

(2018) 03 RAJ CK 0045

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 1141 of 2018

Tara Chand Sharma And Anr @APPELLANT@Hash State Of Rajasthan And Ors

Date of Decision : 07-03-2018

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471
Code of Criminal Procedure, 1973 — Section 482

Citation : (2018) 03 RAJ CK 0045

Hon'ble Judges : KANWALJIT SINGH AHLUWALIA, J

Bench : Single Bench

Advocate : Rajesh Goswami, Yashwant Nandwana, BN Sandhu, Prakash Thakuriya, Rajesh Maharshi

Final Decision : Disposed Off

Judgement

The present petition has been filed under Section 482 Cr.P.C. praying that a direction be issued to the respondent nos. 1 to 4 to conduct fair and

impartial investigation in case arising out of FIR No.0161/2017 registered at Police Station Jhotwara, Jaipur (West) for the offences under Sections

420, 467, 468, 471 read with Section 120B IPC.

Number of petitions filed under Section 482 Cr.P.C. are listed before this Court. It has been observed that without passing any detailed speaking

order, on drop of hat, or on the whim and fancy of the supervisory officer, in the midst of investigation, when it has reached at a sensitive stage,

investigating officer is changed. Change of the horse midstream is not appreciated. Supervisory officer ought to give reasons as to why investigating

officer is required to be changed. Supervisory officer should examine the case diary and taking note of the deficiencies in the investigation should give

guidance to the investigating officer as to in which direction, investigation ought

to move.

In the present case in particular, no such procedure was followed. When accused Tara Chand Sharma approached D.C.P. (West), Jaipur, he

transferred the investigation to SHO, Harmada. Later when complainant approached, D.C.P. (West), Jaipur, he transferred the investigation to ACP,

Jhotwara. Everything should not be done due to the approach made by complainant or accused as it will show the police in poor light, especially when

Jaipur Police with the limited infrastructure is performing a yeoman's job in the city, which is having numerous cases pertaining to property

dispute.

Property dispute always has a monetary consideration and consequences. Supervisory officer should be careful and cautious while changing the

investigation officer.

It has been noted that number of times, inquiry or investigating officer has been changed. Sometimes when accused has been found guilty, on the

asking of accused investigating officer or inquiry officer has been changed sometimes when a police officer has recommended that Final Report in

negative form be submitted on asking of complainant investigating officer or inquiry officer is changed. Due to change of investigating officer or

inquiry officer not only course of investigation change but result too change sometimes totally opposite to the earlier view. Similarly the next officer

who is assigned investigation or inquiry formulate contrary view. How many time investigation should be conducted, how many times result of

investigation should change, is something on which higher officer i.e. Commissioner of Police should ponder so that trust of the people in the premier

investigating agency is not lost. Again and again if investigating officer or inquiry officer is changed and consequently with the change of officer,

report also changes. This it itself lower the image of the police and cause trust deficit.

In the above context, this Court had asked Mr. Sanjay Agarwal, Commissioner of Police, Jaipur to remain present in the court.

Mr. Sanjay Agarwal, Commissioner of Police, Jaipur has stated that until there are compelling reasons, investigating officer shall not be changed and if

the investigating officer is to be changed, a detailed speaking order will be passed giving reasons, pointing out deficiencies in the investigation and

reasons shall be spelt as to why investigating officer ought to be changed. He has also assured this Court that in all pending investigations, which are more than one year old, report of investigation shall be submitted within two months after conclusion of investigation in the concerned court of competent jurisdiction from the receipt of certified copy of the order. He has submitted that in case there are compelling reasons, then only under the orders passed by him, extension of time to conclude the investigation shall be given beyond period of two months pertaining to cases where investigation is more than one year old. Mr. Sanjay Agarwal, Commissioner of Police, Jaipur has very fairly submitted that investigation ought to be prompt and swift so that alert police officer is able to gather all evidence.

This court appreciate the statement made by Mr. Sanjay Agarwal, Commissioner of Police, Jaipur. There is no need to say that if investigating officer is not alert and investigation is not conducted at the earliest, notable leads will be lost and vital pieces of evidence will wither away. Therefore, in investigation, time is essence. Thus, based on the statement made by Mr. Sanjay Agarwal, Commissioner of Police, Jaipur, this

Court issue following directions:-

- a) That no investigating officer shall be changed until supervisory officer pass a detailed speaking order.
- b) That in case supervisory officer come to conclusion that investigating officer is to be changed, in the order to be passed, he shall point out deficiencies in the investigation and also give guidance to the officer to whom investigation is to be transferred.
- c) That in all pending cases in the Commissionerate of Jaipur, where the investigation is one year old, report of investigation shall be filed with the opinion of the investigating officer in the competent court within two months from receipt of certified copy of this order. In case, same cannot be done, extension of time to conclude the investigation shall only be granted by Commissioner of Police by passing a reasoned order.

So far as, present case is concerned, Mr. Sanjay Agarwal, Commissioner of Police, Jaipur has assured this Court that he will transfer the investigation of this case to his office and same shall be conducted by an officer not below the rank of Additional Superintendent of

Police. He has assured this Court that report of investigation along with the opinion of the investigating officer shall be submitted in the court of

competent jurisdiction within one month from receipt of certified copy of the order.

In view of directions issued above, and assurances given by Commissioner of Police, noted as directions, the present petition is disposed of.

A copy of this order under the seal and signature of the Court Master be handed over to the learned Public Prosecutor for onward transmission and necessary compliance.