THE HIGH COURT OF ORISSA : CUTTACK

No.XI-08/2024/**6080(30)**/ Dated: **16.04.2024**

From:

Suman Kumar Mishra,
Registrar (Judicial)

To,

The District & Sessions Judge..... (All)

Sub: Judgment dated 10th April, 2024 passed in JCRLA No.81 of 2018 (Muna @ Jagabandhu Bhoi Vrs. State of Odisha) by the High Court of Orissa for timely submission of chemical examination reports by the Forensic Science Laboratories- reg.

Sir,

I am to say that in Paragraph-11 of judgment dtd.10.04.2024 passed in JCRLA No.81 of 2018 (Muna @ Jagabandhu Bhoi Vrs. State of Odisha) the Hon'ble High Court of Orissa has been pleased to observe and direct regarding timely production of the chemical examination reports in rape cases, as follows:

> *"11. I would like to advert to one disturbing feature noted in this case is that even though the biological samples of both the victim and appellant so also the wearing apparels seized during the course of investigation were sent for chemical examination through the learned S.D.J.M., Jharsuguda to the Deputy Director, R.F.S.L., Sambalpur on 08.08.2016, but no chemical examination report has been obtained and filed with the charge sheet dated 24.11.2016. In this type of cases, the chemical examination report is a vital document and crucial piece of evidence and it is the duty of the prosecution to produce it in time and prove it in accordance with law. It is the duty of the Magistrate to supply the chemical examination report to the accused along with police papers at the time of commitment of the case to the Court of Session in view of section 207 of Cr.P.C. and Rule 50 of the G.R.C.O. (Criminal) of High Court of Judicature, Orissa if the same is available on record. If the chemical examination report is not submitted along with the charge sheet and not supplied to the accused before commitment, it is the duty of the Prosecutor as well as the trial Court to see that the chemical examination report is made available before the charges are framed and copy of such report is furnished to the accused. The trial Court has also a duty and responsibility to send reminder to the Director/Dy. Director of the Forensic Science Laboratory to send the chemical examination report and in spite of such reminder, if no report is furnished, the Court can take concrete steps against the erring officials for non-production of such report in the interest of justice. The Director/Deputy Director of the Forensic Science Laboratories should send the chemical examination report to the concerned Court within a reasonable period preferably within two months of the receipt of seized exhibits for analysis. Forensic Science plays a vital role in criminal justice delivery system providing the investigators with scientific based information through analysis of physical evidence. Unfortunately the police and the Prosecutors often fail to obtain results from laboratories quickly enough to determine the accusations against a person. Non-receipt of the chemical examination report or delayed receipt of report creates obstacles in arriving at truth and hamper the course of justice. Nobody has a right to play with the lives of the persons who are facing trial for a serious charge and also to deprive the victims from getting proper justice. The reports of the Government scientific experts can be used as evidence in view of the provisions under*

section 293 of Cr.P.C. Non-availability of a chemical examination report before the trial Court can have a far reaching consequence in a criminal trial and can cause serious judgmental errors. It is the duty of the State Government to provide sufficient staff and competent officers for examination of the seized exhibits in the Forensic Science Laboratories for speedy and effective analysis and to furnish accurate forensic reports for the proper dispensation of justice delivery system. The State cannot cock a snook at its duty to provide the required infrastructure and manpower to the forensic laboratories in the interest of justice. The State must realize the negative impacts which potentially ensue if it fails to take the required steps in making the forensic laboratories well-equipped and functional with sufficient manpower, as every omission on its part may jeopardize the rights and liberties of hundreds of accused and victims.

In this case, the trial Court record does not indicate the alertness, promptness on the part of the Public Prosecutor in drawing the attention of the learned trial Judge to the non-availability of the chemical examination report on case records and to cause production from R.F.S.L., Sambalpur and to prove the same in accordance with law. The Director of Public Prosecution is required to instruct all the Public Prosecutors of the State to ensure that appropriate steps are taken promptly to get the chemical examination reports in time which are to be taken on record by the trial Courts, if not submitted along with charge sheet."

As directed, a copy of the aforementioned judgment is communicated herewith for information and circulation of the same among all the Trial Courts within your jurisdiction for implementation of the observations and directions made in Paragraph-11 of the judgment scrupulously.

Yours faithfully,

SUMAN KUMAR MISHRA

Digitally signed by SUMAN KUMAR MISHRA
Date: 2024.04.16 16:31:34 +05'30'

Registrar (Judicial)

Encl: As above.