
(2018) 05 MP CK 0038
In the Madhya Pradesh High Court
Case No : MCRC No.5394 OF 2017

Rajveer Singh

APPELLANT

Vs

State Of Madhya pradesh & Anr

RESPONDENT

Date of Decision : 07-05-2018

Acts Referred:

Constitution of India — Article 50

Indian Penal Code — Section 34, 307

Code Of Criminal Procedure, 1973 — Section 173(8), 320, 482

General Clauses Act, 1897 — Section 27

Citation : (2018) 05 MP CK 0038

Hon'ble Judges : G.S. AHLUWALIA, J

Bench : Single Bench

Advocate : V.D. Sharma, Prakhar Dhengula, Sunil Pandey,

Judgement

By order dated 16.4.2018 the case diary was sealed under the signature of Mr.Pradeep Walter and the sealed case diary was returned back to

Mr.Pradeep Walter with a direction to keep the same in a safe custody. A detailed order was passed, after seeking the details with regard to the

progress in investigation from Mr. Pradeep Walter, and it was ordered that in case if any deviation/manipulation is found at the time of reopening of

the sealed case dairy, then Mr. Walter himself would be personally responsible for the same.

Today the diary of this case was taken out from the sealed cover, by Shri Pradeep Walter, S.H.O., Police Station Karera, Distt. Shivpuri, in the

presence of Shri Sunil Pandey, Superintendent of Police, District Shivpuri, Shri V.D. Sharma, Counsel for applicant as well as Shri Prakhar Dhengula,

Public Prosecutor for the State.

In compliance of order dated 16.4.2018, the State had filed a reply to the effect

that since the case diary is in the sealed cover, therefore, the Superintendent of Police, District Shivpuri was unable to comment on the merits of the case. However, it was mentioned that the notices to the erring officers have been issued, therefore, in the presence of Mr. Pradeep Walter, Shri V.D. Sharma as well as Shri Prakhar Dhengula for the State, Mr. Sunil Pandey, Superintendent of Police, District Shivpuri was directed to go through the case diary. Shri Prakhar Dhengula was also requested to verify that whether the entire case diary was properly numbered or not. After going through the case diary, it was submitted by Shri Prakhar Dhengula that after page No.211 the next page is numbered as 222 instead of 212. It is further submitted by Shri Prakhar Dhengula that it is not clear that whether these 10 pages were earlier taken out by the Investigating Officer from the case diary or the incorrect numbering was done by mistake. However, in order to avoid further manipulation, he has corrected the numbering of the case diary and page No.222 is renumbered as 212 and so on and the case diary contains total 420 pages. Since the diary is required for investigation of the matter, therefore, it was directed that the photocopy of the entire case diary may be prepared in the presence of Shri V.D. Sharma and Shri Prakhar Dhengula and each and every pages should be attested by the Superintendent of Police, District Shivpuri and Shri Pradeep Walter, SHO, P.S. Karera, District Shivpuri so that the photocopy of the case diary may be kept in a sealed cover in this proceeding and the original case diary may be returned.

Mr. Sunil Pandey after going through the case diary submitted that on 24.12.2013 a Khatma report was prepared by Naval Singh Yadav, S.I. who was initially investigating the matter and which has been signed by Mr.P.S. Tomar, Town Inspector and in the report, it was mentioned that a FIR has been lodged against Rajveer Singh Gurjar and constable Raghvendra Shukla for offence under Section 307, 34 of IPC against which Rajveer Singh Gurjar and Raghvendra Shukla had filed a petition under Section 482 of Cr.P.C. before the High Court which have been registered as M.Cr.C.No.8358/2011 and M.Cr.C.No.8802/2011 and this Court by order passed in M.Cr.C.No.8802/2011 has quashed the FIR against the accused Rajveer Singh Gurjar, accordingly the investigation is closed.

So far as the co-accused Raghvendra Shukla is concerned, the High Court has

passed an interim order directing not to take any action in the matter, therefore, the investigation against Raghvendra Shukla is kept pending under Section 173(8) of Cr.P.C. The closure report prepared by Naval Singh Yadav is reproduced as under:-

^^izfr Jheku A C J M egksn; U;k;ky; djSjk egksn; Isok esa fuosnu gS fd fnukad 2-7-11 dks Qfj;knh gkfde flag S/O dY;k.k flag jkor mez 36 lky fu-

xzke ?kw?klh ftyk nfr;k n~okjk fd;s x;s vkosnu i= ij ls rRdkfyd uxj fujh{kd Jh tuosn flag Fkkuk djSjk n~okjk ASI jktohj flag xqtZj pkSdh lqukj ,oa vkj-

jk?kosUnz 'kqDyk 14 oh-,u- Xokds f[kykQ /kkjk 307]34 IPC dk izdj.k iathc) dj foospuk esa fy;k x;kA fo esa ik;k dh izdj.k dk Qfj;knh nL;w ijecky flag

dk InL; Fkk ftls iqfyl bUDokj esa iqfyl n~okjk vkRej{kkFkZ esa xksyh pykbZ Fkh tks gkfde flag ds iSj esa yxh FkhA izdj.k ds vkjksih ASI jktohj flag

xqtZj ,oa vkj- jk?kosUnz 'kqDyk SAF n~okjk vius Å...ij /kkjk 307]34 IPC ds rgr yxk;s x;s vkjksi ds f[kykQ ekuuh; mPp U;k;ky; [k.MihB Xokfy;j esa

/kkjk 482 CRPC ds rgr dze'k% 8358@11 ,oa 8802@11 nk;j fd;s gSA ekuuh; mPp U;k;k- }kjk MCRC uEcj 8802 vkjksih jktohj flag xqtZj ASI rRdkyhd

pkSdh lqukj gky Fkkuk eqaxkoyh ftyk v'kksd uxj ds f[kykQ mijksDr /kkjk ds rgr drk dh xbZ AR vikLr dh xbZA rFkk vkjksih jk?kosUnz 'kqDyk ds

f[kykQ ekuuh; mPp U;k;ky; us vfxze lquokbZ rd dksbZ dk;Zokgh u djus gsrq ys[k fd;k gSA vr% vkjksih jktohj flag xqtZj ds f[kykQ ekeys esa F.R.

Ukacj 46@13 drk dh xbZA rFkk vkjksih jk?kosUnz 'kqDyk ds fo:) /kkjk 173Å¼8Å½CRPC ds rgr foospuk tkjh j[kh tkrh gSA izaf""kr djus dk fnukad ---

---le;-----

gLrk{kj Fkkuk izHkkjh gLrk{kj vuqla/kkudrkZ

uke ih-,l-rksey uke uoy flag ;kno

in uxj fujh{kd in mi fujh{kd

Fkkuk djSjk uEcjÅ¼;fn gSAÅ½-----

fnukad 24-12-13 le;-----\â??

However, this final report was never filed before the Court of competent jurisdiction and it remained in the case diary itself.

