OFFICE OF THE SENIOR SUPERINTENDENT OF POLICE UT CHANDIGARH
ADDL. DELUX BUILDING, SECTOR-9, CHANDIGARH-160009
Telephone: 0172-2760001  Tele Fax: 0172-2746100  Email: pssput-chd@nic.in

No. 1389  UT/HAC dated Chandigarh the; 26.2.2020

Subject: Miscellaneous Directions.

Enclosed please find herewith Miscellaneous Directions issued from the Legal Remembrancer-cum-Director of Prosecution, Chandigarh Administration vide its memo No. LDE-(2/2017/87)-2020/1495 dated 29.1.2020 for necessary action and to ensure strict compliance.

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

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

HC Samjay Kumar

Upload to web

[Signature]

26/2/20
From

The Principal Secretary (Law),
Chandigarh Administration.

To

The District Attorney(s),
U.T., Chandigarh.

Memo No. LDE-(2/2017/87)-2020/1495
Dated, Chandigarh the 29-1-2020

Subject: Miscellaneous Directions.

Reference on the above cited subject.

The Hon'ble Supreme Court of India in State of Gujarat Vs. Kishanbhai etc, (2014) 5 SCC 108 gave *directions that on the completion of the investigation in a criminal case, the prosecuting agency should apply its independent mind, and require all shortcomings to be rectified, if necessary by requiring further investigation. It should also be ensured, that the evidence gathered during investigation is truly and faithfully utilized, by confirming that all relevant witnesses and materials for proving the charges are conscientiously presented during the trial of a case. This would achieve two purposes. Only persons against whom there is sufficient evidence, will have to suffer the rigors of criminal prosecution. By following the above procedure, in most criminal prosecutions, the concerned agencies will be able to successfully establish the guilt of the accused.*

Every acquittal should be understood as a failure of the justice delivery system, in serving the cause of justice. Likewise, every acquittal should ordinarily lead to the inference, that an innocent person was wrongfully prosecuted. It is therefore, essential that every State should put in place a procedural mechanism, which would ensure that the cause of justice is served, which would simultaneously ensure the safeguard of interest of those who are innocent. In furtherance of the above purpose, it is considered essential to direct the Home Department of every State, to examine all orders of acquittal and to record reasons for the failure of each prosecution case. A standing committee of senior officers of the police and prosecution departments, should be vested with aforesaid responsibility. The consideration at the hands of the above committee, should be utilized for crystalizing mistakes committed during investigation, and/or prosecution, or both. The Home Department of every State Government will incorporate in its existing training programmes for junior investigation/prosecution officials course-content drawn from the above consideration. The same should also constitute course-content of
refresher training programmes, for senior investigating/prosecuting officials. The above responsibility for preparing training programmes for officials, should be vested in the same committee of senior officers referred to above. Judgments like the one in hand (depicting more than 10 glaring lapses in the investigation/prosecution of the case), and similar other judgments, may also be added to the training programmes. The course content will be reviewed by the above committee annually, on the basis of fresh inputs, including emerging scientific tools of investigation, judgments of Courts, and on the basis of experiences gained by the standing committee while examining failures, in unsuccessful prosecution of cases. We further direct, that the above training programme be put in place within 6 months. This would ensure that those persons who handle sensitive matters concerning investigation/prosecution are fully trained to handle the same. Thereupon, if any lapses are committed by them, they would not be able to feign innocence, when they are made liable to suffer departmental action, for their lapses.

