

**MOST IMMEDIATE  
FOR CONSIDERATION**

**THROUGH EMAIL**

From

The Director of Prosecution, Haryana,  
Bays No. 9 & 10, Sector-14,  
Panchkula.

To

1. The Director General of Police, Haryana,  
Panchkula.
2. All District Magistrates,  
posted in the State of Haryana.
3. All Superintendent of Police  
posted in the State of Haryana.

Memo No. AP (7)-2018/ 85-129

Dated: 31-2019

**Subject: - To apprise the general reasons due to which accused persons are acquitted in criminal cases.**

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Reference on the subject noted above.

It is hereby apprised that there are acquittal of the accused persons in the criminal cases mainly due to the following reasons:-

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

o/c 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.

- b) Foisting false cases against victims at behest of perpetrators to pressurizes them for compromises
  - c) Delay in investigation and low rate of conviction leading to victim's losing hope of justice though registering cases.
  - d) Lack of awareness among the Scheduled Castes and Scheduled Tribes about the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
- ii) **Non-Conducting of the Investigation by Police Officers below the rank of Deputy Superintendent of Police:** Rule 7 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995 provides that an offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. Non-compliance of this rule during investigation has proved fatal for the prosecution.
- iii) **Delay in filing the F.I.R.:** Sometimes, delay in lodging the First Information Report (F.I.R.) was also proved fatal for the case of the prosecution and sole reason for acquittal of the accused persons. However, there was no hard and fast rule in application of the "F.I.R. delay rule", in some cases, a delay of even six hours proved fatal for the prosecution's case, whereas in other cases a time interval of a couple of days was not a ground for acquittal.
- iv) **Victim does not belong to SC/STs Categories:** Sometimes, the accused were acquitted on the ground that the victim did not belong to the SC/STs Categories.
- v) **Material contradictions/discrepancies in the statement of witnesses:** Sometimes, the material contradictions in the statement of witnesses regarding occurrence of the incident, preparation of documents, contents of the application/complaint etc. has also proved fatal for the prosecution case which resulted in the acquittal of the accused persons.

**B. IN THE CASES REGISTERED UNDER THE PUNJAB EXCISE ACT, 1914**

- i. Non-mentioning of the departure and arrival time in the DD Register i.e. Register No. II (Rojnamcha) of the Police Station.

- ii. Non-joining of the independent witnesses by the Investigating Officer despite of their availability at the spot.
- iii. Non-seizing of the broken nip (broken wine/liquor bottle) by the Investigating Officer. In absence of the same, it becomes impossible to prove the fact of drinking liquor by the accused person at public place as smell of alcohol alone is not sufficient to prove the consumption of Liquor at a public place.
- iv. Non-mentioning of the type of seal affixed on seized articles/property i.e. whether it was made of wooden, brass or silver etc.
- v. Non-using of the scientific/latest techniques i.e. photography, videography etc. at the time of preparation of spot memo, seizing of articles, drawing of samples etc.
- vi. Non-submitting of any evidence alongwith in the nature of documentary entries of the required DD entries to establish the presence of the police officials at the spot.
- vii. Delay in sending samples to the laboratory for chemical examination.
- viii. Non-joining of the Excise Officer in the investigating proceedings when the police official has secret information and ample opportunity to inform and join the Excise Officer.
- ix. Non-submitting of any document alongwith the challan to prove that the place of occurrence was a public place where the accused person consumed the liquor.

**C. IN THE CASES REGISTERED UNDER "THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957.**

- i. Non-collection of Revenue Record by the Investigating Officer to prove the fact of committing theft by accused persons by moving the sand and gravel out of the possession of its real owner.
- ii. Non-joining of mining officer or any Official from Mining Department by the Investigating Officer in the investigation to corroborate to prove the facts of stolen of sand from the place where mining is banned.
- iii. Non-photography or videography of the site by the Investigating Officer in the investigation to prove the fact that alleged occurrence actually took place.

- iv. Non-joining of Independent witnesses by the Investigating Officer in the investigation.
- v. Non taking of any order/notification/instruction of any authority during investigation to prove the fact of banning of mining in such particular area where the occurrence took place.

