining the disputed issues regarding the disproportionality between the assets and the income of the accused. He just collects material from all sides and prepares a report which he files in the court as charge-sheet."

The latter portion of the aforesaid paragraph, referring to the details of the offence and the requirement for them to be proved in *order to bring home the guilt of the accused at the later stage (the stage of trial) by adducing acceptable evidence, has to be understood in the context that the chargesheet need not elaborately evaluate the evidence, as the process of evaluation is a matter of trial. This does not mean that the chargesheet should not disclose or refer to the facts as to meet the requirements of Section 173(2) of the Code, and the mandate of the State rules. Further, the earlier portion of the same paragraph, while referring to the opinion of the investigating officer, does so to demonstrate the significance of the opinion of the investigating officer at this stage. However, this does not preclude the Magistrate from exercising her powers in adopting an approach independent from such opinion, as has been held by this Court in Bhagwant Singh (supra) and Minu Kumari (supra).*

24. It is the police report which would enable the Magistrate to decide a course of action from the options available to him. The details of the offence and investigation are not supposed to be a comprehensive thesis of the prosecution case, but at the same time, must reflect a thorough investigation into the alleged offence. It is on the basis of this record that the court can take effective cognisance of the offence and proceed to issue process in terms of Section 190(1)(b) and Section 204 of the Code. In case of doubt or debate, or if no offence is made out, it is open to the Magistrate to exercise other options which are available to him.

25. In support of our reasoning, we would refer to the very next paragraph in the judgment of Shetty, J. in K. Veeraswami (supra) which reads as under:

"76. The charge-sheet is nothing but a final report of police officer under Section 173(2) of the CrPC. The Section 173(2) provides that on completion of the investigation the police officer investigating into a cognizable offence shall submit a report. The report must be in the form prescribed by the State Government and stating therein (a) the names of the parties; (b) the nature of the information; (c) the names of the persons who appear to be acquainted with the circumstances of the case; (d) whether any offence appears to have been committed and, if so, by whom (e) whether the accused has been arrested; (f) whether he had been released on his bond and, if so, whether with or without sureties; and (g) whether he has been forwarded in custody under Section 170. As observed by this Court in Satya Narain Musadi v. State of Bihar that the statutory requirement of the report under Section 173(2) would be complied with if the various details prescribed therein are included in the report. This report is an intimation to the magistrate that upon investigation into a cognizable offence the Investigating Officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court. In fact, the report under Section 173(2) purports to be an opinion of the Investigating Officer that as far as he is concerned he has been able to procure sufficient material for the trial of the accused by the court. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5). Nothing more need be stated in the report of the Investigating Officer. It is also not necessary that all the details of

the offence must be stated. The details of the offence are required to be proved to bring home the guilt to the accused at a later stage i.e. in the course of the trial of the case by adducing acceptable evidence.

This paragraph examines the contents of the chargesheet and on elaboration of the same holds that it is in accordance with the terms of Section 173(2) of the Code as well as the provisions of the penal enactment. In furtherance of this, reference is made to Satya Narain Musadi v. State of Bihar (1980) 3 SCC 152, in stating that the chargesheet should comply with the statutory requirements, and the various details prescribed therein should be included in the report.

26. The object and purpose of the police investigation is manyfold. It includes the need to ensure transparent and free investigation to ascertain the facts, examine whether or not an offence is committed, identify the offender if an offence is committed, and to lay before the court the evidence which has been collected, the truth and correctness of which is thereupon decided by the court.

27. In H.N. Rishbud and Inder Singh v. State of Delhi (1954) 2 SCC 934, this Court notes that the process of investigation generally consists of : 1) proceeding to the concerned spot, 2) ascertainment of facts and circumstances, 3) discovery and arrest, 4) collection of evidence which includes examination of various persons, search of places and seizure of things, and 5) formation of an opinion on whether an offence is made out, and filing the chargesheet accordingly. The formation of opinion is therefore the culmination of several stages that an investigation goes through. This Court in its decision in Abhinandan Jha v. Dinesh Mishra AIR 1968 SC 117 states that the submission of the chargesheet or the final report is dependent on the nature of opinion formed, which is the final step in the investigation.

