



विषय: क्रिमिनल मिस रिट याचिका संख्या:21467/2018 मुन्नी देवी बनाम उ०प्र० राज्य व 03 अन्य में मा० उच्च न्यायालय, इलाहाबाद द्वारा पारित आदेश दिनांक 07.08.2018 के अनुपालन के सम्बन्ध में।

प्रिय महोदय,

आपराधिक मामलों में पंजीकृत अभियोगों की विवेचनाओं के शीघ्र निस्तारण के सम्बन्ध में मुख्यालय स्तर से समय-समय पर अनेक परिपत्रों के माध्यम से पूर्व में दिशा निर्देश निर्गत किये गये हैं, किन्तु मा० उच्च न्यायालय, इलाहाबाद द्वारा सन्दर्भित रिट याचिका में पारित आदेश के अवलोकन से प्रकट होता है कि कतिपय जनपदों में कुछ विवेचकों द्वारा मुख्यालय स्तर से निर्गत दिशा निर्देशों का अनुपालन नहीं किया जा रहा है तथा विवेचनाओं को अनावश्यक रूप से दीर्घ अवधि तक लम्बित रखा जा रहा है। मा० उच्च न्यायालय द्वारा सन्दर्भित रिट याचिका में पारित आदेश दिनांकित 07.08.2018 के प्रभावी अंश निम्नवत् हैं :

"Before parting with the case, we want to observe that the Court has come across many cases where the investigation of a criminal case is kept pending by the investigating officer of the case for their ulterior motive and the police report is not submitted within the stipulated period in view of section 167(2) (a)(i)(ii) Cr.P.C and the informant and sometimes the accused of the case have to come up before this court for a direction to expedite the investigation or conclude the same. Noncompletion of the investigation as has been prescribed in the Code of Criminal Procedure referred to above hampers the proceedings of the criminal case and due to the said delay the police report is also submitted in the competent Court after inordinate delay and the accused takes the benefit of Section 468 Cr.P.C. challenging the cognizance of the offence has been taken beyond the period of limitation and further the delay in the investigation also gives liberty to the accused to delay the trial which otherwise if completed within time may bring a criminal case to its logical end giving respite to the parties of the case."

"Thus, we direct the Chief Secretary/D.G.P. of the state to issue a circular in this regard to depute S.P./ S.S.P/D.I.G. or any competent authority to monitor the investigation of the case as soon as the same is registered so that the investigation of the case may not be lingered on benefiting the accused and causing injustice to the informant or the aggrieved person/family who are compelled to come before this Court for necessary direction for expediting the investigation and sometimes an order for fair investigation of the same because of the lethargic approach of the investigating officer. The S.P./ S.S.P. of the District or the D.I.G. of the Range should also call upon an explanation from the investigating officers, who are entrusted with investigation of a criminal case if there has been any delay or lethargic approach in conducting the investigation and the investigating officer, if fail to complete the investigation within the stipulated period as has been mentioned in the Code, may disclose the reason for non-completion of the investigation as has been prescribed and if the explanation given by the Investigating Officer is not satisfactory or some oblique motive is evident for not concluding the investigation in the prescribed period, the S.P./S.S.P. of the District or the D.I.G. of the Range shall hold Investigating Officer strictly accountable for delaying the investigation for oblique motive and take strict action against him and further ensure that the investigation is concluded at the earliest bringing it to its logical end within the prescribed period as has been give in the Cr.P.C."

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आपराधिक मामलों में गुणवत्तापूर्ण, निष्पक्ष एवं त्वरित विवेचना सम्पादित करके अभियुक्त को मा0 न्यायालय के समक्ष परीक्षण हेतु प्रस्तुत करना, विवेचाधिकारी का प्रमुख उद्देश्य होता है। विवेचना में असामान्य विलम्ब से जहाँ अभियोग के महत्वपूर्ण अभियोजन साक्ष्यों के विलुप्त होने की सम्भावना होती है वहीं दूसरी ओर अभियोजन साक्ष्यों के पक्षद्रोही होने की सम्भावना से भी इंकार नहीं किया जा सकता है, इसके अतिरिक्त विवेचना में विलम्ब से पीड़ित व्यक्ति का न्याय व्यवस्था में विश्वास शिथिल होता है।

विवेचकों द्वारा विवेचनाओं को अनावश्यक रूप से दीर्घ अवधि तक लम्बित रखा जाता है। प्रायः वादीगण और कभी-कभी अभियुक्तगण द्वारा मा0 न्यायालय में याचिकायें योजित की जाती हैं, जिसमें अनावश्यक समय एवं धन का अपव्यय होता है तथा इसका प्रतिकूल प्रभाव न्याय एवं कानून व्यवस्था पर पड़ता है।