**D. OTHER REASONS:**

- i. On receipt of secret information from the informer by the Police Official/Officer about commission of the offence or likely to be commit the offence by the accused persons the police officials are acting themselves as complainant as well as Investigating Officer both instead of sending message to the concerned Station House Officer (S.H.O.) for deputing another police official for conducting investigation even in the cases where there was ample opportunity for deputing another police official as I.O.
- ii. Non-using of the scientific/latest techniques i.e. photography, videography etc. during investigation by the investigating officer at the time of preparation of spot memo, seizing of articles, drawing of samples etc.
- iii. Non-conducting of Test Identification Prade (TIP) by the Investigating Officer in the cases where the name of accused persons or their descriptions has not been mentioned by the complainant in their complaint.
- iv. Non-collection of the Certificate under section 65-B of Indian Evidence Act to prove the electronic records where any information is contained in an Electronic record which is in printed on a paper, stored, record or copied in optical or magnetic media produce by computer such as CD/Pen Drive/Floppy Drive/Portable Hard Disk/Memory Card etc.
- v. Non-seizure of the mobile phones used in the commission of the offence by the I.O. during the investigation and non-collecting of the call details of the same from the concerned authorities.

**SUGGESTIONS:**

The following suggestions may be adopted and implemented to improve the quality of investigation and enhance the conviction rate in the State of Haryana.:-

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

- (i) On receipt of a representation/ complaint pertaining to any offence under the provisions of the SCs/ STs (POA) Act either in writing or orally at the Police Station, the Officers-in-charge shall register a case under the appropriate Sections of the SC & ST (POA) Act without any delay so that appropriate action may be taken against accused persons and investigation may be conducted effectively.
- (ii) All the cases of 'atrocities' shall be investigated by the police officer not below the rank of Deputy Superintendent of Police so that compliance of the Rule 7 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995 may be made. In case the appointed IO is transferred out, any another Deputy SP is to be appointed as IO.
- (iii) The Statements of material witnesses i.e. the complainant, victims and eye-witnesses shall be recorded before the magistrate as far as possible /practicable.
- (iv) The police shall provide protection to the victims as well as to the witness till the completion of investigation and trial of the cases, where it requires.
- (v) The investigating officer shall made compliance of all statutory provisions of the act in its true spirit.
- (vi) The atrocities prone areas/ villages shall be identified in order to enable themselves to take adequate preventing measures well in time and they shall be visited from time to time and the Law and Order situation in such areas shall be reviewed.
- (vii) The investigation shall be completed within stipulated period as prescribed in the Act.
- (viii) The Investigating Officer shall make an attempt to gather evidence to the effect that the accused persons were aware of the victim's caste at the time of committing the offence

- (ix) Summons on the Police Officers to give their evidence shall be served promptly and it shall be ensured by the supervisory officers that they do attend the Court to give their evidence.
- (x) Police shall assist the Courts in bringing forward the witnesses/ accused promptly to ensure smooth and expeditious trial of the case.
- (xi) The concerned authority must initiate appropriate disciplinary action against the IOs for the lapses pointed out by the Ld. Trial Court in the judgment.
- (xii) Awareness Campaign in the identified areas shall be organized from time to time to educate/aware the SCs/STs about their rights and protections available to them under different enactments.
- (xiii) Intensive training programmes should be organized for increasing levels of awareness among the Investigation Officers to the provisions of the Act and rules made therein.
- (xiv) Sensitization workshops shall be organized to help the police personnel to get closer to the public and to be sensitive towards them.
- (xv) The District Level Monitoring Committee shall review periodical progress in investigation and trial of the cases; to review the Final Reports and take appropriate decision at their level keeping the following points in view among other things.
  - a) Whether the IO has examined all the eye witnesses and recorded their statement during investigation especially those who have been cited in the complaint by the complainant.
  - b) Whether the IO has collected the Caste Certificate of the complainant and accused.
  - c) Whether opinion of the concerned A.P.P /SPL. PP/ PP have been obtained.
  - d) Whether the Investigation Officer so appointed under Rule 7 (1) of SC/ST (POA) Rules, 1995 had completed the investigation within stipulated period.