30. Our attention has been drawn to the format prescribed for the State of Uttar Pradesh, which by column 16 requires the investigating officer to state brief facts of the case. In addition, the State of Uttar Pradesh has issued a circular dated 19.09.2023, which refers to an earlier circular bearing No. 59 of 2016 dated 20.10.2016, and states that the investigation provisions contained in the Code and the police regulations with reference to Section 173 of the Code are not being consistently complied with and followed by the investigating officers and the supervising officers. The need to provide lead details of the offence in the chargesheet is mandatory as it is in accord with paragraph 122 of the police regulations. Similar directions were issued on 09.09.2022 following the direction of the High Court of Judicature at Allahabad that brief narration of the material collected during investigation, which forms the opinion of the investigating officer, should be mentioned in the chargesheet.

31. Therefore, the investigating officer must make clear and complete entries of all columns in the chargesheet so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available on the file. Statements under Section 161 of the Code and related documents *have to be enclosed with the list of witnesses. The role played by the accused in the crime should be separately and clearly mentioned in the chargesheet, for each of the accused persons."*

18. Criminal investigation in India has long and complex history, deeply influenced by the country's socio-political and cultural evolution. The traditional methods have heavily relied on physical evidence, witness testimony, and a times methods of coercion and intimidation. The criminal investigation in India was primarily shaped by the colonial legacy, where policing was designated to control rather than serve justice impartially. While these methods may have been effective in their time, they often lacked the fairness, transparency and efficiency required for just law enforcement in a democratic society. The idea was to effectively maintain law and order for British administration rather than serve the purpose of law. The investigation often depended on secret information and physical evidence, without support of scientific methods. Community policing, or relying on local networks of informants (commonly known as *chowkidars*), was a crucial part of this system, especially in rural areas, there is no harm in relying upon the time-tested method of investigation but, as the method of committing crime has evolved therefore, police needs to upgrade their skills effectively and efficiently in today's time.

19. In the absence of modern forensic science techniques, the police investigations heavily rely upon physical evidence found at the scene of the crime. This includes items like seizure of weapons, personal belongings, blood stains and finger prints. However, the ability to preserve and scientifically analyse was limited, which often led to heavy depended on eye-witness' testimony. However, the reliability of eye-witnesses testimony has always been a matter of concern, as it can be influenced by fear, bias or external pressure. Confessions are often regarded as most conclusive form of evidence, however, unfortunately, this practice gave rise to wide spread use of coercion and torture in police custody. The heavily reliance on village head man (*chowkidar*) is prone to bias and manipulation. Local informants could use their influence to settle personal score or to target marginalized communities.

20. The drawback of old styled investigation system is; **(i)** reliance on coercion and force, **(ii)** lack of scientific rigor- lack of scientific methods in investigation leading to weak prosecution and, in many cases results in acquittal of actual criminals, **(iii)** the influence of local elites breeds bias-ness and corruption, and **(iv)** the reliance on outdated methods, coupled with bureaucratic inefficiency, lead to long delays in the investigating and judicial process denying timely justice to victim.

21. The introduction of scientific tools, digital forensics, and legal reforms together shall bring more transparent, effective and accountable system of criminal investigation. In 2023, the Indian Parliament passed three landmark bills replacing Indian Penal Code, 1860 by Bhartiya Nyaya Sanhita, 2023; Code of Criminal Procedure Code,1973 by Bhartiya Nagrik Suraksha Sanhita, 2023; Indian Evidence Act, 1872 by Bhartiya Sakshya Adhiniyam. These laws came into effect on July 1, 2024. These laws reflect the Government intent to modernize the criminal justice system, streamline legal procedures, and adopt evolving needs of society. However, while these legislative changes aim to provide a more efficient legal frame work, their success largely depends on the capability of law enforcement agencies to enforce these laws effectively. This is where the need for police reform becomes evident.

22. The police officers at the police station level in Uttar Pradesh, often lack the necessary training to deal with complex criminal cases, digital evidence, and new age crime such as cyber- crime, and frequently face challenges in effectively managing complex criminal cases due to a lack of specialized training. As crime evolves, particularly with the rise of digital evidence and cybercrime, traditional policing techniques often fall short. Many officers are not adequately equipped to investigate crimes involving technology, such as hacking, online fraud, and identity theft. This gap in training can hinder their ability to gather, analyse, and interpret digital evidence effectively. Consequently, there is an urgent need for enhanced training programs that focus on modern investigative techniques, digital forensics, and the nuances of cyber law to empower police officers to address contemporary criminal challenges effectively.

