

\$~35-37 & 39-40 (common order)

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 13th August, 2018

+ **CRL.M.C. 3780/2016 & Crl.M.A.15813/2016**
STATE (NCT) OF DELHI Petitioner
Through: Mr. Ravi Nayak, APP for the State
with SI Jasmer Singh, PS Jahangir
Puri.

versus

MOMIN @ SABBIR & ORS. Respondents
Through: Mr. Harsh Prabhakar, Advocate
/DHCLSC for R-3.

+ **CRL.M.C. 3781/2016 & Crl.M.A.15817/2016**
STATE (NCT) OF DELHI Petitioner
Through: Mr. Ravi Nayak, APP for the State
with SI Jasmer Singh, PS Jahangir
Puri.

versus

SAMIR @ CHUKKAL & ORS. Respondents
Through: Mr. Harsh Prabhakar, Advocate
/DHCLSC for R-1.

+ **CRL.M.C. 3805/2016 & Crl.M.A.15922/2016**
STATE (NCT) OF DELHI Petitioner
Through: Mr. Ravi Nayak, APP for the State
with SI Vivek, PS Nabi Karim

versus

RAHUL @ RITIK & ANR. Respondents

Through: Mr. Debajyoti Behuria, Advocate for
R-1.

+ **CRL.M.C. 3879/2016 & Crl.M.A.16306/2016**
STATE (NCT) OF DELHI Petitioner
Through: Mr. Ravi Nayak, APP for the State

versus

AHISH TANEJA & ORS. Respondents
Through: Nemo.

+ **CRL.M.C. 3886/2016 & Crl.M.A.16329/2016**
STATE (NCT) OF DELHI Petitioner
Through: Mr. Ravi Nayak, APP for the State

versus

RISHAB KUMAR Respondent
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. While dealing with the cases arising out of five different first information reports (FIRs) – No.21487/15 of Police Station Nabi Karim, No.1082/15 of Police Station Rajouri Garden, No.1111/15 of Police Station Jahangir Puri, No.1110/15 of Police Station Jahangir Puri, and No.23995/15 of Police Station Rajouri Garden – the Juvenile Justice Board-I (JJB) passed the following common order on 24.02.2016:-

“Recently applications/written information have been filed by IOs of several case with the complaint that the

final investigation report prepared by them have been pending for checking by APP for several days. However, APP has failed to check the final investigation report due to which there is imminent possibility that final investigation report cannot be filed in the Board within the limitation period. The problem of non checking of final investigation reports by APP within reasonable time has become a regular phenomena due to which interest of JCLs as well as victims get prejudiced.

There is no legal requirement in CrPC to compulsorily get the final investigation reports checked by APPs before they are filed in Court/Board for taking judicial cognizance. Moreover, no useful purpose is served by getting the final investigation report checked by APPs as no final responsibility/accountability of APPs is fixed if the final investigation report is not filed as per law, or is filed with faulty investigation.

Accordingly, the practice of getting the investigation files checked by APPs can be obviated. The concerned ACPs are competent enough to check the final investigation report prepared by the IO and forward the same to Board for taking of judicial cognizance.

Issue notice to DCP/West, DCP/Center, DCP/North, DCP North West and DCP/Outer with the direction that in future all the final investigation reports shall be forwarded to JJB-I by the order of concerned ACPs, without requiring the same to be checked by APPs.

This direction shall come into effect immediately so that the interest of JCLs and victims are not adversely affected.

The copy of this order be also sent with notice to the DCPs.

Compliance report be called for 09/03/2016.”

2. The State feeling aggrieved by the aforementioned order has approached this court by these five petitions, each concerning one of

the aforementioned FIRs separately – invoking inherent power of this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to question the correctness, legality and propriety of the afore mentioned general directions of JJB.

3. The Code of Criminal Procedure, 1973 demarcates the stage of investigation into a cognizance offence as one concerning the police. It is trite and well settled that the investigative process is in the hands of the investigating police and there can be no interference by the court of Metropolitan Magistrate at that stage, particularly to insist on the investigating agency reaching a particular conclusion or submitting its report with a particular request, *i.e.*, proposing prosecution of any particular accused or cancellation of the case, or its closure, etc. The prosecution agency of the State aids and assists the investigating agency in taking the matter further from the stage of completion of investigation. If the investigating agency needs to have the benefit of the opinion of the prosecution agency, the court ought not come in the way. The practice of having the reports under Section 173 Cr.P.C. vetted by the prosecution department before they are presented in the court of cognizance has evolved over the years with the objective of ensuring that the matter reaches the court with proper legal advice.

4. In these circumstances, the general directions given by JJB in the afore-quoted order appear to be ill-advised and uncalled for. They are hereby set aside. At the same time, it must be added that the prosecution department must put in position a proper system and standard procedures so that the process of its scrutiny does not delay submission of the case(s) before the competent court/forum.

5. This disposes of all the petitions.
6. *Dasti.*

R.K.GAUBA, J

AUGUST 13, 2018/vk