After going through the case diary it was further submitted by Mr. Sunil Pandey, Superintendent of Police, District Shivpuri that the next diary

proceeding was written on 2.2.2017 by Bhagwan Lal which reads as under:e/;izns'k 'kklu Å¼iqfyl foHkxÅ½

Â l= dzekad&8 cqd dzekad &28231

Â CASE DIARY@vuqla/kku nSuafnuh

Â Fkkuk& djSjk vi-dz-332@11

/kkjk&307]147]148]149]IPC, 25@27 A. Act

2017

vuqla/kku dk fooj.k

foospd %& mi fujh{kd Hxxokuyky Fkkuk djSjk izdj.k lnj dh dsl Mk;jh ipkZ btjkt ik'oZ esa vafdr LFkku] fnukad esa ys[k djuk izkjaHk fd;k x;kA izdj.k

lnj dh dsl Mk;jh vkt fnuakd 2-2-2017 dks vfxze foospuk gsrq eq> mifujh{kd Hxxoku yky dks izkIr gqbZ ftldk v/;;u dj ---- dk;Zokgh dh tkosxhA foospuk

tkjh gSA izdj.k lnj dh dsl Mk;jh ipkZ bejkt ik'oZ es vafdr LFkku fnukad esa ys[k djuk LFkfxr fd;k tkrk gSAâ??

It was fairly conceded that thereafter this case diary was never opened and no proceedings were ever written by the Investigating Officer.

After going through the police case diary, it was also submitted by Mr. Sunil Pandey, Superintendent of Police, District Shivpuri, that by letter dated

13.6.2011 the Inspector General of Police, Gwalior Range, Gwalior had directed that the matter requires investigation and, therefore, the criminal case

should be registered against the erring officers and legal action should be taken against them. The letter dated 13.6.2011 written by the Inspector

General of Police, Gwalior Region, Gwalior to Superintendent of Police, District Shivpuri is reproduced as under:âd?k;kZy; iqfyl egkfujh{kd] Xokfy;j

>ksu] Xokfy;jÂ¼e-iz-Â½

dzekad@iqefu@f'ki@,y&955&Mh@10 fn013-06-2011

izfr]

iqfyl v/kh{kd] ftyk&f'koijhA

fo""k;%& vkosnd gkfdeflag jkor fu0xkze ?wk?klh ftyk nfr;k }kjk fn;s x;s 'kiFk i= dh rLnhd ckcrA

lUnHkZ%& vkidk dza0@iqv@f'ko@LVsuks@87@11 fnukad 13-5-2011A

d`I;k mijksDr fo""k;kUrxZr lanfHkZr i= dk voyksdu djus dk d""V djsa] ftlesa mYysf[kr fd;k x;k gS fd vkosnd gkfdeflag jkor fuoklh ?kw?klh ftyk nfr;k

dks dk;kZy; esa le{k esa cqykdy mlds lkFk ?kFvR ?kVuk ds ckjs foLr`r iwNrK dh xbZ ,oa rnksijkar mlds dFku fyfic) fd;s x;s] mlds }kjk fn;s x;s 'kiFk

i= dks Hkh mls igSA vkosnd gkfdeflag jkor }kjk izLrqr 'kiFk i= fnukad 7-4-11 ,oa vkosnd }kjk fnukad 13-5-2011 dks fns;s x;s dFku dh ewy izfrfyi o f'kdk;r lacaf/kr ewy uLrh i`""B dzekad 1 yxk;r 265 rd layXu dj vkidh vksj Hksth tk jgh gSA d`i;k izdj.k esa of.kZr ?kVuk dze ds laca/k esa lacaf/kr ds fo:) mfpr

/kkjvkksa esa vkijkf/kd izdj.k iathc) djok dj foospuk mijkar izdj.k esa nks""kh iqfyl deZpkfj;ksa ds fo:) ;Fkksfpr oS/kkfud dk;Zokgh rRdky dj;k tkuk

lqfuf'pr djsaA layXu%& mijksDrkuqlkj ,d yxk;r 265 rd

Â Â¼vjoan dqekjÂ½ iqfyl egfujh{kd

Â Xokfy;j >ksu] Xokfy;jâ??

It is surprising that by letter dated 20-6-2011, the Superintendent of Police, District Shivpuri, sought legal opinion from the DPO, District Shivpuri after

receiving the letter dated 13-6-2011 from Inspector General of Police, Gwalior Range, Gwalior. The letter dated 20.6.2011 addressed by

Superintendent of Police, District Shivpuri to the DPO, District Shivpuri is reproduced as under: ^^dk;kZy; iqfyl v/kh{kd ftyk f'koijh e0iz0

dzekad&iqv@f'ko@LVsuks@355@11 fn020 twu&2011

izfr]

ftyk vfHk;kstu vf/kdkjh ftyk f'koijh

fo""k;%& vkosnd gkfde flag ;kno fuoklh xkze ?kw?klh ftyk nfr;k }kjk fn;s x;s 'kiFk i= dh rLnhd ckcr~A

Â lanHkZ%& iqefu Xokfy;j dk i= dzekad

@iqefu@f'ko@,y&955&Mh@10 fnukad 13-06-2011A

fo""k;kUrxZr lanfHkZr i= ,ao lanfHkZr i= ds layXu izkIr ,d yxk;r 265 izi= ewyr% layXu gSA lanfHkZr i= ds vafre iSjk esa fn;s x;s funsZ'k d`I;k izdj.k

esa of.kZr ?kVuk dze ds laca/k esa lacaf/kr ds fo:) mfpr /kkjvkksa esa vkijkf/kd izdj.k iathc) djokdj foospuk mijkar izdj.k esa nks""kh iqfyl deZpkfj;ksa

ds fo:) ;Fkksfpr oS/kkfud dk;Zokgh rRdky dj;k tkuk lqfuf'pr djsaA

d`I;k uLrh dk v/;;u ,oa leh{kk dj rF;kRed fjiksVZ ;Fkk'kh?kz Hksts rkfd iqfyl egkfujh{kd Xokfy;j tksu Xokfy;j ds lanfHkZr i= ds vuqdze esa lacf/kr ds

fo:) oS/kkfud dk;Zokgh djkbZ tk ldsA layXu%& mDrkuqlkj ewy i= ,oa uLrh

iqfyl v/kh{kdÂ f'koijhâ??