23. The key advantages of training programme may include; **(i)** may foster a sense of responsibility and self-discipline with greater flexibility and independence, **(ii)** without the pressure of deadlines and with deeper understanding the officer can engage with result oriented and research driven concepts independently, **(iii)** it impose critical thinking and develops problem-solving skills, **(iv)** it enhances officers ability to analyse, synthesize and evaluate information from different sources, **(v)** focusing on area of interest or identifying the issue, leading to more efficient and effective solution, **(vi)** it strengthen self-motivation and helps to adept the rapidly changing demands of society and fulfilling the expectation of job requirement, **(vii)** it boots professional growth and enhances professional skills in staying relevant and informed in the challenging carrier opportunities, and **(viii)** enhances problem-solving and research skills and increases knowledge retention.

24. There is an urgent need to enhance police training to align with these changes. The training programme must include modules on rights of victim and accused, gender sensitization, and technological tools for crime investigation. The requirement of modern forensic labs, digital crime investigation units and real time communication networks to improve the efficiency of crime solving in a fast evolving digital landscape is necessary. The training workshops for police would not only about imparting theoretical knowledge, but shall also enhance the investigative skills. Through interactive sessions, case studies and experimental exercises, the police would learn the nuances of investigation by an expert team of investigators.

25. Keeping in mind the aforesaid deliberations, vide order dated 18.9.2024 a copy of the charge sheet was forwarded to the Additional Chief Secretary (Home), Uttar Pradesh; the Director General of Police; and the Director General (Training), Headquarters, with the direction to review the same and assess whether charge-sheets filed by the police are in consonance with the legal principles laid down by the Supreme Court in ***Dablu Kujur*** **(supra)** and ***Sharif Ahmad*** **(supra)**. Following such assessment, they were directed to propose measures, including a comprehensive training programme for police personnel- from constables to Superintendents of Police (S.S.P.) -aimed at enhancing their professional competencies. The D.G. (Training) was further expected to hold broad consultations with A.D.Gs, I.Gs, D.I.Gs, S.Ps., Additional S.Ps., and D.S.Ps. posted at various Police Training Centres across Uttar Pradesh. Additionally, the Secretary (Law), A.D.G. (Prosecution), and Director (Prosecution), Uttar Pradesh, were also expected to be consulted in this process.

25.1 It was also directed that D.G. Training HQRS shall file the current training curriculum and schedule for the police officers for basic training programmes with regard to basics of investigation; **(i)** registration of FIR, **(ii)** arrest of an accused, **(iii)** seizure of incriminating material (including in offences against human body and property, and offences related to cyber crime), **(iv)** basic knowledge about the medico legal aspect of investigation, **(v)** discovery of facts leading to the guilt of accused, **(vi)** recording of statement under

Section 161 and 164 Cr.P.C.- including relevance in evidence and procedure of Cr.P.C., **(vii)** importance of scientific evidence such as role of finger prints, forensic reports, seizure of weapon, ballistic reports, blood sample, D.N.A., C.D.R., C.C.T.V. footage, **(viii)** retrieving of evidence on pen drive, hard disc, downloading evidence from the social media, procurement and seizure of such evidence, requirement of compliance of Section 63 of Bharatiya Sakshya Adhiniyam, 2023, knowledge of taking blood sample etc., and **(ix)** preparation of the charge-sheet along with the role and accountability of S.S.P./S.P. in supervision of investigation. The list mentioned herein above was only illustrative and not exhaustive. The purpose of mentioning the steps needs to be taken by the Investigating Officer was only to give an idea to the officers to understand the intention of the Court for the purpose of which the entire exercise was to be carried out.

26. In compliance with the Court's orders dated 18.09.2024 and 16.10.2024, the Director General of Police (Training), Uttar Pradesh, appeared virtually via video conferencing and presented a comprehensive update on the training modules designed for police officers. She informed the Court about the number of officers who have undergone training and outlined the various initiatives undertaken to enhance their professional capabilities, with particular emphasis on modern investigative techniques, including forensic science and cybercrime investigation. She further confirmed that, pursuant to the order dated 18.09.2024, a meeting was convened with departmental officers and other relevant stakeholders to discuss the implementation of these measures.

26.1 In paragraph 30 of ***Sharif Ahmad case (supra)***, the Supreme Court noted that the Government had issued a circular dated 19.09.2023, which referred to an earlier circular No. 59 of 2016 dated

20.10.2016, directing investigating officers to include brief facts in Column 16 of the police report filed under Section 173 of the Code of Criminal Procedure. However, this directives have been repeatedly contravened by the investigating officers.

27. After hearing the submissions of the Director General of Police (Training), the Court directed her to submit an affidavit detailing the facts presented during the proceedings. She was further instructed to prepare a *comprehensive checklist* for each category of similar offences to assist police officers in conducting investigations. The objective of this *checklist* is to delineate the essential steps required to ensure that investigations are conducted in a fair, impartial, and effective manner.