On the culmination of a criminal case in acquittal, the concerned Investigating/Prosecuting Official(s) responsible for such acquittal must necessarily be identified. A finding needs to be recorded in each case, whether the lapse was innocent or blameworthy. Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for. Taking into consideration the seriousness of the matter, the concerned official may be withdrawn from investigative responsibilities, permanently or temporarily, depending purely on his culpability. We also feel compelled to require the adoption of some indispensable measures, which may reduce the malady suffered by parties on both sides of criminal litigation. Accordingly we direct, the Home Department of every State Government, to formulate a procedure for taking action against all erring investigating/prosecuting officials/officers. All such erring officials/officers identified, as responsible for failure of a prosecution case, on account of sheer negligence or because of culpable lapses, must suffer departmental action. The above mechanism formulated would infuse seriousness in the performance of investigating and prosecuting duties, and would ensure that investigation and prosecution are purposeful and decisive. The instant direction shall also be given effect to within 6 months."

In compliance of the aforesaid directions of the Hon'ble Supreme Court of India, all the District Attorney(s) / Public Prosecutors / Assistant Public Prosecutors are directed to strictly adhere to the following directions:

1. To follow the directions related to the Challan checking i.e. Police Report prepared under Section 173 of Cr.P.C especially relating to the rape case, POCSO Act, SC/ST (POA) Act, PNDT Act, NDPS Act, MIP Act, Crime against Women i.e. cases registered under Section 304-B, 306, 307, 354-A to 354-D IPC, acid attacked, all heinous crimes, Drugs Act, cheatings/forgery and other
cases where either Government Department/Government Officer is the complainant in his official capacity or accused person is a Public Servant/Government Employee which are mentioned as under:

a. A register should be maintained by the District Attorney for above mentioned cases regarding challan checking.

b. Challan should be firstly marked by the District Attorney to the Senior Public Prosecutor for checking it in the above said cases and thereafter, it should be forwarded to the ld. Trial Court after final examination and approval of the District Attorney only.

c. If the challan is not in consonance with the Legal provisions and judgments of the Hon'ble Supreme Court and Hon'ble Courts then it would be forwarded to the concerned Superintendent of Police for further necessary actions by your office.

2. Name and Designation of the Public Prosecutor, Assistant Public Prosecutor who has checked the challan/Police report and forwarded to the Court, shall be mentioned in each and every kind of challan i.e. Police Report prepared under Section 173 of Cr.P.C.

3. To make strict compliance of this department letter No. LDE-(2/2017/87)-2020/1483-85 dated 29.01.2020 & LDE-(2/2017/87)-2020/1486-88 dated 29.01.2020 in its true spirit and the District Attorney shall conducts trial in Session Court as far as possible. (copy enclosed)

4. To ensure the presence of accused persons languishing in jails on day of hearing either through video-conferencing or in person and make necessary correspondence with the concerned Superintendent Jail requesting to ensure the presence of accused person languishing in jails on day of hearing either through video conferencing of in person. The copy of the same shall be sent to the District Magistrate and Inspector General of Prisons.

5. To ensure the production of case property before the Ld. Trial Court during the evidence and make all necessary efforts, correspondence with the concerned authorities to ensure the production of case property.

6. To make strict compliance of the direction issued by the Hon'ble Supreme Court of India passed in Criminal Appeal NO. 259 of 2009 titled as Joshibinder Yadav Vs. State of Bihar decided on January 20, 2014 and also to consider the same while checking the challan i.e. police report prepared under section 173 Cr.P.C and shall make necessary correspondence with the concerned competent authority to ensure the receiving and filing of FSL. Handwriting Expert report/Chemical Examiner Report.

7. To apprise the District Attorney about the defective investigation observed during the trial immediately, if any and thereafter, shall take all mid course corrections, if needed as far as legally permissible so that good cases may be presented effectively before the ld. Trial Court and conviction of the accused can be secured.
8. To send the comments/opinion in criminal case in the enclosed format prescribed by this department in light of judgement passed in the case titled as State of Gujrat Versus Krishan Bhai etc.

9. To furnish reasons for giving up the prosecution witness or non-examining the prosecution witness, whose name is mentioned in the list of witnesses.

10. To give reasons for closing the prosecution evidence in the comments/opinion.

11. To mention the defective investigation observed and mentioned in the judgment by the Id. Trial Court in the opinion/comments.