The DPO, District Shivpuri by his reply dated 1.7.2011 clearly opined that in view of the statement made by the witnesses prima facie case is made

Officer. The order dated 6.11.2011 passed by Inspector General of Police, Gwalior Region, Gwalior reads as under:-

^^dk;kZy; iqfyl egkfujh{kd] Xokfy;j >ksu]

Xokfy;jÂ¼e0iz0Â½

dzekad%iqefu@Xok0@--@,y&955&F@11iq-eq-@24@ds-Mk-@05A@11
fn06@11@11

izfr

iqfyl v/kh{kd ftyk f'koiqjh Â¼e0iz0Â½

fo'''k;%& Fkkuk djSjk ds vi0dz0 332@11 /kkjk 307] 34 rkfg esa foospd fu;qDr
djus ds laca/k esaA

lanHkZ%&vkidk i= dzekad iqv@f'ko@jhMj@lhMh@201@11 fnukad 30-7-11

&&&000&&&

mijksDr fo'''k;karxZr lanfHkZr i= dk voyksdu djus dk d'''V djsa] ftlds ek;/e ls
vi0dz0 332@11 /kkjk 307]34 rkfg dh ds'k Mk;jh foospd fu;qDr djus ds

laca/k esa bl dk;kZy; esa fHktokbZ xbZ gSA

mDr dsl Mk;jh ds voyksdu mijUr Jh ;'kiky flag jktiwr] vfr0 iqfyl v/kh{kd] f'koiqjh
dks foospd fu;qDr fd;k tkrk gSA lanfHkZr i= ds ek;/e ls izkIr dsl

Mk;jh ewyr% okfil dh tkrh gSA dsl Mk;jh Jh ;'kiky flag jktiwr] vfr0 iqfyl v/kh{kd
f'koiqjh dks lqiqnZ dj funsZf'kr djsa fd og izdj.k dh foospuk iw.kZ dj

izdj.k dk 'kh?kz fujkdj.k djsA

layXu%&dsl Mk;jh Â vi0 dz0 332@11 307@34 rkfg ds leLr tkap izi= 1 yxk;r 265

iqfylegkfun'skdâ??

Letter dated 9.11.2011, issued by Superintendent of Police, Shivpuri is reproduced as under:-

^^dk;kZy; iqfyl v/kh{kd ftyk f'koiqjh e0iz0 dzekad&iqv@f'ko@jhMj@
1315@2011 fnukad 9-11-11

izfr

vfrfjDr iqfyl v/kh{kd ftyk f'koiqjh

fo'''k;%&Fkkuk djSjk ds vi- dz- 332@11 /kkjk 307]34 Hkknfo dh foospuk ds laca/
k esaA lUnHkZ%& iqfyl egkfujh{kd Xokfy;j >ksu] Xokfy;j ds i=

dzekad &iqefu@Xok@iqeq@,y&955&,Q@11 ,oa iqeq@24@ds-Mk-@05&,@11
fnukad 6-11-11

&&&&000&&&

mijksDr fo"";kUrxZr ,oa lUnfHkZr i= ds rkjrE; esa ys[k gS fd Fkkuk djSjk ds vi0
dzekad&332@11 /kkjk 307]34 Hkknfo esa iqfyl egkfujh{kd egksn;

Xokfy;j >ksu] Xokfy;j }kjk vius lUnfHkZr i= ds ek/;e ls vkidks foospuk vf/kdkjh
fu;qDr fd;k x;k gSA vr% vki mDr izdj.k dh ds'k Mk;jh izkIr dj

izdj.k esa vfxze foospuk djsaA layXu%& lUnfHkZr i=

iqfyl v/kh{kdÂ f'koijh

izfrfyfi%&

1- iqfyl egkfujh{kd Xokfy;j >ksu] Xokfy;j dh vksj lknj lwpukFkZA

2- vuqfoHkkxh; vf/kdjh Â¼iqfylÂ½ djSjk dh vksj lwpukFkZA

3- Fkkuk izHkkjh djSjk dh vksj lwpukFkZA

iqfyl v/kh{kd f'koijh^^

However, it appears that the case diary of the case was never handed over to the
Additional Superintendent of Police, District Shivpuri. One letter on

which the date is not mentioned but it was written in the month of November,
2011 is on record by which the Additional S.P. had requested the

Superintendent of Police, District Shivpuri to hand over the case dairy as he has
not received the case dairy so far. The letter written by the Additional

S.P., District Shivpuri to the Superintendent of Police, District Shivpuri in the
month of November, 2011 is reproduced as under:-

^^dk;kZy; iqfyl v/kh{kd ftyk f'koijh e0iz0

dzekad&vfr0iq0v0@f'ko0 fn0 @11@2011

izfr]

iqfyl v/kh{kd egksn;]

f'koijhA

Â fo""k;%& Fkkuk djsjk ds vi0dza0 &332@11 /kkjk

307]34 rkfg dh foospuk ds laca/k esaA

lanHkZ%& vkidki= dzekad& iq0v0@f'ko0@ jhMj&1315@11 fnukad 9-11-11

mijksDr fo""k;kUxZr lanfHkZr i= ds dze esa fuosnu gS fd lanfHkZr i= }kjk Fkkuk
djsjk ds fo""k;kUrxZr izdj.k dh foospuk gsrq eq>s foospuk vf/kdkjh

fu;qDr fd;k x;k gSA

lanfHkZr i= ds layXu iqfyl egkfujh{kd egksn; Xokfy;j >ksu dk i= Hkh lyXu dj
Hkstk x;k gS] mDr i= ds layXu izi=ksa esa ds'k Mk;jh ,d yxk;r 265 i`""B

layXu gksuk ys[k gSA ijUrQ izdj.k dh ds'k Mk;jh izkIr ugha gq;h gSA
vr% fuosnu gS fd izdj.k dh ds'k Mk;jh miyC/k djK;s tkus dk d""V djs] rkfd vfxze
vuqla/kku izkjEHk fd;k tk ldsA
vfr0 iqfyl vf/k{kd
f'koiqjhâ??

One more letter written by Additional S.P., District Shivpuri to the Superintendent of Police, District Shivpuri on which the date is not mentioned but it

was also written in the month of November 2011 is in the case diary in which the Additional S.P., District Shivpuri had once again requested the

Superintendent of Police, District Shivpuri to provide him the case diary. That letter is reproduced as under:-

^^dk;kZy; iqfyl v/kh{kd ftyk f'koiqjh e0iz0 dzeKad&vfr0iq0v0@f'ko0 fnuakd
@11@2011

izfr]

iqfyl v/kh{kd egksn;]

f'koiqjhA

fo""k;%&Fkkuk djsjk ds vi0dza0 &332@11 /kkjk

307]34 rkfg dh foospuk ds laca/k esaA

lanHkZ%& vkidki= dzeKad&iq0v0@f'ko0@ jhMj&1315@11 fnukad 9-11-11

mijksDr fo'k;kUxZr lanfHkZr i= ds dze esa fuosnu gS fd lanfHkZr i= }kjk Fkkuk
djsjk ds fo""k;kUrxZr izdj.k dh foospuk gsrq eq>s foospuk vf/kdkjh

fu;qDr fd;k x;k gSA lanfHkZr i= ds layXu iqfyl egkfujh{kd egksn; Xokfy;j >ksu
dk i= Hkh lyXu dj Hkstx;k gS] mDr i= ds layXu izi=ksa esa ds'k

Mk;jh ,d yxk;r 265 i`""B layXu gksuk ys[k gSA ijUrQ izdj.k dh ds'k Mk;jh izkIr
ughA gq;h gSA vr% fuosnu gS fd izdj.k dh ds'k Mk;jh miyC/k djK;s tkus

dk d""V djs] rkfd vfxze vuqla/kku izkjEHk fd;k tk ldsA

vfr0 iqfyl vf/k{kd

f'koiqjhâ??