27.1 The Director General of Police (Training) was further directed to propose effective mechanisms to ensure accountability of investigating officers and their supervisory officers in instances where the quality of investigations falls short of the standards prescribed in the proposed *checklist*. The aim was to ensure that the real offenders are brought to justice while preventing innocent individuals from being wrongfully implicated due to extraneous reasons or flawed investigations.

28. In response thereto, the Director General of Police (Training), vide affidavit dated 25.11.2024, submitted a comprehensive set of five compilations, each comprising more than two hundred pages, totalling 1,282 pages. These compilations included the following training course materials for; Sub Inspector, D.S.P. (Law & Investigation); S.I. (Law & Investigation), Constable (Law & Investigation); the objection and subject of the training related to the new criminal laws; promotional course syllabus of the Constables to Head Constables-Law and Investigation; promotional course syllabus for Head Constable to Sub Inspector; promotional course syllabus for Sub

Inspector to Inspector; circulars/directions issued, time to time by D.G.P. U.P., to improve investigation; crime SOP handbook for investigation; developed SOP of crime seen investigation; a copy of digital library printout of website page; list of officers trained outside the State by agencies; a copy of MOU with National Institute of Electronic and Technology; a copy of MOU with National Rashtriya Raksha University; a letter related to forensic investigation from U.P. State Institute of Forensic Science; a true copy of heinous crime checklist provided by A.D.G. Crime, a true of circular action plan for investigation to zone/range of a district; updated handbook of investigation 2021; a copy of direction issued by D.G.P., U.P., Lucknow containing SOP for investigation; a copy of SOP issued by Directorate Prosecution; copy of existing checklist of existing crime by different units (collection), and numerous copy of circulars issued by Director General of Police for suggesting departmental inquiry for errant Investigating Officers.

29. Upon reviewing the five volumes of material, the Court observed that police officers- ranging from Constables to Inspectors- may not be able to fully comprehend the contents of the circulars without consistent and effective training delivered in everyday language. Consequently, the Director General of Police (Training) was directed to prepare a chapter-wise *checklist*, categorizing offences in a simplified manner to facilitate better understanding and implementation at all levels of the police force.

30. In view of the foregoing, an expert committee was constituted by the Director General of Police, under the chairmanship of the Director General of Police (Prosecution), to deliberate on the suggestions received from various stakeholders. Inputs were also solicited from multiple branches of the police department. The Directorate of Prosecution undertook a comprehensive review of the *checklists* submitted by various departmental units, District Joint Directors, and Prosecution Officers. Pursuant to this detailed evaluation, the committee categorized different types of offences and formulated a standardized checklist aimed at ensuring the quality and consistency of investigations. Particular emphasis was placed on aligning investigative procedures with the new criminal provisions introduced in 2023, especially those pertaining to forensic and digital evidence for each category of offence.

31. A letter dated 11.04.2025, issued by the Additional Director General of Police (Crime), was placed on record by the learned Additional Government Advocate. The letter, addressed to the Director General of Police (Prosecution), stated, *inter-alia*, that the *checklist* prepared in compliance with the various orders passed in the present proceedings had been duly approved by the Director General of Police. It was further noted that the approved checklist had been forwarded to the concerned District-level Officers for proper implementation and compliance.

32. Arising out of the aforesaid deliberations, and after considering the submissions advanced by the learned Additional Advocate General, as well as upon examining the *checklist* prepared by the office of the Director General of Police (Prosecution), along with the numerous circulars and training course materials submitted by the Director General of Police (Training) contained in five volumes totalling 1,282 pages, the Directorate of Prosecution has broadly categorized the offences into 41 chapters and formulated a separate checklist for each chapter. The compiled checklists collectively span a total of 390 pages.

33. This is an appropriate stage where this Court *suo-motu* exercises the powers vested in it to uphold the majesty of the judicial process and to strike a balance between the unfettered power of the police to investigate and the need to maintain the purity of the legal system. Accordingly, the Court hereby directs the Director General of Police, Uttar Pradesh, to ensure;

33.1 Develop a need-based, customized training program tailored specifically for Constables, Head Constables, Sub-Inspectors and Inspectors- the key officers involved in criminal investigation. The course material contained 1282 pages and complied in five volumes shall be divided into – small, self contained booklets- each covering specific subject area focusing on specific nature of offence for easier understanding and flexible learning. The objective of the program is to enhancing the professional capabilities of the investigators at the police station level to ensure accessibility and practical relevance.