**B. IN THE CASES REGISTERED UNDER THE PUNJAB EXCISE ACT, 1914**

- i. The Investigating Officer shall mention the departure and arrival time in the DD Register i.e. Register No. II (Rojnamcha) of the Police Station and also submit copy of the concerned entries mentioned in the DD Register i.e. Register No. II of the Police Station along with other evidence/documents in Challan i.e. report prepared under section 173 Cr.P.C. so that the presence of the Police officials may be established at spot.
- ii. The Investigating Officer shall make sincere efforts to join independent witnesses during investigation and shall also take necessary action against the persons who refused to join the investigation as per law.
- iii. The Investigating Officer shall seize the broken nip (broken wine/liquor bottle) so that the fact of drinking liquor by the accused person at public place may be proved as smell of alcohol alone is not sufficient to prove the consumption of Liquor at a public place.
- iv. The Investigating Officer shall mention the type of seal affixed on seized articles/property i.e. whether it was made of wooden, brass or silver etc.
- v. The Investigating Officer shall use the scientific/latest techniques i.e. photography, videography etc. at the time of preparation of spot memo, seizing of articles, drawing of samples etc.
- vi. The Investigating Officer shall submit evidence alongwith in the nature of documentary entries of the required DD entries i.e. Register No. II (Rojnamcha) so that then fact of the presence of the police officials at the spot may be established.
- vii. The Investigating Officer shall send samples to the laboratory for chemical examination without any delay.
- viii. The Investigating Officer shall join the Excise Officer in the investigating proceedings when the police official has secret information and ample opportunity to inform and join the Excise Officer.
- ix. The Investigating Officer shall submit relevant document alongwith the challan to prove that the place of occurrence was a public place where the accused person

consumed the liquor and also cite the concerned official/officer from whom such document was taken.

**C. IN THE CASES REGISTERED UNDER "THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957.**

- i. The Investigating Officer shall collect Revenue Record so that the fact of committing theft by accused persons by moving the sand and gravel out of the possession of its real owner may be proved.
- ii. The Investigating Officer shall join the mining officer or any Official from Mining Department in the investigation to corroborate the fact of stolen of sand from the place where mining is banned.
- iii. The Investigating Officer shall make photography or videography of the site in the investigation to prove the fact that alleged occurrence actually took place.
- iv. The Investigating Officer shall join independent witnesses by in the investigation.
- v. The Investigating Officer shall take order/notification/ instruction of any authority during investigation so that the fact of banning of mining in such particular area where the occurrence took place may be proved.

**D. OTHER SUGGESTIONS:**

- i) On receipt of secret information from the informer by the Police Official/Officer about commission of the offence or likely to be commit the offence by the accused persons, the police officials shall send message to the concerned Station House Officer (S.H.O.) for deputing another police official for conducting investigation as far as possible/practicable where there is ample opportunity for deputing another police official as I.O. and police official shall avoid to act themselves as complainant as well as Investigating Officer both.
- ii) The Investigating Officer shall use the scientific/latest techniques i.e. photography, videography etc. during investigation at the time of preparation of spot memo, seizing of articles, drawing of samples etc.
- iii) The Investigating Officer shall conduct Test Identification Prade (TIP) in the cases where the name of accused persons or their descriptions has not been mentioned by the complainant in their complaint.



- iv) The Investigating Officer shall collect the Certificate under section 65-B of Indian Evidence Act to prove the electronic records where any information is contained in an Electronic record which is in printed on a paper, stored, record or copied in optical or magnetic media produce by computer such as CD/Pen Drive/Floppy Drive/Portable Hard Disk/Memory Card etc so that such evidences and its authentication could be proved.
- v) The Investigating Officer shall seize the mobile phones used in the commission of the offence during the investigation and the call details of the same shall also be taken from the concerned authorities without any delay alongwith certificate issued under section 65-B of the Indian Evidence Act, citing such person as witness in the list of witnesses from whom the call details has been taken into possession and the person who issued the certificate issued under section 65-B of the Indian Evidence Act.

In view of above, it is therefore requested to consider these reasons of acquittal, suggestions and issue necessary directions in your subordinate officials/officers so that a strong case may be put before the Ld. Criminal Trial Courts and conviction of accused persons could be secured.

**Note:** Copy of this letter is also available at the Departmental website i.e. [prosecutionhry.gov.in](http://prosecutionhry.gov.in).

*O/C*  
District Attorney  
for Director of Prosecution, Haryana.

Endst: AP (7)-2018/ *130-151*

Dated: *3-1-2019*

A copy is forwarded to all Public Prosecutors/Assistant Public Prosecutors/District Attorney posted at district level **for information and with the direction** to consider these reasons and suggestions while checking the challan i.e. Police Report prepared under Section 173 Cr. P.C. and further directed to discuss the same in the meeting of District Level Monitoring Committee. Failing to comply would invite strict disciplinary action against concerned Public Prosecutors/Assistant Public Prosecutors/District Attorney.

*O/C*  
District Attorney  
for Director of Prosecution, Haryana.