डीजी परिपत्र सं0-06/18 दि0 19.02.18
डीजी परिपत्र सं0-16/18 दि0 21.04.18
डीजी परिपत्र सं0-17/17 दि0 18.07.17
डीजी परिपत्र सं0-40/16 दि0 17.07.16
डीजी परिपत्र सं0-31/15 दि0 28.04.15
डीजी परिपत्र सं0-51/15 दि0 12.07.15
डीजी परिपत्र सं0-52/15 दि0 12.07.15
डीजी परिपत्र सं0-66/15 दि0 26.09.15

आपराधिक अभियोगों की विवेचनाओं की उच्चाधिकारियों द्वारा सघन समीक्षा एवं निकट पर्यवेक्षण किया जाना नितान्त आवश्यक है। विवेचना में आवश्यकतानुसार वैज्ञानिक तकनीक का भी प्रयोग किया जाना चाहिये। बिना विलम्ब के घटनास्थल का निरीक्षण किया जाना चाहिये तथा उसी के अनुरूप विवेचना की रूपरेखा तैयार कर ली जानी चाहिये। परिवादी एवं साक्षीगण का कथन अविलम्ब लेखबद्ध किया

जाना चाहिये। आवश्यकतानुसार प्रदर्शों का समयबद्ध ढंग से विधि विज्ञान प्रयोगशाला द्वारा परीक्षण कराया जाना चाहिये। अभियोगों की गुणवत्तापूर्ण एवं त्वरित विवेचना सुनिश्चित करने हेतु मुख्यालय स्तर से निर्गत कतिपय परिपत्रों का उल्लेख पार्श्वकित है, जो उ0प्र0 पुलिस की वेबसाइट uppolice.gov.in पर भी उपलब्ध है, जिनका सम्यक् अनुपालन किया जाना आवश्यक है।

अतः आप सभी को निर्देशित किया जाता है कि मा0 न्यायालय द्वारा उक्त याचिका में पारित आदेश का अनुपालन करायें तथा यदि किसी विवेचक द्वारा अभियोग की विवेचना अनावश्यक रूप से दीर्घ अवधि तक लम्बित रखी गयी है तो उसके विरुद्ध जॉचोपरान्त विभागीय कार्यवाही कराना सुनिश्चित करायें। विवेचनाओं का शीघ्र निस्तारण कराने हेतु परिपत्र में निर्गत निर्देशों की चर्चा अपराध गोष्ठियों में भी करें और अपने निकट पर्यवेक्षण में अभियोगों की विवेचना शीघ्रता से पूर्ण कराकर प्रकरण मा0 न्यायालय में प्रेषित किया जाना सुनिश्चित करें।

कृपया इसे प्राथमिकता प्रदान करें।

संलग्नक:-यथोपरि।

भवदीय
7.9.18
(ओ0पी0सिंह)

समस्त परिक्षेत्रीय पुलिस उपमहानिरीक्षक/
समस्त वरिष्ठ पुलिस अधीक्षक/
पुलिस अधीक्षक प्रभारी जनपद
उत्तर प्रदेश।

प्रतिलिपि:-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु।

- 1- पुलिस महानिदेशक/अपर पुलिस महानिदेशक, सीबीसीआईडी, ई0ओ0डब्लू0/एस0आई0टी0/ए0टी0एस0/जी0आर0पी0, भ्र0नि0 संगठन, उ0प्र0।
- 2- समस्त जोनल अपर पुलिस महानिदेशक/पुलिस महानिरीक्षक, उ0प्र0।

Court No. - 1

Case :- CRIMINAL MISC. WRIT PETITION No. - 21467 of 2018

Petitioner :- Munni Devi

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ved Prakash Pandey

Counsel for Respondent :- G.A.

Hon'ble Ramesh Sinha.J.

Hon'ble Dinesh Kumar Singh-J.J.

Heard Sri Ved Prakash Pandey, learned counsel for the petitioner, Sri G.P. Singh, learned A.G.A. appearing for the State and perused the impugned F.I.R. as well as material brought on record.

The relief sought in this petition is for quashing of the F.I.R. dated 24.05.2014 registered as Case Crime No.216 of 2014 under Sections 409, 420, 467, 468, 471, 120B IPC and 3/7 Essential Commodities Act, Police Station Ram Chandra Mission, District Shahjahanpur.