33.2 ***Column-16*** of the police report must contain clear and complete entries, **(i)** brief contents of the FIR, **(ii)** name of the suspects in the FIR, **(iii)** name of the accused mentioned in the charge-sheet, **(iv)** name of the suspect against whom the investigation has been pending and the reason thereof, **(v)** specify the role of each accused in the commission of the crime surfaced during investigation, **(vi)** details of seizure made- date, time, and particulars of recoveries, **(vii)** brief statement of prosecution witnesses- public, police, and formal- who said what?, **(viii)** details of scientific and forensic evidence, **(ix)** details of C.D.R. or C.C.T.V., **(x)** names of the accused arrested during investigation, **(xi)** name of the accused who have been granted anticipatory bail during investigation, **(xii)** name(s) of the accused whose arrest has been stayed by the High Court/Supreme Court, **(xiii)** name(s) of the accused qua whom charge-sheet has been filed without arrest, **(xiv)** name of the person(s) against whom Section 94 BNSS, 2023 has been issued to produce which document or other thing, **(xv)** name of the person(s) against whom proceedings under Section 84 and 85 BNSS, 2023 have been commenced, **(xvi)** details- number of notices issued by the I.O. to the accused(s) to join investigation, **(xvii)** number of date(s) the accused premises have been raided during investigation, **(xviii)** details of order(s) obtained by the accused from the High Court/Supreme Court during the investigation, **(xix)** any other incriminating evidence collected by the Investigating Officer forming part of the ***column-4*** of the case diary, and **(xx)** any additional information by the investigating officer.

33.3 The details mentioned herein above are for illustrative purposes only. It is the sole prerogative of the Investigating Officer to exercise discretion and decide whether any other details need to be included in the police report, based on the requirements of each individual case.

33.4 The Director General of Police, through the Commissioner of Police and Senior Superintendent of Police, shall initiate a training drive for Investigating Officers to equip them with the necessary skills to prepare charge-sheets in accordance with the law.

33.5 The Director General of Police, Uttar Pradesh shall ensure the strict implementation of the circular bearing no. DG/Circular No.-06/2018 dated 19.02.2018, issued by the Director General of Police, whereby it has been made mandatory to every Investigating Officer that upon completion of investigation, prior to submission of charge-sheet/final report, the Investigating Officer must forward the draft charge sheet along with case diary to the Prosecution Officer through the Circle Officer. The Prosecution Officer shall review the case diary and evaluate the evidence collected during the investigation. If any shortcomings or inconsistencies are found, they shall be indicated, and further investigation shall be directed to address those issues. The case diary shall be returned to the Investigating Officer *via* the same channel after the Prosecution Officer's review, and only thereafter, the charge sheet or final report shall be submitted to the Court. The aforesaid circular has been issued in accordance with the judgment of

Supreme Court titled as *"Perumal v. Janaki"* [8]*.* The true typed copy of the circular has been annexed herewith as ***Enclosure-I.***

33.6 If the charge-sheet is filed for offenses where *life imprisonment* is the prescribed punishment, the Investigating Officer must forward the draft charge-sheet along with the case diary to the Prosecution Officer through the Commissioner of Police or Senior Superintendent of Police, as applicable. The other directions contained in ***Enclosure-I*** shall remain same. Pursuant to this order and for the aforesaid purpose, the aforementioned police officers are hereby directed not to delegate this responsibility to any subordinate officers.

33.7 The Director General (Prosecution) shall issue general guidelines to all the Prosecution Officers to review the charge sheet along with the case diary in a time-bound manner. The number of days to complete the said exercise shall be decided by the Department of Prosecution.

33.8 The charge sheet shall be filed along with a duly paginated ***Index*** containing; **(a)** serial number, **(b)** date-wise brief description of the investigation in seriatim- C.D. wise details, **(c)** details of document collected during investigation, **(d)** brief description of steps taken by Investigating Officer, **(e)** details of Section 94 B.N.S.S., 2023 notice, issued to " any person" to produce document and other thing, and **(f)** or any other details as deem fit by the Investigating Officer.

33.9 Every Investigating Officer upon completion of investigation, prior to submission of charge-sheet/final report, must make an endorsement in the case diary a day prior or on the date of submission of the charge sheet to the Court that the ***steps mentioned in the check list and the mandate of circular bearing no. DG/Circular No.-06/2018 dated 19.02.2018, issued by the Director General of Police, and***

8 *(2014) 5 SCC 377*

directions issued herein in 33.5 & 33.8 has been complied with in letter and spirit. The copy of the *Case Diary*, containing the aforesaid details, shall be forwarded to the Court following the report under Section 193 BNSS, 2023.

