MOST URGENT

Copy of order **Fixed for :29.08.2016**

IN THE HIGH COURT OF DELHI AT NEW DELHI

No. 28460 /Crl. Dated: 20/8/16

From: The Registrar General
High Court of Delhi, New Delhi.

To,

1. The District & Sessions Judge: Central, Tis Hazari Courts, Delhi.
2. The District & Sessions Judge: West, Tis Hazari Courts, Delhi.
3. The District & Sessions Judge: New Delhi, Patiala House Courts, Delhi.
4. The District & Sessions Judge: South, Saket Courts, Delhi.
5. The District & Sessions Judge: South-East, Saket Courts, Delhi.
6. The District & Sessions Judge: East, Karkardooma Courts, Delhi.
7. The District & Sessions Judge: North-East, Karkardooma Courts, Delhi.
8. The District & Sessions Judge: Shahdara, Karkardooma Courts, Delhi.
9. The District & Sessions Judge: North-West, Rohini Courts, Delhi.
10. The District & Sessions Judge: North, Rohini Courts, Delhi
11. The District & Sessions Judge: South-West, Dwarka Courts, Delhi

Office ... 2118 ... 22/8/16

Criminal M.C. No. 2621/2012

Kanwar Sain Gupta .... **Appellant/s**

VERSUS

NCT of Delhi & Anr. .... **Respondent/s**

Petition under Section 482 Cr.P.C. For quashing of FIR No. 185/2010, Registered at Police Station Economic Offences Wing under Section 406/420/467/468/471/120-B IPC

Sir,

I am directed to forward herewith for immediate compliance/necessary action a copy of judgment/ order dated **21.07.2016** passed in the above case by Hon'ble Mr. Justice P.S. Teji of this Court along with copy of Standing Order No. 444/2016 dated 21.6.2016 issued by the Commissioner of Police, Delhi.

You are hereby requested to circulate the order dated 21.7.2017 along with Standing Order No. 444/2016 dated 21.6.2016 amongst all the Criminal Courts of concerned District for further compliance.

Other necessary directions are contained in the enclosed copy of order.

Yours faithfully

Encl: C/o dated **21.07.2016** a/w memo of parties
and Standing order No. 444/2016 dated 21.6.2016

Assistant Registrar (Crl.)
for Registrar General

(4)

IN THE HIGH COURT OF DELHI AT NEW DELHI.

Criminal Miscellaneous Case No. 2621 of 2012.

IN THE MATTER OF :

Kanwar Sain Gupta ... Petitioner

Versus

National Capital Territory of Delhi and another ... Respondents

MEMO OF PARTIES

Sh. Kanwar Sain Gupta
S/o Sh. Radhey Shyam Gupta,
R/o Ward No.6, Friends Enclave,
Sohna, Distt. Gurgaon,
Haryana ... Petitioner

Versus

(1) National Capital Territory of Delhi
5, Sham Nath Marg,
New Delhi.

(2) Sh. Lokesh Gupta
S/o Sh. Ramesh Chand Gupta
R/o H. No.107, Sector-18A,
Faridabad, Tehsil & District Faridabad,
Haryana ... Respondents

PETITIONER

New Delhi.
Dated: 27.07.12

through Rts Prasad.
(RAJPUT & ASSOCIATES)
ADVOCATES
F-9, GF, SCHOOL BLOCK,
SHAKARPUR,
DELHI-110092

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.M.C. 2621/2012

KANWAR SAIN GUPTA ..... Petitioner

Through Mr.Sushil Bajaj, Adv. with
Mr.Rajiv Mangla, Adv. with
Mr.Pankaj Baghla, Adv. &
Mr.Rudranath Sinha, Adv.

versus

NCT OF DELHI & ANR. ..... Respondents

Through Mr.Rahul Mehra, Standing Counsel (Crl.) with Mr.Amit Chadha, APP, Mr.Sibesh Singh, DCP (Legal), Mr.Mandeep Randhawa (DCP – South-East), MrRavinder Sharma, ACP, Mr.Vinod Gandhi, SHO & Mr.Dharminder, SI (DIU).