12. To send statement of all witnesses, documents exhibited during the evidence and MRL/PMR/FSL/Chemical Examiner Report/Handwriting Expert Report etc. along with opinion/comments.

13. To prepare the cases thoroughly and efficiently and go through relevant case laws before appearing in the Trial Court.

14. To consider the general reasons due to which there is acquittal of the accused persons in the criminal cases (circulated vide Memo No. LD-2020/1483-85 dated 29.01.2020 while checking the Challan i.e. police Report prepared under Section 173 of Cr.P.C and also to discuss the same in the meeting of District Level Monitoring Committee.

Further, in addition to above, the District Attorney(s) being head/incharge are directed to follow the following directions:

1. To make strict compliance on this office Memo No. LD-2020/1483-85 dated 29.01.2020 in its true spirit and the District Attorney shall conduct trial in Session Court as far as possible.

2. To act as supervisory authority and ensure the compliance of all the directions issued by Chandigarh Administration from time to time.

3. To appear in/conduct the trial of the cases identified as “Chinhit Apradh” by the District Level Committee pending in the Id. Court of the District and Session Judge for trial as far as possible/practicable.

4. To provide the list of cases identified as Chinhit Apradh” by the District Level Committee to concerned Public Prosecutor/Assistant Public Prosecutor in-charge of the case.

5. To consider the reasons behind the acquittal of accused person in the case registered under SC/ST (POA) Act, Crime against Women and Children, P.C. Act, Drugs Act and all heinous crimes and take up the same seriously. Further to take all necessary steps to improve the quality of the challan i.e. Police Report prepared under Section 173 of Cr. P.C, so as to put a strong case before the Id. Trial Court.

6. To discuss the reasons behind the acquittal of accused persons in the cases registered under SC/ST (POA) Act, Crime against Women and Children, POCSO Act, P.C. Act, Drugs Act an all heinous crimes in the District Level Monitoring
Committee, so that the District Level Monitoring Committee may take necessary action in this regard.

7. To monitor/supervise the hearing as far as practicable.

8. To conduct a meeting with Public Prosecutors/Assistant Public Prosecutors at least once in a month on regular basis to discuss the progress of the cases, problems being faced by the Public Prosecutors/Assistant Public Prosecutors incharge of the case during trial and to prepare minutes of meeting of the same and further make necessary correspondence with concerned authorities, if required through proper channel along with valuable suggestions/proposal which may be implemented to remove such difficulties and strengthened the criminal justice system and prosecution under the intimation to this Department.

9. To send the Minutes of meeting of the District Level Monitoring Committee constituted in compliance of the direction issued by the Hon'ble Supreme Court of India in State of Gujarat Vs. Kishanbhai etc, (2014) 5 SCC 108 regularly and within 5 working days after the preparation of the same alongwith suggestion which may be implemented to strengthen the criminal justice system and prosecution.

It is therefore requested to consider the aforesaid general directions and issue necessary directions to your subordinate officials/officers for meticulous compliance, so that a strong case may be put before the Ld. Criminal Trial Courts and conviction of accused persons could be secured.

PHALIT SHARMA
Legal Remembrancer-cum-
Director of Prosecution,
Principal Secretary (Law)
Chandigarh Administration

Dated: 29/1/2020

A copy if forwarded to the Director General of Police, UT, Chandigarh, for information and for issuing directions to all concerned police officer(s) / official(s) for ensuring necessary action as sought for by the District Attorney/PP/APP, so as to enable them to make strict compliance to the general directions being issued.