33.10 If preceding ***Direction Nos. 33.5 & 33.8***, have not been complied with by the Investigating Officer, the learned Special Judge, Chief Judicial Magistrate, or the learned Magistrate, as the case may be, shall immediately communicate the non-compliance to the Commissioner of Police or the Senior Superintendent of Police/Superintendent of Police and direct that appropriate departmental action be initiated against the Investigating Officer. It is equally the duty of the Court to ensure that the orders passed by the Constitutional Courts are strictly implemented by the authorities, upholding the rule of law in both letter and spirit.

33.11 If preceding ***Direction No. 33.6*** has not been complied with by the Investigating Officer, and Commissioner of Police or Senior Superintendent of Police or Superintendent of Police, as applicable, the learned Special Judge, Chief Judicial Magistrate, or the learned Magistrate, as the case may be, shall immediately communicate the non-compliance to the A.C.S. (Home) and a copy of the same shall be sent to Director General of Police for necessary action.

33.12 The concerned Station House Officer (S.H.O.) shall be held primarily accountable for dereliction of duty if, upon completion of the investigation and prior to submission of the charge sheet or final report before the Court, the police report is not forwarded to the Prosecution Officer through the Circle Officer or the Police Commissioner/Senior Superintendent of Police (S.S.P.), as applicable. In instances where the Police Commissioner or the S.S.P. declines to forward the charge sheet for review to the Prosecution Officer in cases involving a prescribed punishment of life imprisonment, the S.H.O. shall make a corresponding endorsement in the case diary and submit a report detailing the same to the senior officers.

33.13 The Commissioner of Police/S.S.P./S.P. shall file monthly report about the compliance of DG/Circular-06/2018 dated 19.02.2018, to the Director General of Police, Uttar Pradesh with a copy to Director General (Prosecution), without fail.

33.14 A fresh Office Memorandum/Circular should be accordingly issued by the Home Department, instructing Director General of Police and the Directorate (Prosecution) to issue a fresh Circular/Office Memorandum to their respective officers based on the foregoing ***directions,*** at the earliest.

34. Reverting to the facts of the case, upon examination of the affidavit filed by the Secretary (Home), based on information provided by the Inspector General, Aligarh Range, it is noted that the complainant has failed to submit the original copy of the alleged power of attorney to the police, despite repeated notices and reminders issued under Section 94 of the BNSS, 2023. Furthermore, the complainant and his relative have not cooperated with the Investigating Officer.

35. Notably, the factual aspects of the case and the alleged offence have already been thoroughly examined by senior officers. During the course of the hearing, the Court also interacted with the complainant and specifically inquired as to which property was allegedly transferred by the applicants using the forged power of attorney. In response, the complainant remained entirely silent. .

36. In the absence of the original power of attorney, no forensic examination could be conducted by the Forensic Science Laboratory.

37. It is pertinent to note that the complainant neither filed a counter-affidavit nor actively participated in the police investigation, despite having appeared before the Court both in person and through counsel.

38. Upon consideration of the facts and legal submissions, this Court is of the view that the criminal proceedings has been manifestly attended with *mala-fide* and is maliciously instituted with an ulterior motive for wrecking vengeance on the petitioners and with the view to spite them due to private and personal grudge[9]. The Court cannot be utilized for any oblique purpose and where, in the opinion of the Court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue[10].

39. Accordingly, I find merit in the submissions advanced by Shri N.I. Jafri, learned Senior Counsel for the applicants. The impugned summoning order is hereby set aside. Consequently, the proceedings arising out of FIR Case Crime No. 8 of 2024, under Sections 420, 467, 468, 471, 341, 504, and 506 of the Indian Penal Code, registered at Police Station Civil Lines, District Aligarh, are quashed. However, liberty is granted to the complainant/respondent no. 2 to approach the police in accordance with law, in the event that any incriminating material surfaces establishing the essential ingredients of cheating or forgery against the applicants.

40. Before parting with the judgment, I deem it appropriate to place on record my appreciation for the matriculous and dedicated efforts put forth by the Director General of Police (Prosecution) and his team in formulating a comprehensive *checklist* to assist Investigating Officers. This meticulous exercise reflects their commitment to

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9 *State of Haryana v. Bhajan Lal, 1992 (1) Suppl. SCC 335*

10 *Madhavrao Jiwajirao Scindia & Another v. Sambhajirao Chandrojirao Angre & Others, (1988) 1 SCC 692.*

enhancing the quality and consistency of criminal investigations. I am confident that the Directorate of Prosecution will continue its dedicated efforts to periodically review and update the *checklist*, ensuring it remains dynamic and responsive to the evolving challenges faced by Investigating Officers, especially in the context of forensic, scientific, and cyber investigations under the new legal framework

41. The Registrar (Compliance) is hereby directed to transmit a copy of this order forthwith to the Director General of Police, and the Director General (Prosecution) for effective compliance.