Thus, it is clear that although the Inspector General of Police, Gwalior Region, Gwalior had directed that the investigation should be done by an officer

not below the rank of Additional S.P. and Shri Yashpal Singh Rajput was appointed as Investigating Officer but inspite of repeated request by Yashpal

Singh Rajput, the Additional S.P. District Shivpuri, the case diary was never made

available to him by the Superintendent of Police, District Shivpuri

and the case diary continued with the Investigating Officer. Thus, it is clear that it is a glaring example of disobedience of the order issued by the

superior officers who are competent to issue instructions to the subordinate officers under the Cr.P.C also.

Thus, it is clear that right from the very beginning even the Superintendent of Police, District Shivpuri was not ready to comply the direction given by

the Inspector General of Police, Gwalior Range, Gwalior and after receiving the letter dated 13.6.2011 he sought further opinion from the DPO,

District Shivpuri. Unfortunately, DPO, District Shivpuri by letter dated 1.7.2017 also opined that prima facie, offence is made out against Rajvir Singh

Gurjar and Raghvendra Shukla, therefore, the criminal case should be registered against them. Thus, it appears that with great difficulty, the police

authorities agreed to register the criminal case against erring officers inspite of the intervention by the superior authorities.

After the FIR was lodged, Rajvir Singh Gurjar as well as Raghvendra Shukla filed a petition under Section 482 of Cr.P.C. before this Court. The

petition filed by Rajvir Singh Gurjar was registered as M.Cr.C.No.8802/2011 whereas the petition filed by co-accused Raghvendra Shukla was

registered as M.Cr.C.No.8358/2011.

In M.Cr.C.No.8802/ 2011, an application was filed by the applicant Rajvir Singh Gurjar under Section 320 of Cr.P.C. seeking quashment of the FIR

on the basis of compromise. It appears that this Court by order dated 27.2.2013 passed in M.Cr.C.No.8802/2011 quashed the criminal proceedings

against the applicant Rajvir Singh Gurjar on the basis of compromise. The said order of the High Court was challenged by the State itself by filing a

SLP (Criminal) No.5622/2014 and the said SLP was finally disposed of by the Supreme Court by order dated 25.4.2016 passed in Criminal Appeal

No.446/2016 (arising out of SLP (Cri.) No.5622/2014).

The Supreme Court while considering the allegations and the counter allegations against the applicant and the co-accused Raghvendra Shukla, set

aside the order dated 27.2.2013 passed by this Court in M.Cr.C.No.8802/2011 and observed as under:-

â??Considering the allegations and counter-allegations, it was not such a case which could have been compromised by the complainant and the

accused and FIR could not have been quashed in such a serious case as that would be against public policy and administration of criminal justice

system. The FIR discloses commission of cognizable offence under Section 307/34 IPC. Considering the nature of allegation, it is necessary to

investigate further in the facts and circumstances of the instant case. The High Court has erred in quashing the FIR relying on the decision of this

Court in *Shiji @ Pappu & Ors. vs. Radhika & Anr*, 2012 Cr.L.R. (SC 69.). This Court in *State of Rajasthan vs. Shambhu Kewat & Anr.*, 2013 (14)

SCALE 235 has held that the crime against a society cannot be wiped off due to the compromise. This Court has laid down thus:

“We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other

hand it was a crime against the society at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation

of conduct and activities within the society. Why Section 307 IPC is held to be noncompoundable, because the Code has identified which conduct

should be brought within the ambit of noncompoundable offences.

Such provisions are not meant, just to protect the individual, but the society as a whole. High Court was not right in thinking that it was only an injury to

the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off.

Criminal Justice system has a larger objective to achieve, that is safety and protection of the people at large and it would be a lesson not only to the

offender, out to the individuals at large so that such crimes would not be committed by any one and money would not be a substitute for the crime

committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice

system and will encourage further criminal acts, which will endanger the peaceful coexistence and welfare of the society at large.”

The facts are to be gone into during the investigation. The High Court has erred in quashing the FIR in the facts and circumstances of this case.

Hence, we set aside the order passed by the High Court, appeal is allowed and let an investigation be made in accordance with law and taken to its

logical conclusion at the earliest.”

The order of the Supreme Court was received by SHO, P.S. Karera, District

Shivpuri on 06.06.2018 and the order of the Supreme Court along with the envelope of the Supreme Court of India is in the case diary. Thus, it is clear that the SHO Police Station Karera, District Shivpuri came to know about the order of the Supreme Court on 06.06.2016 but even then no action was taken. Again another copy of the order of the Supreme Court was sent by Special Judge (MPDVPK Act), Shivpuri which was received by S.H.O., Police Station Karera, Distt. Shivpuri, on 22.06.2016 and the said copy is also in the case diary. Thus, it is clear that on 06.06.2016 and 22.06.2016, the SHO, P.S. Karera, District Shivpuri had received the copy of the order of the Supreme Court and was aware of the fact that the Supreme Court has set aside the order passed by the High Court giving the observation that the matter requires investigation and proceedings cannot be quashed on the basis of compromise. However, surprisingly nothing was done by the Investigating Officer and even they did not care to write the diary proceedings mentioning the receipt of the order of the Supreme Court.

As already pointed out that the second last diary proceedings is dated 24.12.2013 which is a combined report (final report) by which the investigation was closed against the applicant Rajvir Singh and the investigation was kept pending against the coaccused Raghvendra Shukla under Section 173(8) of Cr.P.C. Thereafter, the last proceeding is dated 02.02.2017 written by Bhagwanlal mentioning therein that he has gone through the entire case diary and the further proceedings shall be taken and the investigation shall be done. However, thereafter, the case diary was never opened.

The M.Cr.C.No.8358/2011 which was filed by Raghvendra Shukla for quashment of the FIR was taken up for hearing by this Court. As the reply of the State was not filed and the diary was not available with the Public Prosecutor, therefore, by order dated 22.12.2016 it was made clear that the State should obtain the case diary and in case if the case diary is not made available on the next date of hearing, then the case shall be decided on the basis of the documents available on record. However, on subsequent dates, the case diary was not made available and under that circumstance, this Court had extended the interim order passed by this Court earlier on 25.11.2011. The order dated 25.11.2011 passed in M.Cr.C. No. 8358/2011 reads as under:-

Â â??Issue notice of this petition to the respondents along with I.A.No.12368/11,

which is an application for staying the arrest of the petitioner, on payment of p.f. within seven days. Notices be made returnable within four weeks. It is apparent from the Annexure P/3 that respondent Hakim Singh, when was ordered to be stopped by the petitioner, who is a police constable, he tried to run away. At that time he was stopped by making fire by the petitioner. Considering the aforesaid fact, the respondents No.1, 2 and 3 are directed not to take any coercive action against the petitioner till next date of hearing.â??