PHALIT SHARMA
Legal Remembrancer-cum-
Director of Prosecution,
Principal Secretary (Law)
Chandigarh Administration

Dated: 29/1/2020
## Format of Report/Opinion of Public Prosecutor in Charge of the Case with Remarks of District Attorneys

State Vs. 
FIR No. dated 
Under Section 
Police Station 

1. Relevant Information

<table>
<thead>
<tr>
<th>Particulars of the Complainant/Victim/Informant</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Particular of the Accused(s) against whom FIR has been registered</td>
<td></td>
</tr>
<tr>
<td>Name of the Investigating Officer</td>
<td>PW (1st IO)</td>
</tr>
<tr>
<td></td>
<td>PW (2nd IO)</td>
</tr>
</tbody>
</table>

| Particulars of the accused whose name has not been mentioned in the FIR but later on added as accused |  |
| Particulars of the accused whose name has been deleted during the investigation |  |
| Particulars of the accused who has been added as accused by invoking provision u/s 319 Cr.P.C. (if any) |  |
| Name of the Contraband and its quantity recovered from the accused along with his name (where accused have been charged for the offence committed under NDPS) | KG/Gram recovered from the accused namely  |
|  | Small/Non Commercial/Commercial Quantity  |

| Particulars of weapon used in commission of offence. (if any) and name of accused from whom the same is recovered. |  |
| Particulars of the case property recovered (if any) along with name of accused from whom it was recovered. |  |
| Brief particulars of the FSL/PMR/MLR (Duly tendered in evidence, if not then give reason for it) |  |
| Sections under which challan has been presented against the accused |  |
| Section/s under which accused(s) have been charged |  |
| List of witnesses examined during the trial along with their nature and whether supported the prosecution case or not? | PW - (Complainant/injured/Eye Witness/es/IO/Recovery Witness etc.) (Supported/Hostile) DW - |

| Name of witnesses which were not examined during the trial. (if any) and give reason for the same. |  |
| Whether evidence of prosecution closed by Public Prosecutor in charge of case or by Court order? |  |
| Outcome of Trial | Conviction/Acquittal |
| (If accused is convicted, sentence awarded by the Court must have been  |  |
2. Brief facts of the prosecution case

3. Opinion of the Public Prosecutor/Assistant Public Prosecutor in-charge of the case

4. Remarks of District Attorney

**IMPORTANT INSTRUCTIONS:**

The comments must include following as far as they are applicable:

1. All relevant particulars of complainant and victim must have been separately mentioned where the complainant and victim is different.

2. Grounds/reasons must have been mentioned in detail by public prosecutor in charge of case while tendering opinion as fit/non-fit for filing appeal against the judgment/order of acquittal or conviction as the case may be.

3. Specific grounds/reasons must have been mentioned in detail by Public Prosecutor in charge of the case while tendering the opinion as fit/non-fit for filing the appeal where the accused has been convicted under few charged sections, while acquitted from the remaining charges.

4. Specific grounds/reasons must have been mentioned in detail by public prosecutor in charge of the case while tendering the opinion as fit/non-fit for filing the appeal against the judgment/order of Ld. Trial Court where no. of accused are two or more and one or more has been convicted by the ld. Trial Court while remaining has been acquitted.

5. Specific grounds/reasons must have been mentioned in detail where the accused/s has been convicted under the less punishable sections. For instance, the accused has been charged under Section 302 IPC by the Ld. Trial Court but the same has been convicted under Section 304 IPC etc. In such cases, grounds/reasons must be mentioned separately by Public Prosecutor in charge of the case justifying/non justifying the acquittal of accused from charge framed under Section 302 IPC and conviction under Section 304 IPC etc.

6. There would be no reference of litigation policy on unnecessary remarks.

7. Certified copy/ies judgments/order are not to be underlined.

8. The public prosecutor in charge of case must have been mentioned in his opinion, the efforts made by him to make compliance with judgment titled as “State through PS Lodhi Colony, N.Delhi Vs. Sanjeev Nanda” decided on 03.08.2012 (2012) 8 Supreme Court Cases 450 and instruction issued by this office vide memo NO.AP(7)-2017/11780 dated 30.08.2017