41.1 Let a copy of this order be sent to the office of Home Department, Government of Uttar Pradesh to ensure timely compliance.

41.2 Let a copy of this order be transmitted to all the learned District Judges of Uttar Pradesh through the Registrar General of this Court, with a direction to ensure that the judgment is duly circulated among all Judicial Officers for strict compliance with ***direction nos.33.5, 33.6 & 33.8.***

42. Accordingly, the application is ***allowed*** in the terms stated above.

Order Date :- 12.5.2025
Anil K. Sharma

Vinod Diwakar, J.

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Enclosure-I

डी०जी० परिपत्र संख्या-06/2018

ओ०पी० सिंह
आई०पी०एस०

पुलिस महानिदेशक
उत्तर प्रदेश।
1, तिलक मार्ग, लखनऊ-226001

दिनांकः फरवरी 19, 2018

विषय:- गुणवत्तापूर्ण विवेचना सुनिश्चित करने हेतु अभियोजन अधिकारियों से अभिमत प्राप्त किये जाने के सम्बन्ध में।

प्रिय महोदय,

यह मेरे संज्ञान में आया है कि शासन तथा इस मुख्यालय द्वारा निर्गत स्पष्ट निर्देशों के बावजूद कतिपय मामलों में अभियोजन अधिकारियों से विधिक परामर्श प्राप्त किये बिना विवेचनाधिकारियों द्वारा आरोप पत्र एवं अन्तिम रिपोर्ट न्यायालय में प्रेषित की जा रही है, जिससे विवेचना के मध्य हुई त्रुटियों का निवारण नहीं हो पाता और महत्वपूर्ण साक्ष्य का संकलन उचित ढ़ग से नहीं हो पा रहा है, जिसका लाभ विचारण के दौरान अभियुक्तों को प्राप्त होता है। परिणामस्वरूप दोषी व्यक्ति को दोषसिद्ध किया जाना सम्भव नहीं हो पाता है। अतः निम्न निर्देश आपके संज्ञान में लाते हुए तद्नुसार कार्यवाही सुनिश्चित कराने की अपेक्षा की जाती है।

1- शासनादेश संख्या-7202/आठ-9-31(91)-79 दिनांक 27.11.1980 के अनुलग्नक-5 के अनुसार अभियोजन विभाग के विभिन्न स्तर के अधिकारी पुलिस विभाग के विभिन्न स्तर के अधिकारियों के विधिक सलाहकार भी है और उन्हें फौजदारी कार्यवाही के किसी प्रक्रम पर (विवेचना के प्रक्रम को सम्मिलित करते हुए) आवश्यकतानुसार विधिक बिन्दुओं पर परामर्श देंगे।

2- मा० सर्वोच्च न्यायालय द्वारा क्रिमि० अपील संख्या: 1485/2008 गुजरात राज्य बनाम किशनभाई आदि में पारित आदेश दिनांकित 07.01.2014 में आपराधिक प्रकरणों की विवेचना एवं अभियोजन कार्यों में गुणवत्ता की कमी पर चिन्ता व्यक्त करते हुए क्रिमि०अपील संख्या:169/2014 में स्पष्ट निर्देश दिये है:-

'On the completion of a criminal case, the prosecuting agency should independently apply its mind and ensure that all shortcomings are rectified, if necessary by ordering further investigation;' जिसके सम्बन्ध में शासनादेश संख्या: जी. आई-26/छ:-पु०-9-14-31(36)/2014/दिनांक 22.04.2014 द्वारा दिशा निर्देश निर्गत किये जा चुके हैं।