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **21.07.2016**

In pursuance of the efforts made with the assistance of Mr.Rahul Mehra, learned Standing Counsel (Crl.) for the State and other senior police officers, the deliberations were made to find out the way out to expedite the investigation. In pursuance of the same, the Commissioner of Police issued the Standing Order No.440/2015 dated 28th May, 2016. Thereafter, some modifications were also thought to be necessary and as a result, the Standing Order

No.441/2016 was issued on 20th January, 2016 by merging the both. Now, the Standing Order No.444/2016 dated 21st June, 2016 has been issued. Copy of the same is produced in Court.

Apparently, the steps suggested by the Commissioner of Police appear to be sufficient in the facts and circumstances. Definitely, if the circumstances warrant, the Police shall further endeavour to make necessary amendment with the letter and spirit of these guidelines. The guidelines show as to how the police would proceed after the registration of the FIR till filing of the charge-sheet and further as to how to make the checks and counter checks by the superior authority to the act of the investigating officer in the matter.

It has been showed to the Court that to avoid the ignorance about the Standing Orders, the Commissioner of Police shall ensure that the information about the Standing Orders is circulated to every investigating officer for strict compliance of the same. It would be the duty of the Commissioner to make sure that no investigating officer makes any excuse on the ground of ignorance of the guidelines. Definitely, the Standing Order starts with the registration of the FIR and will put to end upon filing of the charge-sheet. It further shows that some steps taken by the police in the present matter, needs further orders of the Court after due application of the mind such as issuance of non-bailable warrants and the proceedings to declare any accused as proclaimed offender which shall be dealt with by the Court below in the letter and spirit of these guidelines so as not to cause any delay in the investigation of the proceedings.

Consequently, the Standing Order No.444/2016 is taken on

record. The copy of this order along with the Standing Order No.444/2016 be sent to all the criminal courts below keeping in view the observations made above.

So far as the decision in the present case on merit is concerned, the case shall be taken on 29th August, 2016 for arguments.

The proceedings before the Trial Court shall remain stayed during the pendency of the present case.

[redacted]

P.S.TEJI, J

JULY 21, 2016/aa

TRUE COPY

EXAMINER

9-33

STANDING ORDER NO. 444 /2016

INSTRUCTIONS FOR EXPEDITIOUS INVESTIGATION OF CASES IN DELHI POLICE.

INTRODUCTION

The Hon'ble High Court of Delhi in Criminal M.C. No. 2621 of 2012 titled 'Kanwar Sain Gupta Vs State' has observed that investigation of cases are sometimes not concluded in an expeditious manner. Moreover, Section 173 Cr.P.C. also provides that investigation of any case shall be completed without unnecessary delay and as soon as it is completed the police shall forward the Final Report to the Magistrate, empowered to take cognizance. Delhi Police as a part of the 'Criminal Justice System' is committed to provide speedy justice to enforce the right to life with dignity guaranteed in Article 21 of the Constitution of India and implement existing laws as well as directions of the Hon'ble Courts.

INSTRUCTIONS:

In order to ensure speedy investigation of cases, the following instructions are issued for meticulous compliance:

1. The concerned Assistant Commissioner of Police (ACP), immediately after registration of FIR, shall issue a check-list containing detailed instructions including timeline to be followed by the Investigating Officers during the course of investigation.

2. The investigating Officers shall collect the relevant evidences/information by summoning the concerned persons at the earliest under the provision of section 91/160 Cr.P.C. In case of disobedience of the notice and non-cooperation by the concerned persons, the Investigating Officers, after obtaining permission from the concerned Deputy Commissioner of Police (DCP), shall take steps for initiation of action against the defaulters as envisaged in Section 174/175/176/177/179 I.P.C.

3. The Investigating Officers/SHO concerned shall deposit all the relevant exhibits/documents for examination with the Forensic Science Laboratory (FSL) as early as possible, within 07 days from the date of its collection. Further, in case of biological samples such as blood, semen, etc. which putrefy/degenerate at a rapid rate, should be sent on the same day/ next day of collection.

4. While conducting investigation, Section 467/468 of I.P.C. (in cases where it was not invoked at the time of registration of FIR) shall be added with the prior permission from the concerned

DCP. The supervisory officers shall ensure that the addition of sections is justified, and has not been done for the purpose of delaying investigation

5. Exhibits of cases relating to economic offences (Criminal Breach of Trust, Cheating & Forgery) and other than economic offences shall be forwarded to FSL after obtaining permission from the concerned DCP and concerned ACP, respectively. The concerned Supervisory Officer shall ensure that the Investigating Officers/SHOs forward the essential and relevant material as well as queries to the FSLs.