This Court had directed that â??no coercive actionâ? shall be taken against the co-accused Raghvendra Shukla, therefore, legal opinion was sought from the office of Add. Advocate General, Gwalior and the office of Additional Advocate General, Gwalior gave a legal opinion on 12.7.2014, that the High Court has merely directed for not taking any coercive action against the petitioner before it and the investigation has not been stayed. The legal opinion given by the office of Additional Advocate General, Gwalior is reproduced as under:â??To,

The Station House Officer

Police Station Karera District Shivpuri.

Sub: Legal Opinion In the matter of :MCRC No.332/2011 Vasudev Sahay vs. State.

REF: Your letter No.3397 dated 11.7.2012.

By the above letter, under reference, You have sought legal advice in regard to the order dated 25.11.2011 passed in MCRC No.8358/11 Rajbeer

Singh vs. State and order dated 9.12.2011 in MCRC No.8802/2011.

Having gone through both the above orders passed by the Hon'ble High Court, and specifically considering the facts that the respondent/authorities

have been directed not to take any coercive action against the petitioner of both the above cases, till the next date of hearing, and also considering the

legal advice sought for by You by the above letter, under reference, I am of the following opinion:-

i) The Hon'ble High Court has merely directed for not taking any coercive action against the petitioners, before it and the investigation has not been stayed.

ii) Investigation of crime No.332/11 of PS Karera shall continue but no coercive

action against the above two accused persons may be taken. Having discussed, and give my opinion as above, it is again reiterated that investigation officer shall carry on, investigation in regard to the criminal case No.332/2011 which is registered against the accused persons u/s 307/34 IPC in PS Karera.

^ Legal opinion is accordingly tendered.

^ M.P.S. Raghuvanshi^ Addl. Advocate General Note:

1. This legal opinion shall not be used in Court of Law, as same is confidential document u/s 129 of the Indian Evidence Act. It be also taken note of

that legal opinion is only a guiding factor but shall not be reproduced or made reference thereof, in the action taken and order passed by the competent

authority. Copy of the legal advice, shall not be made available to any person for any purposes, even under the Right to Information Act.^^

^ Thus, the SHO, Police Station Karera, District Shivpuri was specifically informed that the interim order of not taking any coercive steps against the

co-accused Raghvendra Shukla does not mean that the investigation has been stayed but the investigation may continue, however, coercive action

shall not be taken against the petitioner, which clearly means that the petitioner Raghvendra Shukla may not be arrested. Thus, it was clear in the mind

of police authorities and they were informed by the office of the Additional Advocate General that there is no stay on the investigation. When the

M.Cr.C. No. 8358/2011 was taken up for hearing and the State was directed to produce the case diary, a reply was filed by the Investigating Officer

and in that reply, paragraphs 6 and 7 are important. Reply filed by the Investigating Officer is reproduced as under:-

^^ekuuh; e/;izns'k mPp U;k;ky; [k.MihB

Xokfy;j fofo/k vkijkf/kd izdj.k dza-%8358@2011 vkosnd&&&& jk?kosUnz 'kqDyk fo:)

^ vukosndx.k&&&& e-iz- 'kklu ,oa vU;

@@LVsVI fjiksVZ@;Fkk funsZ'k@@

izfr;kfpdkdrkZx.k dza- 01 yxk;r 04 dh vksj ls LVsVI fjiksVZ fuEukuqlkj izLrqr gS%&

1- ;g fd] vkonsd }kjk orZeku vkosnu varxZr /kkjk 482 na-iz-la- ds rgr Fkkuk djSjk ftyk f'koiqjh esa iathc) vijk/k dza- 332@11 dks fujLr fd;s tkus ds

laca/k esa izLrqr dh xbZ gSA

2- ;g fd] izdj.k esa iwoZ esa fnukad 03-02-2012 dks tokc izLrqfr dh dk;Zokgh dh xbZ gSA izdj.k esa ekuuh; mPp U;k;ky; ds vkns'k ds ikyu esa LVsVI

izLrqr dh tk jgh gS lkFk gh dsl Mk;jh egkf/koDrk dk;kZy; dh izdj.k if=dk ds lkFk layXu djkbZ tk jgh gSA

3- ;g fd] fnukad 03-04-06 dks jktohj flag xqtZj ,oa vkj- 36 jk?kosUnz 'kqDyk dks lwpuk feyh Fkh fd MdSr mekjko cqUnsyk ,oa gsejkt uV dks xzke

ijsMw ds ukjk;k flag jkor] lqEesjflag jkor ds Msjk ,oa xUus ds [ksrksa rjQ ns[ks x;s gSA lwpuk dh rLnhd gsrq crk;s x;s LFkku ij 'kke 6-30 cts igqaps

iqfyl dh vkgV lqudj nks O;fDr xUus ds [ksr rjQ o ,d O;fDr lqEesj flag ds [ksr rjQ HkkxkA mlh le; MdSrksa dh vksj ls Qk;j gqvk rks vkj{kd jk?kosUnz

'kqDyk us vkEr j{kk esa cnek'kksa dh vksj ,d Qk;j fd;k] Mjdd rhuksa O;fDr :d x;s] muls iwNrKN dh xbZ] ?kk;y O;fDr us viuk uke gkfde flag jkor]

Â nwljs us viuk uke ijekey flag jkor rFkk rhls us viuk uke ftrsUnz flag jkor crk;k tkdj vkil esa fjLrsnkj gksuk crk;kA ckn esa jktohj flag dh fjiksVZ ij

mejko cqUnsyk ,oa gsejkt uV ds fo:) vijk/k dza- 120@06 /kkjk 307]34 Hkk-na-fo- dk iathc) fd;k tkdj foospuk esa fy;k x;k A izdj.k foospuk esa fl) ik;s

tkus ls vkjksih MdSr mejko cqUnsyk ,oa gsejkt uV ds Qjkj gksus ls muds fo:) / kkjk 299 na-iz-la- ds rgr U;k;ky; ds le{k izLrqr fd;k x;kA

4- ;g fd] fnukad 03-04-06 dks gkfde flag jkor us fyf[kr f'kdk;r dh Fkh dh jktohjflag xqtZj o ,d vkj{kd us canwd dh xksyh ekj nh fiMyh esa pksV

igqapkbZ gS] ftldh tkap ofj""B vf/kdkfj;ksa us dh Fkh ftl ij Fkkuk djSjk ij vijk/k dza- 332@11 vkosnd@vfHk;qDr ds fo:) iathc) fd;k tkdj foospuk esa fy;k

x;kA

5- ;g fd] mDr vijk/k dh foospuk ds nkSjku vkosnd@vfHk;qDr jk?kosUnz 'kqDyk / kkjk 173Â¼8Â½ na-iz-la- esa foospuk tkjh j[krs gq, orZeku izdj.k

foospuk esa yafcr gSA

6- ;g fd izdj.k esa vkosnd@vfHk;qDr ds fo:) foospuk tkjh gS izdj.k esa ekuuh; mPp U;k;ky; }kjk vkns'k fnukad 25-11-11 ls Considering the aforesaid

fact, the respondents No.1,2 and 3 are directed not to take any coercive action against the petitioner til next date of hearing.