3- मा० उच्चतम न्यायालय द्वारा क्रिमिनल अपील संख्या: 169/2014 में पारित आदेश के क्रम में शासनादेश संख्या-1909/छ:-9-2015-31(36)/2014 दिनांक 05.08.2015 द्वारा भी निर्देशित किया गया है कि प्रत्येक विवेचना पूर्ण होने के उपरान्त आरोप पत्र/अन्तिम रिपोर्ट प्रेषित करने से पूर्व विवेचक द्वारा क्षेत्राधिकारी के माध्यम से केस डायरी अभियोजन अधिकारियों को प्रेषित की जाएगी। जहां पर अभियोजन अधिकारी द्वारा केस डायरी के अवलोकनोपरान्त/परीक्षणोपरान्त विवेचना के मध्य संकलित साक्ष्य आदि की समीक्षा की जाएगी और यदि उसमें कोई कमी या विसंगति पायी जाती है तो उसको इंगित करते हुए उसकी पूर्ति हेतु अग्रेतर विवेचना हेतु प्रेषित की जाएगी। इस कार्यवाही में केस डायरी जिस माध्यम से अभियोजक के पास परीक्षण हेतु प्रेषित की जाए उसी माध्यम से अभियोजक द्वारा पुनः परीक्षणोपरान्त ही यथा स्थित्ति आरोप पत्र या अन्तिम रिपोर्ट मा० न्यायालय में प्रेषित की जाएगी।

4- उ0प्र0 शासन के उपरोक्त दिशा निर्देशों के अतिरिक्त पार्श्वांकित परिपत्र अभियोजन निदेशालय, उ०प्र० लखनऊ एवं इस मुख्यालय स्तर से निर्गत किये गये है परन्तु अभियोजन अधिकारियों से अभिमत प्राप्त न किये जाने के कारण विवेचनाओं में अनेक बिन्दु अस्पष्ट एवं अनुत्तरित रह जाते है जिनका अभियोग की सफलता पर प्रतिकूल प्रभाव पड़ रहा है।

अभि०निदे० का पत्रांकःपांच-3-3-2000/2603/2012 दिनांकित 23.05.2012
संख्याःडीजी-दस-विप्र-रिट-378/2012 दिनांकित 07.08.2012
संख्याःडीजी-सात-एस-3(15)/2013 दिनांकित 04.06.2013
अभि०निदे० का पत्रांकःपांच-3-3-2000/3476/2013 दिनांकित 18.07.2013
अभि०निदे० का पत्रांकःपांच-दो-7-2014/1933/2015 दिनांकित 30.04.2015
संख्याःडीजी-सात-एस-14(06)/2015 दिनांकित 11.08.2015
अभि०निदे० का पत्रांकःपांच-3-3-2014/3745/2015 दिनांकित 13.08.2015
संख्याःडीजी परिपत्र-45/2016 दिनांकित 21.07.2016

5- विधिक अभिमत को किसी भी दशा में विवेचना/केस डायरी का भाग नहीं बनाया जाएगा और न ही उद्धरण या संदर्भ ही केस डायरी में अंकित किया जाएगा। यदि कोई विवेचक/पर्यवेक्षण अधिकारी निर्देशों का अनुपालन नहीं करता है तो उसके विरूद्ध समुचित विभागीय कार्यवाही करायी जाये।

6- मासिक अपराध गोष्ठी में गोष्ठी की विषयवस्तु में यह समीक्षा की जानी चाहिए कि कितने मामले विधिक अभिमत हेतु संदर्भित किये गये, कितने मामलों में अभियोजन अधिकारी द्वारा विधिक अभिमत दिया गया तथा कितने मामलों में बिना विधिक अभिमत के आरोप पत्र/अन्तिम रिपोर्ट प्रेषित की गयी। इसी प्रकार इस गोष्ठी की विषयवस्तु में विवेचना में कमी अथवा त्रुटिपूर्ण विवेचना के कारण दोषमुक्त मामलो को भी सम्मिलित किया जाना चाहिए तथा अधीनस्थ अधिकारियों को यह निर्देश दिया जाना चाहिए कि ऐसी त्रुटि कमी आगामी विवेचना में न होने पाये।

अत्तः गुणवत्तापूर्ण विवेचना सुनिश्चित करने के लिए यह आवश्यक है कि समस्त विवेचनाओं में विधिक अभिमत प्राप्त कर उनकी कमियों का निवारण कराने के उपरान्त ही आरोप पत्र/अन्तिम आख्या मा० न्यायालय को प्रेषित किया जाय।

भवदीय,

(ओ०पी० सिंह)
पुलिस महानिदेशक
उत्तर प्रदेश

1- समस्त जोनल अपर पुलिस महानिदेशक, (नाम से)
उत्तर प्रदेश।

2- समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/पुलिस उपमहानिरीक्षक, (नाम से)
उत्तर प्रदेश।

3- समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक प्रभारी जनपद, (नाम से)
उत्तर प्रदेश।

प्रतिलिपिः समस्त पुलिस महानिदेशक/अपर पुलिस महानिदेशक, इकाई, उत्तर प्रदेश को कृपया सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।