6. Any document having finger-prints as well as signatures of the parties/executors should be forwarded to the Finger Print Bureau (F.P.B.) as comparison of finger-prints is an easy, less time consuming and more authentic process. It shall be ensured by the supervisory officers that in all such cases, appropriate legal action including arrest, chargesheet, etc., is taken on the basis of finger-print expert's opinion. However, if needed, further examination by the FSL/handwriting expert may also be got conducted, subsequently and report thereof may be filed through a supplementary chargesheet.

7. Regular follow-up with the FSLs should be made by the Investigating Officer/SHO to provide any other assistance/material required for examination. In case, the Investigating Officer is transferred out, the concerned SHO/Supervisory Officer shall depute a responsible officer for the same and ensure compliance.

8. If the opinion from FSL is not received within a reasonable time frame, the Investigating Officer/SHO shall bring the matter to the notice of the concerned DCP so that matter can be taken up with the FSL authorities immediately.

9. On receipt of information from the FSL that the report is ready, the Investigating Officer/SHO shall collect the same immediately. It should be scrutinized promptly and put-up by the Investigating Officer before the concerned Supervisory Officer for further action, within 15 days.

10. The FSL opinion shall be expeditiously submitted in the Court concerned by the Investigating Officer/SHO through a chargesheet, after obtaining the requisite administrative approvals.

11. Co-accused who cannot be traced and arrested should be declared Proclaimed Offenders and the case be chargesheeted after completing investigation.

12. The cases, where sufficient evidence to chargesheet the case has been collected, will be forwarded to the Court for trial without delay. The FSL reports and other evidences collected subsequently should be filed before the Court through supplementary chargesheet.

13. The formal investigations in Economic Offences are necessary but sometimes it is used as a tool to resolve the primarily civil disputes between the parties. There may be hairline difference between a matter of civil nature and cases falling under Criminal Breach of Trust and Cheating. Therefore, both the parties and their documents must be examined thoroughly to arrive at a conclusion as early as possible. Expeditious investigation is need of the hour but it should be ensured by the supervisory officers that no erroneous decision under the garb of the same is taken. However, in all those cases, wherein the investigation has established the commission of criminal offences or otherwise, appropriate steps be taken for concluding the investigation and filing the Final Report at the earliest.

14. The DCP concerned shall ensure that for improving the quality of investigation, the workload of an Investigating Officer should not be excessive.

15. It is a tendency of the accused not to co-operate in investigation, if he/she gets bail and the investigation is delayed. In all such cases, the concerned Investigating Officer shall immediately take steps to move an application for cancelation of bail.

16. Guidelines/instructions issued by the Hon'ble Supreme Court of India in the matter of 'Arnesh Kumar Vs State & another', regarding arrest of accused persons be meticulously complied with by the Investigating Officers.

As laid down by the Hon'ble Apex Court, the Investigating Officers shall not automatically arrest a person but have to satisfy himself about the necessity of arrest. Further, in all cases punishable with imprisonment for a term up-to 7 years, the decision not to arrest an accused shall be forwarded to the concerned court within 2 weeks from the date of the institution of the case. Notice for appearance of an accused shall also be served within 2 weeks from the date of institution of the case. The period of 2 weeks can be extended by the DCP concerned for reasons to be recorded in writing.

17. Investigation of the cases be concluded at the earliest and it shall be ensured that no undue benefit is taken by the accused u/s 468 CrPC (limitation of taking cognizance) & u/s 167(5) CrPC (investigation in summons-cases to be completed in 6 months from the date of arrest). The detailed instructions vide Standing

Order No. 340/2009, issued in this regard, should be complied with.

18. In case the accused persons are arrested and are in judicial custody, the Investigating Officers and ACP shall ensure that investigation of the case is completed expeditiously and chargesheets are filed within 60/90 days of arrest, as per the requirements of Section 167(2)(a) of Cr.P.C.

