



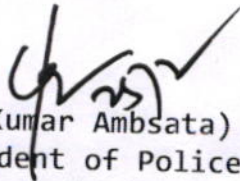
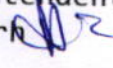
OFFICE OF THE SENIOR SUPERINTENDENT OF POLICE UT CHANDIGARH
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No. *1387* UT/HAC dated Chandigarh the; *26.2.2020*


Subject: General reasons for acquittal of accused in Criminal cases and suggestions to improve the quality of investigation.

Enclosed please find herewith suggestions to improve the quality of investigation issued from the Legal Remembrancer-cum-Director of Prosecution, Chandigarh Administration vide its memo No. LDE-(2/2017/87)-2020/1483-84 dated 29.1.2020 for necessary action and to ensure meticulous compliance.

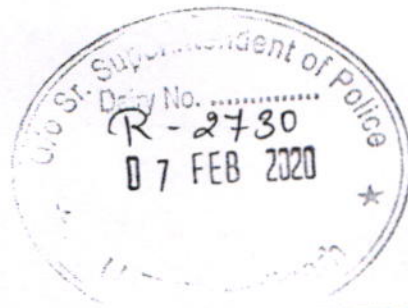

(Rajeev Kumar Ambata)
Dy. Superintendent of Police (Hqrs.),
For Senior Superintendent of Police,
UT, Chandigarh 

Copy to:

1. All SDPOs, DSP/Crime, Oprs, EOW, W&CSU & CCIC
2. I/C Computer Section to upload the same on the Website of Chandigarh Police.

AC Sanjay Kumar
to upload on website

26/2/20

Acquittal



From

The Principal Secretary (Law),
Chandigarh Administration.

To

- ✓ 1. The Director General of Police,
Chandigarh Administration.
- ✓ 2. The District Attorney(s),
U.T., Chandigarh.

Estt. Branch (Diary)
Diary No. 1898
Date. 30-1-20
Signature

184/LR/UT/HAC
12-2-20
DSPHQ - on file

888/UT

Memo No. LDE-(2/2017/87)-2020/ 1483-84
Dated, Chandigarh the 29-1-2020

DSP
5.2.2020

Subject:

General reasons for acquittal of accused in criminal cases and suggestions to improve the quality of investigation.

Reference subject quoted hereinabove.

Your goodself is hereby apprised that it has been observed that there is acquittal of accused persons in criminal cases mainly due to the following reasons:

IN NDPS CASES:

- 1) Non-reducing of secret information into writing by the investigating officer and non sending the same to the higher authority as provided under Section 42 of the Act.
- 2) Non-joining of independent witnesses during the recording the disclosure statement of the accused as well as during the recovery of contraband despite of their availability.
- 3) Non compliance of section 50 of the Act.
 - (i) Non serving of statutory notice upon the accused person.
 - (ii) Serving of defective notice upon the accused.
 - (iii) Serving of joint notice upon the accused persons, where they are two or more than two.
 - (iv) Non-read over the contents of notice to the accused person in case of illiterate.
 - (v) Non taking of separate consent of illiterate accused w.r.t. informing the contents of the notice.
- 4) Non-preparing of CFSL form NO. 29 at the spot.
- 5) Delay in sending the samples to the FSL.
- 6) Bearing of FIR and other particulars of the case in the notices, recovery memo and other documents despite of non registration of the FIR at that time.

R-874/DSP HQ
07-02-2020

Phalit
29/1/2020

HAA
✓

DSP HQ
07/02/2020

RELEVANT JUDGMENTS ON NDPS ACT.

Sr. No.	Judgments	Section
1.	Sukhdev Singh Vs. State of Haryana, AIR 2013 Sc, 953.	42 (requirement of reducing information in writing and send it to the superior officer).
2.	Vijay Singh Chandubhas Jadeja Vs. State of Gujrat, AIR 2011 SC 77 (Five Judges). Arif Khan @ Agha Khan Vs. State of Uttrakhand, Crl. Appeal No. 273 of 2007 decided on 27.04.2018. The State of Punjab Vs. Baljinder Singh Criminal Appeal No. 5659-5660 of 2019 on 15.10.2019 (Apex Court)	Section 50 (serving the notice upon the accused before conducting his personal search)
3.	Gannu and another Vs. State of Punjab Crl. Appeal No. 1688-SB of 2004 decided on 26.05.2017 (P &H)	Bearing of FIR and other particulars of the case in the notices, recovery memo and other documents despite of non registration of the FIR at that time.
4.	Union of India Vs. Mohan Lal and another, 2016 (1) RCR (Crl.) 858 (SC)	Drawing of sample in the presence and supervision of the magistrate,
5.	Laltu Prasad Vs. State of West Bengal, 2017 (2) RCR (Crl.) 237 Calcutta (DB) Mohan Lal Vs. State of Punjab 2018 AIR (SC) 3853 Varinder Kumar vs. State of Himachal Pradesh 2019 (1) RCR (crl) 1003.	Complainant himself acting as the investigating officer is the same person.
6.	Bhola Singh Vs. State of Punjab, 2005 (2) RCR (Crl) 520 (P & H)	Non preparation of CFSL Form 29 on the spot.

Phulit
29/11/2020

Apart from the above, it is pertinent to mention herein that sometimes material contradictions regarding the receiving of secret information preparation of the documents quantity of the contraband, types of used seal, handing over of the

seal/custody, non-preparing of inventory by the officer in charge of the police station and depositing of the case property have also become fatal to the prosecution case.

IN THE CASES REGISTERED UNDER ELECTRICITY ACT

- 1) Failing to join independent witnesses by the Investigation Officer during the recording of disclosure of the accused/s and during the recovery of the copper coils and other theft material despite of their availability.
- 2) Absence of any specific/particular identification marks on the copper coils and other stolen property belonging to the Electricity Department, Chandigarh Administration.

It is pertinent to mention herein that on one side the accused persons are getting acquittal in the above mentioned cases while on the other hand losses are being caused to Electricity Department, Chandigarh Administration as neither the recovery of the loss caused could be made nor any action has been taken against the erring official/ officers. For ready reference, the list of some cases has been enclosed herewith.

IN THE CASES REGISTERED UNDER SECTION 379/380/411 OF IPC:

- 1) Non-joining of the independent witness during the recording of disclosure statement of accused persons and recovery of snatched articles.
- 2) Non-conducting of test identification parade by I.O. to prove the identity and involvement of the accused persons in the commission of offence.
- 3) No-taking of documents from the complainant during investigation to prove the ownership of snatched articles.

Apart from the above, it is pertinent to mention herein that sometimes material contradictions regarding the receiving of secret information, preparation of the documents, types of used seal and depositing of the case property have also become fatal to the prosecution case.

IN THE CASES REGISTERED UNDER THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989 [THE SC/ST (POA) ACT, 1989]

- i) **Turning Hostile of the Material Witnesses:** Sometimes, the accused persons were acquitted on the ground that the material witnesses i.e. the complainant/victim/eye-witnesses did not support the prosecution case and turned hostile during evidence. The reasons for non-supporting to the prosecution case may be as under:
 - a) Victims are too poor to contest the case against dominant castes and rich offenders. Further, the accused persons are also applied local pressures on the victims/complainant/witnesses to make compromise in the matter.

P. K. Singh
28/11/2020