7- ;g fd ekuuh; mPp

U;k;ky; }kjk ikfjr vkns'k fnukad 25-11-11 ds ikyu esa fxjÂ¶rkjh ugha gksus ls izdj.k esa pkyku izLrqfr dh dk;Zokgh ugha gks ik jgh gSA vr% ekuuh;

U;k;ky; ls izkFkZuk gS fd vkns'k ds ikyu esa LVsVI dks fjdkMZ ij fy;k

tkdj ;kfpdkdrkZ }kjk izLrqr mijksDr ,elhvkJlh@;kfpdk fujLr fd, tkus

dh d`ik djsaA

fnukad&6-2-17

IkzkFkhZ]

izfr;kfpdkdrkZx.k] }kjk vuqla/kkudrkZ vf/kdkjh Fkkuk djSjk ftyk f'koiqjh^^

It is not out of place to mention here, that the original case diaries are never produced by the police authorities, and only the photo copies of some part

of the case diaries are provided to the office of Additional Advocate General, Gwalior and thus, incomplete photo copies of the case diaries are being

produced before the Court. However, from the reply which was given by the Investigating Officer, it is clear that it was specifically mentioned that in

view of the interim order passed by this Court on 25.11.2011 the accused Raghvendra Shukla could not be arrested and the charge-sheet could not be

filed. Thus, the police authorities were very much clear that the interim direction of this Court â??not to take coercive actionâ? is merely confined to

arrest only and there was no stay on the investigation. However, surprisingly, the Investigating Officer / Officer In-Charge did not bring the fact of

order of the Supreme Court to the knowledge of this Court and there is no reference to the effect that the Supreme Court has already quashed the

order passed by this Court in the case of Rajveer Singh Gurjar and the Supreme Court has given a finding that considering the allegations and the

counter allegations, the matter requires investigation. When the petition filed by Raghvendra Shukla was argued before this Court it was vehemently

argued that the High Court has already quashed the proceedings against the co-accused Rajveer Singh Gurjar by order dated 27.02.2013 passed in

M.Cr.C. No. 8802/2011, therefore, the applicant Raghvendra Shukla should also be extended the same benefit. Although the order passed by the

Supreme Court was not within the knowledge of this Court but still considering the allegations and the counter allegations against the accused persons,

this Court rejected the submissions made by the counsel for the co-accused Raghvendra Shukla and specifically held that merely because the

proceedings against the co-accused Rajveer Singh Gurjar have been quashed on the basis of compromise, it would not ipso facto mean that the

coaccused Raghvendra Shukla is also entitled for the same relief. After considering the allegations made against the accused persons in detail, this

Court passed the following order:-

Undisputedly, according to the FIR which was lodged in Crime No.20/2006, it is clear that the gunshot was fired by the present applicant. When

the police did not file any charge sheet against Hakim Singh Rawat, then only one conclusion can be drawn that one innocent person was shot by the

applicant, therefore, under these circumstances, it cannot be said that there is no prima facie material available against the applicant for his prosecution

under Section 307 of IPC.

Accordingly, this petition fails and is hereby dismissed.

As per the office note, the copy of this order was sent to the SHO, Police Station Karera by registered letter dated 17.04.2017 which was

dispatched on 25.04.2017 and the dispatch numbers are 13784 and 13786. It has already been observed by this Court in its order dated 16.4.2018 that

once adequately stamped and properly addressed letter is sent by registered post, then the presumption can be drawn that the same has been received

by the addressee. Although the presumption was drawn under Section 27 of the General Clauses Act but the State has not tried to rebut the same in

its reply dated 6.2.2017. Although the order passed by this Court in M.Cr.C. No. 8358/2011 is not in the case diary but it is clear that the said order

was already received by SHO, Police Station, Karera District Shivpuri, and most probably, with an intention to give undue advantage to the accused

persons, the same was not kept deliberately in the case diary.

On 16.04.2018, it was also clarified by Mr. Pradeep Walter, SHO, P.S. Karera, District Shivpuri that in the Jarayam register of the Police Station

Karera, District Shivpuri, this case was not shown pending from year 2014 onwards. It was submitted that the Jarayam register of the year 2013

reflects that the investigation is pending, however, from 2014 onwards, it was never shown to be pending. Accordingly, this Court by order dated

03.05.2018 had directed that the Jarayam register from the year 2013 should also be produced before the Court. Accordingly, the Jarayam Register

from the year 2013 onwards have been produced before the Court. Mr. Sunil Pandey, Superintendent of Police, District Shivpuri after going through

the Jarayam Register of the year 2013 onwards fairly conceded that in the Jarayam register of the year 2013 the investigation of this case was shown

pending but thereafter from the year 2014 onwards this case was not shown

pending in the Jarayam Register. Earlier this Court was of the view that this manipulation has been done by the police authorities with a view to keep this matter away from the eyes of the superior officers but Mr. Sunil Pandey, Superintendent of Police, District Shivpuri has submitted that in the crime control meeting, summoned by the Superintendent of Police, the SDO(P) and Incharge of the Police Station are required to give the details of the investigations which are pending and he has personally checked the record of his office and has found that on every occasion when crime meeting was taken by the Superintendent of Police, it was informed by SDO(P) that this investigation is pending and accordingly every time the Superintendent of Police had issued instructions to the SDO(P) to conclude the investigation as early as possible. Thus, it is clear that the fact of pendency of investigation was every time brought to the knowledge of the Superintendent of Police by the concerning SDO(P) in every crime meeting and every time, it was directed by the Superintendent of Police to conclude the investigation as early as possible. Earlier this Court was of the view that the Investigating Officer and the SHO of Police Station Karera, District Shivpuri were simply sitting over the order of the Supreme Court as well as the order of the High Court but a new thing has come in the light, that SHO, P.S. Karera, District Shivpuri and the Investigating Officer were sitting over the directions of the Superintendent of Police, District Shivpuri as well as the directions of the SDO(P) that shows gross indiscipline within the police Department itself. Under the provisions of Cr.P.C. the superior officer is well within his right to issue any instructions to the subordinate officer(s) or to the investigating officer to investigate the matter in a particular manner. When the superior officer was continuously issuing directions to the Investigating Officer as well as to the SHO, Karera District Shivpuri to conclude the investigation and still the SHO, P.S. Karera, District Shivpuri and the Investigating Officer were quietly sitting over the investigation and even did not care to write any single proceedings, it reflects the disobedience and hostile attitude of the police officers, towards the Superintendent of Police of the District. This attitude of the police authorities towards their Superior Police Officers requires to be checked and controlled by the Director General of Police, Madhya Pradesh with immediate effect because this Court on number of occasions has already mentioned that the police

is guardian of the citizen of India and, therefore, they should act honestly to redress the grievances of the aggrieved persons but this case is yet

another example of autocratic and unbridled attitude of the police personnel. It appears that not only they do not have any respect for the Judiciary, but

they do not have any respect for their own superior officers who are their disciplinary authorities also. Indian Constitution also, provides for separation

of powers and Article 50 of the Constitution of India provides for separation of judiciary from executive. There are three pillars, i.e., Executive,

