

CHAPTER - XXXVIII (H)

COMPLETION OF INVESTIGATION AND FINAL REPORT

1782. REPORT OF POLICE OFFICER ON COMPLETION OF INVESTIGATION:-

- (1). The principles laid down under section 173 of the Code of Criminal Procedure, 1973 shall be strictly followed.
- (2). Every investigation by the Police shall be completed without unnecessary delay and charge sheet submitted to the court. It shall be remembered that the delay in the submission of charge sheets militates against the principles of law. In cases where the accused are caught red-handed with property, there should be no delay at all in the submission of charge sheets. In such cases, the accused should be forwarded in custody to the Magistrate having jurisdiction, along with the charge sheet, except in cases where the accused is a stranger and his antecedents have to be verified. In offences against person, including cases of murder, there should be normally be no delay and difficulty in completing the investigation and filing the charge sheet before the expiry of the remand period under section 167 of the Code of Criminal Procedure. It should be remembered that on expiry of the period of ninety days where the investigation relates to an offence punishable with death / imprisonment for life or imprisonment for a term not less than 10 years and of sixty days in any other offence, the accused person shall have to be released on bail if he furnished bail.
- (3). In summons case (section 167 (5) Cr.P.C.), if the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall have to make an order stopping further investigation into the offence unless the investigating officer satisfies the Magistrate that for special reasons and in the interests of justice continuation of the investigation beyond the period of six months is necessary. The supervisory officer should, therefore, ensure that the investigation of cases is completed within a period of six months, and a report to the jurisdiction court is sent as stipulated under section 173 Cr.P.C. Even after submission of this report, the investigating officer may continue further investigation. If he obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form of supplementary charge sheet, or additional list of documents, additional memo of evidence with or without statements. (173 (8) Cr.P.C.)

1783. The investigating officer should also bear in mind the bar imposed by section 468 Cr.P.C. for taking cognizance after the lapse of the period of limitation. It is the duty of the Senior Superintendent of Police, Superintendent of Police and the Circle Inspector to see that investigations are promptly and vigorously carried strictly in accordance with sections

- (a). 173,
- (b). 167, and
- (c). 468 of the Code of Criminal Procedure.

1784. The final reports required by section 173 Cr.P.C. to be submitted to the court on the completion of investigation, shall be in the Form No. I F.5, 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 bond and, if so, whether with or without sureties,
- (g). whether he has been forwarded in custody under section 170.

CHARGE SHEETS / FINAL REPORT FORM

1785. If there is sufficient evidence to warrant the filing of charge sheet against the accused, the SHO / the investigating officer will submit to the Magistrate empowered to take cognizance of the offence a charge sheet in Form No. I F. 5 as stated supra. The names of such of the accused as are absconding should be entered in red ink in the appropriate column of the final report form. Care should be taken to see that all the columns in the charge sheet in Form No. I F. 5 are filled in properly. No column should be left blank. The officer-in-charged of the Police Station shall also communicate in Form No. 43 (notice to the complainant) the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given. Once the investigation is completed and a prima facie case is made out, there should be no delay in the submission of the charge sheet.

1786. The charge should be brief but at the same time clear. The date, time and place of offence should invariably be mentioned in the charge. In simple cases, the charge sheets shall be prepared by Sub-Inspectors in consultation with the Inspector, where necessary. In cases involving the ISR cases and complicated points of law, the charge sheets should be prepared in consultation with the Director of Prosecution and also the Public Prosecutor if necessary. In important and complicated cases, it is advisable to consult the Director of Prosecution, if necessary, even at the stage of investigation, in order to enable the investigating officer to conduct the investigation on proper lines and to collect the type of evidence required by law to bring home the guilt to the accused. The guidelines of the Superintendent of Police, wherever necessary during the investigation of cases shall be taken by the 'Investigating officer'.

1787. In every case in which an accused person previously convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards, is prosecuted for an offence punishable under either of the two chapters, with like imprisonment, section 75 of the Indian Penal Code should be added in the charge-sheet.

FURNISHING ACCUSED COPIES

1788. While all 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 Cr.P.C. of all the persons whom the prosecution proposes to examine as its witness should be forwarded to the Magistrate along with the report under section 173 of the Code of Criminal Procedure, the investigating officer may furnish to the accused copies of all or any of these documents if he finds it convenient to do so.

1789. If the Police officer is of the opinion that any part of statements recorded under sub-section (3) of section 161 of the Code of Criminal Procedure is not relevant to the subject matter of the inquiry or trial or that its disclosure to the accused is not essential in the interest of justice and is inexpedient in the public interest, he shall exclude such part from the copy of the statement furnished to the accused, and in such cases, he shall make a report to the Magistrate stating his reason for excluding such part.

