PRL. DISTRICT COURT : WEST GODAVARI : ELURU : Dt. 12.04.2024

Communicated the Hon'ble High Court's ROC.No.171/SO/2024, Dt.02.04.2024, along with the copy of Judgment Dt.12.03.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No.1511 of 2024, to all the Judicial Officers working in the unit of West Godavari District.

C. Purushotham
PRL. DISTRICT JUDGE,
W.G., ELURU.

Copy to:

1. All the Judicial Officers working in the Unit of West Godavari, for information.
2. The Secretary, DLSA, Eluru.
3. The Chairman, PLAPUS.
4. The Incharge System Officer (eCourts project), Principal District Court, Eluru, with a direction to place the same in District Court's website and send **emails** to all the Officers.

DIS NO. 3273
DATE 14/4/24

Dr. Y. LAKSHMANA RAO
REGISTRAR GENERAL

AMARAVATI
(Off) :0863 2372613
(Telefax):0863 2372631

R 4593
6/4/24

ROC No.171/SO/2024 **Dated 02.04.2024**

06 APR 2024

To
All the Principal District Judges
in Andhra Pradesh.
Sir/Madam,

Sub: High Court of Andhra Pradesh – Copy of Judgment dated 12.03.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No. 1511 of 2024 *(Dablu Kujur v. The State of Jharkhand)* -- Forwarded for information and necessary action – Reg.

Ref: Judgment dated 12.03.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No. 1511 of 2024 *(Dablu Kujur v. The State of Jharkhand).*

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Adverting to the subject and reference cited, as directed, I am to forward herewith the copy of Judgment dated 12.03.2024 of the Hon'ble Supreme Court of India passed in Criminal Appeal No. 1511 of 2024 *(Dablu Kujur v. The State of Jharkhand),* for information and necessary action.

Further, I also request you communicate the same to all the Judicial Officers in your Unit and to the Presiding Officers of Labour Courts/Tribunals in the District working under the control of the High Court, for information and necessary action.

Yours sincerely,

Y. Lakshmana Rao
2/4/24
REGISTRAR GENERAL

W
6/4

Encl: As stated.

2024 INSC 197

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1511 OF 2024

(@ SPECIAL LEAVE PETITION (Crl.) No.2874 OF 2023)

DABLU KUJUR **…APPELLANT(S)**

VERSUS

THE STATE OF JHARKHAND **…RESPONDENT(S)**

J U D G M E N T

BELA M. TRIVEDI, J.

1. Leave granted.

2. The appellant-accused, by way of the present appeal has challenged the impugned judgment and order dated 17.01.2023 passed by the High Court of Jharkhand at Ranchi in B.A. No.11895 of 2022, whereby the High Court has dismissed the said application seeking his release on bail in respect of the FIR being Sukhdeonagar P.S. Case No.-238/2022 dated 30.05.2022 registered for the offences under Sections 302, 120-B/34 of IPC and Section 25(1-B) A/26/27/35 of the Arms Act.

Signature Not Verified
Digitally signed by RAVI ARORA
Date: 2024.03.12 17:22:06 IST
Reason:

3. During the course of arguments, it was apprised to the Court that the trial is at the fag end and almost all the witnesses have been examined by the prosecution except one witness.

4. In view of the above, we are not inclined to release the appellant on bail, more particularly, when the trial is at the fag end.