Judiciary and Legislature and all the three pillars have to act independently. The modern doctrine of separation of powers was propounded for the first

time way back in the year 1747 by Montesquieu in his book *Esprit des Lois* (The Spirit of the laws) and it is a recognized theory because it is well

known that *power corrupts, and the absolute power tends to corrupt absolutely*. In order to check this situation in the society, the separation of

powers was introduced but in the present case, it appears that the police authorities of Police Station Karera, District Shivpuri not only have no regard

for the Constitution of India, but they do not have any regard for the Supreme Court which is the highest Court of the country, as well as they do not

have any respect for the High Court of Madhya Pradesh which is the highest Court of the State but shockingly they even, do not have any respect for

Superior Police Officers, who are their disciplinary authority also. Initially the Inspector General of Police, Gwalior Range, Gwalior had directed that

the investigation should be done by an officer not below the rank of Additional Superintendent of Police but surprisingly the case diary of the case was

never handed to the Add. Superintendent of Police inspite of the repeated reminders which shows that even the District Police has no regard for their

own Inspector General of Police posted in the same Range.

Be that whatever it may be.

Another shocking aspect has surfaced in the present case. On 16.04.2018 Mr. Pradeep Walter had made a specific statement that as he has joined on

10.1.2018, and was not aware of the pendency of the investigation because the said case was never shown to be pending in the Jarayam Register and

the Jarayam Register is the only source of information. However, considering the conduct of the officers, this Court by order dated 16.4.2018 had

issued notices to all the concerning SHOs posted in Police Station Karera, District

Shivpuri at the relevant time as well as the notices were also issued

to the Investigating Officers who had handled this case. It was also mentioned by Mr. Pradeep Walter that at present Ms. Juli Tomar is investigating the matter.

Ms. Juli Tomar in reply to the show cause notice has filed a specific reply that the case diary was never handed over by Mr. Pradeep Walter to her

for investigation purposes. It is also mentioned by her in her reply, that on 20.1.2018 as per the diary movement register, the case diary of the case

was handed over to her by Mr. Pradeep Walter for keeping the case diary safely, however the case diary was withdrawn from her by Mr. Pradeep

Walter on 30.1.2018, as he himself has investigating the matter. Not only Mr. Pradeep Walter had made a statement before this Court on 16.4.2018,

that he did not know anything about the pendency of investigation but Mr. Pradeep Walter by filing his reply to the show cause notice has submitted

about his ignorance about the pendency of this investigation. The reply filed by Ms. Juli Tomar is reproduced as under:-

^^izfr

ekuuh; vfrfjDr jftLVkj egksn; mPp U;k;ky; [k.MihB Xokfy;j Â¼e0iz0Â½

fo""k;%& ,e0lh0vkj0lh0 dz0 5394@17 jktohj flag fo:) e0iz0 'kklu ,.M gkfde flag ds laca/k esa dkj.k crkvks lwpuk i= dk tokc izLrqr djus ckor~A

lanHkZ%& ekuuh; ds vkns'k dz0 1905@,e0lh0vkj0lh0@5394@17 fnukad 19-04-18 ,oa Jheku~ vuqfoHkkxh; vf/kdkjh iqfyl djSjk ftyk f'koijjh

Â¼e0iz0Â½ ds i= dz0 vviq@djSjk@gkbZ dksVZ@334@18 fnukad 27-

04-18 ds ikyu esaA

egksn; mijksDr fo""k;lkafr ,oa lanfHkZr i= ds ikyu esa fuosnu gS fd izkfFkZ;k m0fu0 twyh rksej fnukad 15-02-15 ls iqfyl foHkkx esa mi fujh{kd ds in

ij HkrhZ gksdj fnuakd 22-08-17 ls Fkkuk djSjk esa inLFk gksdj dk;Zjr gwW] izkfFkZ;k dks Fkkuk djSjk ds vi0dz0

332@11 /kkjk 307]34 rk0fg0 dh Mk;jh foospuk gsrq vknsf'kr ugh dh xbZ Fkh] u gh mDr izdj.k dh izkfFkZ;k }kjk foospuk dh xbZ gSA fnukad 20-01-18

Mk;jh ewoesUV jftLVj ds ek;/e ls mDr izdj.k dh dsl Mk;jh fujh0 Jh iznhi okYVj Fkkuk izHkkjh egksn; ds }kjk lwj{kkFkZ eq>s nh xbZ Fkh ftldh

foospuk og Lo;a dj jgs Fks rFkk fnukad 3001-18 dks Fkkuk izHkkjh egksn; }kjk mDr Mk;jh okil ys yh xbZ Fkh] ;fn eq>s mDr izdj.k dh foospuk nh tkrh

rks eSa fuf'pr :i ls Mk;jh izkIrh ,oa Mk;jh okil vkfn djus ds laca/k esa ipkZ drk dj izdj.k esa vfxze dk;Zokgh djrhA egksn; mDr izdj.k dh Mk;jh eq>s

foospuk gsrq ugh nh xbZ Fkh] u gh bldk mYys[k fdlh ipsZ vFkok fdlh vkns'k jftLVj vFkok jkstukepkvke esa gSA ;gh fuosnu gSA

Li""Vhdj.k lknj izLrqr gSA

izkFkhZ m0fu0 twyh rksej

Â Fkkuk djSjk ftyk f'koiqjh Â¼e0iz0Â½ izfrfyfi%&

1- Jheku ,l0Mh0vks0ih0 egksn; djSjk ftyk f'koiqjh dh vksj lanfHkZr i= ds ikyu esa lknj lwpukFkZA

Â izkFkhZ

m0fu0 twyh rksej

Â Fkkuk djSjk ftykÂ f'koiqjh Â¼e0iz0Â½^^

Â Â The reply filed by Mr. Pradeep Walter is reproduced as under:-

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ekuuh; vfrfjDr jftLVkj egksn; mPp U;k;ky; [k.MihB Xokfy;j Â¼e0iz0Â½

fo""k;%& ,e0lh0vkj0lh0 dz0 5394@17 jktohj flag fo:) e0iz0 'kklu ,.M gkfde flag ds laca/k esa dkj.k crkvks lwpuk i= dk tokc izLrqr djus ckor~A

lanHkZ%& ekuuh; ds vkns'k dz0 11905@,e0lh0vkj0lh0@5394@17 fnukad 19-04-18 ,oa Jheku~ vuqfoHkkxh; vf/kdkjh iqfyl djSjk ftyk f'koiqjh

