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

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Crl.M.C.No. 3701/2010

Reserved on: 11.01.2012
Pronounced on: 19.01.2012

State Govt. of NCT of Delhi **…… Petitioner**
Through: Ms. Jasbir Kaur, Advocate

Versus

Jitender **…… Respondent**
Through: Mr. R.S Gupta, Advocate

And

Crl. M.C.No. 918/2011 & Crl. MA 7782/2011

State **…… Petitioner**
Through: Mr. Vinod Wadhwa and Mr. Sahil Kapur, Advocates

Versus

Virender @ Ballu & Anr. **…… Respondents**
Through: Mr.Virender, Respondent no.1 in person

CORAM:
HON'BLE MR. JUSTICE M.L. MEHTA

M.L. MEHTA, J.

1. The petition Crl MC. No. 3701/2010 is against the order dated 07/04/2010 & 30/10/2010 passed by the trial court in FIR No. 1/8 u/s 302/397/120 B IPC Police Station Shahabad Dairy wherein the trial court has directed the state government to comply with certain directions of the Ld ASJ with regard to the preparation of post mortem reports and MLC's. Also Crl MC No. 918/2011 assails order dated 14/01/2011 of the Ld ASJ whereby

another direction has been given by the Ld ASJ regarding taking photographs of the victims clothes during investigation/inquiry. Both these petitions being similar in nature are being disposed off by this common order.

2. The directions given by the learned ASJ in Crl MC 3701/2010 can be summarized up as follows:

a. *The MLC and post mortem report shall be prepared by typing it on the computer instead of them being hand written as hand written documents may not be clear and thus wastes time of the court to understand them.*
b. *The MLC shall be prepared by doctors who are properly trained in forensic sciences and not my any junior or trainee doctors.*
c. *The MLC and post mortem report should clearly and accurately describe/illustrate the nature, location, depth, color and entry and exit wounds/injuries on the body.*
d. *Histo Pathological report of organ(s) of the deceased be submitted at the earliest.*
e. *FSL reports should not be delayed.*

3. The direction given by the Ld ASJ in Crl MC No. 918 /2011 is that the doctor who attends any victim, injured or dead and seizes his/her clothes shall take photographs of the clothes as it is very crucial evidence in a criminal trial. Therefore it is incumbent upon the doctor to take photographs of the clothes and submit it with the Investigation officer/court along with the MLC report of the victim. Similarly, it is directed that the Director, FSL shall take photographs of the clothes or any other exhibit after opening of their seal and along with their FSL report, such photographs should be submitted in court.

4. Learned Standing Counsel for the State contends that learned ASJs have no power or authority to give such kind of directions to the Government

in policy matters. It is submitted that in the cases wherein directions have been given by learned ASJs, there was no occasion for passing such directions. It is submitted that in any case, the Government was contemplating preparation of computerized postmortem reports and for the implementation of other directions but a lot of infrastructure was required which in the given set up was not feasible to comply the same.

5. I have considered the rival submissions of the learned counsel for the petitioner and respondent as also the views of the learned trial courts giving the directions in the aforesaid two cases. The directions which have been given appear to be quite laudable and seem to reflect to be based on the experience and difficulties faced by the trial courts. On the other hand, the contention of learned Standing Counsel for the State that all the directions could not be complied within the stipulated time due to paucity of required infrastructure is also worth consideration. Having regard to the entire factual matrix, I am of the opinion that some of the directions can be implemented without any additional exchequer or infrastructure. The MLCs and the postmortem reports which are prepared by the doctors are often seen to be handwritten and not legible. Then these reports also contain various medical terminological words which are either not properly spelt or are not legible. The trial courts do find themselves handicap when confronted with these kinds of MLCs and postmortem reports. These adversely affect the administration of justice in various ways including delay in comprehending and understanding the reports. Not only that, the courts find it inconvenient in understanding these documents, even sometime the doctors who are not the authors of those documents and are summoned as witnesses to prove them are also faced with difficult situations in their examinations and cross

examinations. It would thus be desirable that the investigating officers while filing charge-sheets, may also file along with the handwritten MLCs and Postmortem reports, their verbatim typed or computerized version duly certified by the author of those documents or the Head of the concerned hospital. Of course, these typed version of MLCs and postmortem reports would neither be a substitute of the original ones nor would be taken to as a supplements. These would only be used for the purpose of facilitating the courts and the parties to clearly understand the contents of the MLCs and postmortem reports. This exercise does not appear to be requiring any additional infrastructure. It is felt that this would save precious time of the court in understanding the contents of MLCs and postmortem reports by the trial courts.

6. It is also experienced that when the doctor who has prepared the MLC or postmortem report does not appear in the court to prove such report either because of his being not available or having demitted the office or retired and some other doctor, is sent by the hospital to prove such document, the doctors usually sent to the courts are either trainees or juniors and many a times even are not able to explain or understand the contents of MLCs or postmortem reports. This not only creates an unpleasant situation for the prosecution, but adversely affects the case of the prosecution. In the event the author of the MLCs or postmortem reports is unable to appear in the court for any reason whatsoever, then as a matter of policy, the concerned incharge of the hospital or administrative head must ensure appearance of properly trained and eligible junior or trainees doctors capable of deposing and proving those reports in the court. Implementation of such kind of directions also do not require any additional infrastructure.

7. With regard to Forensic Science Laboratories, it is not only the experience of trial courts, but also of this court that the reports of FSL are inordinately delayed which results in passing of various avoidable orders, and also adversely affects the administration of justice qua the prosecution as well as the accused. This needs to be streamlined on an urgent basis by giving confirmed and time-bound instructions for expeditious submissions of FSL reports within reasonable time say between 30 to 45 days.

8. It is believed that these directions, as enumerated above, will not require any additional infrastructure and can be outrightly implemented by having a positive attitude to do so. With regard to the rest of the directions, it is believed that the Government may have the views of different stake holders including that of the concerned doctors and the FSLs etc and formulate a time bound scheme so that there is no delay in trial of cases on account of want of requisite and proper medical and scientific reports in time.

9. With above directions, both petitions stand disposed of.

M.L. MEHTA, J.

January 19, 2012
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