5. Before parting, it may be noted that on 17.07.2023, this Court (Coram- Mr. Justice Sanjiv Khanna and Ms. Justice Bela M. Trivedi) had passed the following order: -

> "The learned counsel for the State of Jharkhand states that Sections 34 and 120B of the Indian Penal Code, 1860 have been SLP(Crl.) No. 2874/2023 invoked against the petitioner - Dablu Kujur.
>
> Having gone through the chargesheet, we must observe that it is bereft of any details and particulars. The Director General of Police (DGP), State of Jharkhand will examine whether the said chargesheet is in accordance with law, and if such chargesheets are being filed, appropriate steps should be taken in compliance with the relevant provisions of the Code of Criminal Procedure, 1973. The DGP, State of Jharkhand will file an action report within a period of four weeks from today.
>
> We are told that similar chargesheets bereft of details and particulars are being filed in the States of Bihar and Uttar Pradesh. A copy of this order will also be sent to the relevant DGPs for the States of Bihar and Uttar Pradesh, who will submit their respective reports on the steps taken by them within four weeks from today.
>
> Keeping in view the facts of the present case, we are inclined to direct the trial court to examine the public witnesses within a period of four months from today, without fail. Status report along with copy of the order sheets will be filed immediately upon completion of four months.
>
> List for consideration and orders in the first half of December 2023".

6. In compliance with the said order, the affidavits are filed on behalf of the State of Jharkhand, Uttar Pradesh and Bihar with regard to the steps taken/being taken by them for submitting the Chargesheets/Police Reports in accordance with law.

7. The Police Report submitted by the police under Section 173(2) being very important piece of document from the view point of the prosecution, the defence and the court, we deem it necessary to elaborately deal with the various aspects involved in the said provision. For the reasons stated hereinafter, we are of the opinion that it is incumbent on the part of the Investigating Officer to strictly comply with the requirements of the said provisions, as non-compliance thereof gives rise to many legal issues in the court of law.

8. As per Section 2(r) of Cr.P.C, "Police Report" means a report forwarded by a Police Officer to a Magistrate under sub-section (2) of Section 173.

9. Section 173 reads as under: -

> "**173**. Report of police officer on completion of investigation. —
>
> (1) Every investigation under this Chapter shall be completed without unnecessary delay.
>
> [(1A) The investigation in relation to [an offence under sections 376,376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E] from the date on which the information was recorded by the officer in charge of the police station.]

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under 2 [sections 376,376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860)].]

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)".

10. The procedure for investigation has been laid down in Section 157 of Cr.P.C. which states *inter alia* that if from the information received or otherwise, an officer in charge of a police station has reason to

suspect the commission of an offence which he is empowered under Section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender. Such report would be in the nature of preliminary report. As per Section 169, upon the completion of the investigation, if it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before the Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial. Section 170 deals with the cases to be sent to Magistrate when evidence is sufficient. The relevant part of Section 170(1) reads as under: -

> **"170.** Cases to be sent to Magistrate, when evidence is sufficient.—(1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the

offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed."

11. Section 172 pertains to the Diary of proceedings in investigation, which requires every police officer making an investigation under Chapter XII Cr.P.C. to enter his proceedings in the investigation in a diary day by day. Sub-section (IA) of Section 172 requires that the statements of the witnesses recorded during the course of investigation under section 161 have to be inserted in the case diary; and sub-section (1B) of Section 172 requires that such diary shall be a volume and duly paginated.

12. We are more concerned with Section 173(2) as we have found that the investigating officers while submitting the chargesheet/Police Report do not comply with the requirements of the said provision. Though it is true that the form of the report to be submitted under Section 173(2) has to be prescribed by the State Government and each State Government has its own Police Manual to be followed by the police officers while discharging their duty, the mandatory requirements required to be complied with by such officers in the Police Report/Chargesheet are laid down in Section 173, more particularly sub-section (2) thereof.

13. It may be noted that though there are various reports required to be submitted by the police in charge of the police station before, during and after the investigation as contemplated in Chapter XII of Cr.P.C., it is only the report forwarded by the police officer to the Magistrate under sub-section (2) of Section 173 Cr.P.C. that can form the basis for the competent court for taking cognizance thereupon. A chargesheet is nothing but a final report of the police officer under Section 173(2) of Cr.P.C. It is an opinion or intimation of the investigating officer to the concerned court that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed.