Â¼e0iz0Â½ ds i= dz0 vviq@djSjk@gkbZ dksVZ@329@18 fnukad 27-04-

18 ds ikyu esaA

egksn; fouez fuosnu gS fd fo""k;kafdr fofo/k vkijkf/kd izdj.k dz0 5394@17 esa lanfHkZr lwpuk i= ds ikyu esa Fkkuk djSjk ds vfHkys[k dk esjs }kjk

voyksdu fd;k x;k] izkFkhZ fnukad 12-01-18 ls vHkh rd Fkkuk izHkkjh ds in ij inLFk gwWA

ekuuh; loksZPp U;k;ky; dk vkns'k fnukad 06-06-16 ,oa 22-06-2016 dks izkIr gksuk ys[k gS] ml le; izkFkhZ Fkkus ij inLFk ugha Fkk] u fg izkFkhZ dh

esjh inLFkkiuk ds nkSjku ekuuh; loksZPp U;k;ky; dk vkns'k izkFkhZ ds laKku esa vk;k] izkFkhZ ds }kjk Fkkuk djSjk ds vfHkys[k dk voyksdu fd;k rks

mDr vkns'k dk vfHkys[k esa dgh Hkh mYys[k ugh gSA vkosnd jk?kosUnz 'kqDyk fo:) e0iz0

'kklu ,oa vU; esa fofo/k vkijkf/kd izdj.k

dz0 8358@11 esa lquokbZ gsrq fnuakd 09-01-

17 fu;r gksus ij vi0dz0 332@11 dh

LVsVI fjiksVZ m0fu0 Hkxokuyky }kjk fnukad 06-02-17 dks Hksth xbZ Fkh ftlesa Hkh ekuuh; loksZPp U;k;ky; ds vkns'k dk mYys[k ugha gSA esjh

tkudkjh ds vuqlkj ckn esa mDr izdj.k dh foospuk rRdkyhu ,l0Mh0vks0ih0 egksn; ds ekSf[kd vkns'k ls Fkkuk djSjk ij inLFk m0fu0 vt; tkV dks nh xbZ

Fkh] ,slh tkudkjh iwoZ Fkkuk izHkkjh Jh latho frokjh } kjk ppkZ ds nkSjku crkbZ xbZ]+ mijksDr vijk/k dh Mk;jh ekuuh; egksn;] }kjk 'khykan djs

lqj{kkFkZ j[kkbZ xbZ gS] ftldk iw.kZ voyksdu ugh fd;k tk ldk gSA vr% fuosnu gS fd mDr Mk;jh dk

voyksdu djus ds laca/k esa funsZ'k nsus dh d`ik djsa] ftlls izkFkhZ viuk tokc izLrqr dj ldsA

Li""Vhdj.k lknj izLrqr gSA

tk0dz0506@01-05-18

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iznhi okYVj

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Fkkuk djSjk ftyk f'koiqjh Â¼e0iz0Â½

izfrfyfi%&

1- Jheku ,l0Mh0vks0ih0 egksn; djSjk ftyk f'koiqjh dh vksj lanfHkZr i= ds ikyu esa lknj lwpukFkZA

Â Â izkFkhZ iznhi okYVj fujh{kFkuk izHkkjh Fkkuk djSjk ftyk f'koiqjh Â¼e0iz0Â½^^

Thus, it is clear that Mr. Pradeep Walter had not only made a false statement before this Court on 16.4.2018 but again he has tried to justify his stand

by filing his reply to the show cause notice in which again he has stated that he was not aware about the pendency of this investigation. The reply filed

by Ms. Juli Tomar is dated 30.4.2018 and Mr. Pradeep Walter had read the said reply in this Court itself on 3.5.2018. Still no rejoinder has been filed

by Mr.

Pradeep Walter disputing the stand taken by Ms. Juli Tomar. However, it is a matter of investigation that whether Mr. Pradeep Walter is saying truth

or Ms. Juli Tomar is saying truth before this Court. Bhagwanlal who was investigating the matter and who had filed the reply in M.Cr.C.No.8358/2011

has also filed his reply and along with his reply he has filed copy of the charge

list of taking over and handing over of the case diaries after his transfer. According to this charge list, the case diary of Crime No.332/2011 was handed over by Bhagwanlal to Subodh Topo, ASI, P.S. Karera, District Shivpuri.

It is submitted by Shri Sunil Pandey, Superintendent of Police, District Shivpuri that Subodh Topo was posted as Moharir in the police station and the diary was required to be handed over to him so that the same can be redistributed to the Investigating Officer. On 16.4.2018 it was submitted by Mr.

Pradeep Walter that from Bhagwanlal, Raghvendra had taken over the investigation. Raghvendra Yadav has filed his reply mentioning therein that he had never received the case diary and he had never investigated the matter. Therefore, under these circumstances it would be necessary for this

Court to issue notice to Mr. Subodh Topo also, to show cause as to what was done by him after receiving the case diary from Bhagwanlal and

whether he himself sat over the case diary or he brought it to the knowledge of the SHO, Police Station Karera, District Shivpuri for redistribution of the case diary to the Investigating Officer.

Accordingly, issue show cause notice to Subodh Topo, ASI as to show cause that what steps were taken by him after taking the case diary from

Bhagwanlal. Let reply be filed within one week. It is further submitted by Mr. Sunil Pandey, Superintendent of Police, District Shivpuri that Mr.

Subodh Topo is posted in Police Station Karera, District Shivpuri, therefore, he shall ensure that the notice is served on him by tomorrow.

It is further submitted by Mr. Sunil Pandey, Superintendent of Police, District Shivpuri that so far as the accused Rajvir Singh Gurjar and Raghvendra

Shukla are concerned, Rajvir Singh Gurjar is at present posted at Shivpuri whereas Raghvendra Shukla is in the SAF. It is further submitted by Mr.

Sunil Pandey, Superintendent of Police, District Shivpuri that both the accused persons shall be placed under suspension with immediate effect and he

would hand over the investigation to an officer not below the rank of Additional Superintendent of Police to investigate the matter and to file the final

report as early as possible without any delay. Since the notice to Subodh Topo is necessary and has been issued by this Court, therefore, the case is

adjourned.

Since the original case diary would be required by the Investigating Officer to

proceed further with the investigation, therefore, Mr. Sunil Pandey, Superintendent of Police, District Shivpuri was directed to provide photocopy of the case diary so that the same can be kept in a sealed cover in this proceeding. Accordingly, the photocopy of the case diary which has been duly attested by Mr. Sunil Pandey, Superintendent of Police, District Shivpuri as well as Mr. Pradeep Walter, SHO, P.S. Karera, District Shivpuri has been made available to this Court. The photocopy of the case diary is sealed in presence of Mr. Sunil Pandey, Superintendent of Police, District Shivpuri, Mr. Pradeep Walter, SHO, P.S. Karera, District Shivpuri as well Shri Prakhar Dhengula counsel for the State. The original is returned back to Mr. Sunil Pandey, Superintendent of Police, District Shivpuri in an open condition.

It is made clear that at later stage, if any manipulation is found in the case diary, then Mr. Sunil Pandey, Superintendent of Police, District Shivpuri would be personally responsible for the same.

Accordingly, the Office is directed to list this case on 16.5.2018 for further hearing at Srl.No.1.