Learned counsel for the petitioner submits that the co-accused namely Vineet Kumar along with Raman Lal Mishra who were Lekhpal had given a false certificate that no illegality was committed by the fair price shop dealer in the distribution of the essential commodities though he was black marketing the same and used to take more than the prescribed prices of the essential commodities.

Learned AGA opposed the prayer for quashing of the FIR which discloses cognizable offence and submits that the petitioner had earlier approached this Court challenging the impugned FIR in Writ Petition No.9766 of 2014 which was dismissed vide order dated 05.06.2014 but the said fact has not been disclosed and concealed by the petitioner in the present writ petition. He further stated that filing of earlier petition by the petitioner cannot be ignored and petitioner was fully conscious about the same, hence, some exemplary cost should be imposed on the petitioner.

On a query being made regarding filing of the earlier writ petition, learned counsel for the petitioners could not give satisfactory reply for filing of the same and again for filing of the present writ petition. He submits that he was having no knowledge about filing of the earlier petition. He tendered his unconditional apology for again filing the present petition on

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behalf of the petitioner and prays that the present petition be dismissed as not pressed.

The contention of learned A.G.A. appears to have force.

Considering the facts and circumstances of the case, we are of the opinion that it cannot be said that the petitioner has no knowledge about filing of the earlier petition, hence, the present writ petition is dismissed with an exemplary cost of Rs.50,000/- which shall be deposited by the petitioner of the present case, namely, Munni Devi wife of Ram Niwas resident of Village Jalalpur Kanega, Tehsil Badshahpur, District Shahjahanpur within one month from today in the court of C.J.M. concerned which shall be given to the Legal Service Cell of the District, failing which, the same shall be recovered as arrears of land revenue.

Accordingly, the present writ petition stands dismissed.

Office is directed to keep a copy of this order along with the record of CrI. Misc. Writ Petition No. 9766 of 2014.

The Registrar General of this Court is directed to send a copy of this order to the C.J.M. concerned for its compliance.

Before parting with the case, we want to observe that the Court has come across many cases where the investigation of a criminal case is kept pending by the investigating officer of the case for their ulterior motive and the police report is not submitted within the stipulated period in view of section 167(2) (a)(i)(ii) Cr.P.C and the informant and sometimes the accused of the case have to come up before this court for a direction to expedite the investigation or conclude the same. Non-completion of the investigation as has been prescribed in the Code of Criminal Procedure referred to above hampers the proceedings of the criminal case and due to the said delay the police report is also submitted in the competent Court after inordinate delay and the accused takes the benefit of Section 468 Cr.P.C. challenging the cognizance of the offence has been taken beyond the period of limitation and further the delay in the investigation also gives liberty to the accused to delay the trial which otherwise if completed within time may bring a criminal case to its logical end giving respite to the parties of the case.

Thus, we direct the Chief Secretary/D.G.P. of the state to issue a circular in this regard to depute S.P./ S.S.P/D.I.G. or any competent authority to monitor the investigation of the case as soon as the same is registered so that the investigation of the

case may not be lingered on benefiting the accused and causing injustice to the informant or the aggrieved person/family who are compelled to come before this Court for necessary direction for expediting the investigation and sometimes an order for fair investigation of the same because of the lethargic approach of the investigating officer. The S.P./S.S.P. of the District or the D.I.G. of the Range should also call upon an explanation from the investigating officers, who are entrusted with investigation of a criminal case if there has been any delay or lethargic approach in conducting the investigation and the investigating officer, if fail to complete the investigation within the stipulated period as has been mentioned in the Code, may disclose the reason for non-completion of the investigation as has been prescribed and if the explanation given by the Investigating Officer is not satisfactory or some oblique motive is evident for not concluding the investigation in the prescribed period, the S.P./S.S.P. of the District or the D.I.G. of the Range shall hold Investigating Officer strictly accountable for delaying the investigation for oblique motive and take strict action against him and further ensure that the investigation is concluded at the earliest bringing it to its logical end within the prescribed period as has been give in the Cr.P.C.

Let a copy of this order be sent by the Registrar General of this Court to C.J.M. Shahjahanpur, Chief Secretary of the State and D.G.P. of U.P. for necessary information, action and compliance.

Chief Secretary and D.G.P. of U.P. shall submit their report to the Registrar General of this Court regarding the steps and action taken by them in compliance of this order, which shall be placed before us in our chambers as soon as it is received by the Registrar General of this Court.

Sd. Dinesh Kumar Singh-I, J. Sd. Ramesh Sinha, J.
(Dinesh Kumar Singh-I, J.) (Ramesh Sinha, J.)

Order Date :- 7.8.2018

Madhurima

Ex. by -

30-8-18

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Assistant Registrar
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High Court-Allahabad