14. When such a Police Report concludes that an offence appears to have been committed by a particular person or persons, the Magistrate has three options: **(i)** he may accept the report and take cognizance of the offence and issue process, **(ii)** he may direct further investigation under sub-section (3) of Section 156 and require the police to make a further report, or **(iii)** he may disagree with the report and discharge the accused or drop the proceedings. If such Police Report concludes that no offence appears to have been committed, the Magistrate again has three options: **(i)** he may accept the report and drop the proceedings, or **(ii)** he may disagree with the report and

taking the view that there is sufficient ground for proceeding further, take cognizance of the offence and issue process, or **(iii)** he may direct further investigation to be made by the police under sub-section (3) of Section 156[1]**.**

15. The issues with regard to the compliance of Section 173(2) Cr.P.C., may also arise, when the investigating officer submits Police Report only *qua* some of the persons-accused named in the FIR, keeping open the investigation *qua* the other persons-accused, or when all the documents as required under Section 173(5) are not submitted. In such a situation, the question that is often posed before the court is whether such a Police Report could be said to have been submitted in compliance with sub-section (2) of Section 173 Cr.P.C. In this regard, it may be noted that in ***Satya Narain Musadi & Ors. vs. State of Bihar[2],*** this Court has observed that statutory requirement of the report under Section 173(2) would be complied with if various details prescribed therein are included in the report. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5). In ***Dinesh Dalmia vs. CBI[3],*** however, it has been held that even if all the documents are not filed, by reason

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[1] Bhagwant Singh vs. Commissioner of Police & Anr.; (1985) 2 SCC 537
[2] (1980) 3 SCC 152
[3] (2007) 8 SCC 770

thereof the submission of the chargesheet itself would not be vitiated in law. Such issues often arise when the accused would make his claim for default bail under Section 167(2) of Cr.P.C. and contend that all the documents having not been submitted as required under Section 173(5), or the investigation *qua* some of the persons having been kept open while submitting Police Report under Section 173(2), the requirements under Section 173(2) could not be said to have been complied with. In this regard, this Court recently held in case of ***CBI vs. Kapil Wadhwan & Anr.***[4] that: -

> "Once from the material produced along with the chargesheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of chargesheet would neither vitiate the chargesheet, nor would it entitle the accused to claim right to get default bail on the ground that the chargesheet was an incomplete chargesheet or that the chargesheet was not filed in terms of Section 173(2) of Cr.P.C."

16. The above referred discussion has been necessitated for highlighting the significance of the compliance of requirements of the provisions contained in Section 173(2) of Cr.P.C.

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[4] **Criminal Appeal No. 391 of 2024 (@ SLP (Crl) No. 11775 of 2023)**

17. Ergo, having regard to the provisions contained in Section 173 it is hereby directed that the Report of police officer on the completion of investigation shall contain the following: -

(i) A report in the form prescribed by the State Government stating-

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(h) Whether the report of medical examination of the woman has been attached where investigation relates to an offence under [sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860)"

(ii) If upon the completion of investigation, there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, the Police officer in charge shall clearly state in the Report about the compliance of Section 169 Cr.PC.

(iii) When the report in respect of a case to which Section 170 applies, the police officer shall forward to the Magistrate along with the report, all the documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation; and the statements recorded under Section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(iv) In case of further investigation, the Police officer in charge shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed and shall also

comply with the details mentioned in the above sub para (i) to (iii).

18. It is further directed that the officer in charge of the police stations in every State shall strictly comply with the afore-stated directions, and the non-compliance thereof shall be strictly viewed by the concerned courts in which the Police Reports are submitted.

19. Copy of this order be sent to all the Chief Secretaries of the States/UTs as also to Registrar Generals of the High Courts for perusal and compliance. The appeal stands disposed of accordingly.

……J.
[BELA M. TRIVEDI]

…….. J.
[PANKAJ MITHAL]

NEW DELHI;
MARCH, 12th 2024.