19. In such cases, the chargesheets should be sent to the Prosecution Branch well in time, as far as possible within 45 days (in case chargesheet is to be filed before 60 days of arrest) or 75 days (in case chargesheet is to be filed before 90 days of arrest). Regular follow-up with the concerned A.P.P./Prosecution Branch shall be made by the Investigating Officer to provide any other assistance required for scrutiny.

20. If the case file is not scrutinized by the Prosecution Branch within 15 days, the Investigating Officer shall bring the matter to the notice of the concerned ACP/DCP so that matter may be taken up with the Director of Prosecution, immediately.

21. The ACsP must personally check the investigation of the cases to ensure that the same is being promptly and fairly conducted by the Investigating Officers. The DCP shall also ensure that investigation is being properly conducted by the Investigating Officers as well as monitored by the ACsP. The Investigating Officer shall endeavor to complete the investigation within one year.

22. In case investigation of a case relating to economic offences cannot be completed within one year, the Investigating Officer/SHO shall seek further time for investigation from the DCP concerned alongwith reasons of delay, whereas in cases relating to other than economic offences, the Investigating Officer /SHO shall seek further time for investigation from the ACP concerned alongwith reasons of delay. The concerned Supervisory Officer (DCP/ACP), shall examine the reason of delay as well as the case file and after satisfying himself that sufficient steps are taken by the I.O. to complete the investigation, shall accord the same or take necessary corrective steps. In case there is undue delay in completion of investigation, the DCP/ACP concerned shall fix the responsibility of concerned and initiate appropriate action.

23. Similarly, if the investigation of any case (other than economic offences) cannot be completed within two years, the concerned ACP shall seek further time for investigation from the concerned Dy. Commissioner of Police (DCP). The DCP shall then examine the reasons of delay, reports and case file and shall accord permission only after satisfying himself that further investigation

is essential and reasonable steps have been taken by the I.O. and other supervisory officers to complete the investigation. In case, there is undue delay in completing the investigation, then the DCP shall fix responsibility for delay by concerned officers and take appropriate action.

24. In the same way, if the investigation of any case cannot be completed within three years, the concerned DCP shall seek further time for investigation from the concerned Joint Commissioner of Police (Jt. CP). The Jt. CP shall then examine the reasons of delay, reports and case file and shall accord permission only after satisfying himself that further investigation is essential and reasonable steps have been taken by the I.O. and other supervisory officers to complete the investigation. In case there is undue delay in completing the investigation, then the Jt. CP shall fix responsibility for delay by concerned officers and take appropriate action.

25. In case the delay in investigation is noticed at any of the above stages, a monthly report till the finalization of the case shall be submitted by the concerned Asstt. Commissioner of Police to the Dy. Commissioner of Police with reason of pendency and steps taken to expedite investigation during the last month, for onward transmission/examination by the other supervisory officers.

Non compliance of these instructions will be viewed adversely and appropriate disciplinary action will be initiated against the concerned officers.

This Standing Order supersedes the old Standing Order No. 440/2015 issued vide this Headquarters OB No. 44/RB/PHQ dated 16.12.2015 (7076-7438/Record Branch/PHQ dated 16.12.2015), Standing Order No. 441/2016 issued vide this Headquarters OB No. 02/RB/PHQ dated 20.01.2016 (02-463/Record Branch/PHQ dated 20.01.2016) and Standing Order No. 440/2016 issued vide this Headquarters OB No. 17/RB/PHQ dated 28.05.2016 (2305-2656/Record Branch/PHQ dated 28.05.2016).

Alok Kumar Verma

ALOK KUMAR VERMA
COMMISSIONER OF POLICE
DELHI

O.B. No. 19 /RB/PHQ dated 21/6/2016.

No. 2818-2968 /Record Branch/PHQ dated, Delhi the, 21/06/2016.

Copy forwarded for information and necessary action to the :-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi.
3. All Additional Commissioners of Police, Delhi.
4. All Districts/Units Dy. Commissioners of Police, including FRRO & P/PTC, Delhi.
5. SO to CP, Delhi.
6. DCP/IT Centre (PHQ), with the direction to upload the Standing Order in Intra DP net.
7. All ACsP Sub-Division/Delhi and all ACsP in PHQ/Delhi.
8. All SHOs/Delhi Police through their respective DCsP.
9. All Inspectors/PHQ, including Reader to CP, Delhi.
10. I/C Record Branch/PHQ.
11. Librarian/PHQ.