PROCLAMATION FOR ABSCONDING ACCUSED

1790. Where an accused person against whom a charge sheet is being filed is absconding, the officer-in-charge of the Police Station shall append a note on the Final Report Form itself requesting the Magistrate to issue a non-bailable warrant for the apprehension of the accused. If the warrant cannot be executed within a reasonable time, the Station House Officer or the investigating officer shall move the court for instituting proceedings under sections 82 and 83 of the Code of Criminal Procedure. If it is proved that there is no immediate prospect of arresting the accused even after action has been taken under section 82 and 83 of the Code of Criminal Procedure, the court may, in the absence of the accused, examine the witnesses produced on behalf of the prosecution and record their depositions under section 299 of the Code of Criminal Procedure. If, at any future time, the accused person is apprehended or appears before the court, the case against him shall be revived and dealt with according to law. Any such deposition recorded in the absence of the accused may, on the arrest of such person, be given in evidence against him in the inquiry into or trial of the offence with which he is charged, if the dependent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

1791. Where there are several accused persons in a case and only some of them have appeared or have been produced before the court and the presence of the other accused cannot be secured within a reasonable time, steps should be taken to move the Magistrate to proceed with the case against such of the accused as have appeared and dispose it of according to law reserving the right of the state to proceed against the other accused, when their presence is secured.

1792. Proclamation orders under section 82 of the Code of Criminal Procedure can be issued against any person for whose arrest the Magistrate had issued a warrant. The investigating officer has only to convince the court that the warrantee is evading arrest and has gone into hiding and that the warrant could not be executed. Hence, the initiative has to

be taken by the investigation officer. Once the proclamation orders are issued they should be immediately promulgated. Orders of attachment under section 83 of the Code of Criminal Procedure can also be issued simultaneously along with the proclamation orders. The period of 30 days mentioned in section 82 of the Code of Criminal Procedure is the time allowed to the accused to surrender. The court issuing a proclamation under section 82 of the Code of Criminal Procedure may at any time order the attachment of any property moveable or immovable both belonging to the proclaimed person. Attachment should be carried out promptly after the proclamation has been properly made and the property of the proclaimed person seized before he has time to transfer, alienate, mortgage or conceal them.

1793. It is necessary that the proclamation order issued under section 82 of the Code of Criminal Procedure should be widely published in the manner provided for in that section. In order to facilitate the arrest of an absconding warrantee or a proclaimed offender, it is also necessary that an effective watch is maintained over his harbourers. Persons who willfully or knowingly harbour such offenders could be prosecuted under section 216 of the Indian Penal Code. It is, therefore, necessary that the widest publicity is given to the proclamation order issued under section 82 of the Code of Criminal Procedure so that its knowledge can be conclusively proved against the harbourer for his successful prosecution under section 216 of the Indian Penal Code.

1794. The Station House Officer should not be satisfied or rest content that the formalities under sections 82 and 83 of the Code of Criminal Procedure have been gone through. As long as the proclaimed offender's name is on the list of proclaimed offenders of his station, he and his station staff are responsible for finding out where he is and who is harbouring him. If the proclaimed offender is learnt to be in the jurisdiction of another station, he should forthwith inform the Station House Officer of the other station to arrest him. Preferably, he can proceed himself or in unavoidable circumstances send his subordinates immediately to arrest the wanted person with the help of the other station staff.

JUVENILE OFFENDERS

1795. When a juvenile accused is arrested or prosecuted, information about the age of such accused should invariably be furnished to the court by the Police officer taking action in the case to enable the court to determine the age of the accused with reference to the Juvenile Justice (Care and Protection of Children) Act, 2000.

SANCTION TO PROSECUTE

1796. Sections 195 to 199 of the Code of Criminal Procedure mention the cases of which the courts shall not take cognizance without the sanction of, or complaint by some competent authority. In such cases, it should be seen that the required sanction is got when the investigation is completed and the original sanction should be attached to the charge sheet when laid in the court.

1797. A Station House Officer or the Circle Inspector, if he is the investigating officer may himself apply to the District Magistrate through the Circle Inspector or the Superintendent of Police, as the case may be, to obtain prosecution sanction in respect of offences under the Arms Act, 1959 and the Explosive Substance Act 1908, as stated below.

- (a). No prosecution shall be instituted against any person in respect of any offence under section 3 without the previous sanction of the District Magistrate Section 39 of the Arms Act 1959.
- (b). No Court shall proceed to the trial of any person for an offence against this Act except with the consent of the District Magistrate – Section 7 of the Explosive Substances Act, 1908.

PROCEEDINGS UNDER SECTION 182 OF 211 I.P.C.

1798. Prosecution under section 182 or section 211 of the Indian Penal Code should not be initiated without the orders of the Superintendent or the Senior Superintendent of Police.

1799. COMPLAINT UNDER SECTION 195 OF THE CODE OF CRIMINAL PROCEDURE

(1). For prosecutions under section 182, Indian Penal Code, a complaint in writing should be made to the Magistrate having jurisdiction by the officer who registered the case, his successor or his immediate superior officer under section 195 (1) (a), Criminal Procedure Code. Presentation of charge sheets in such cases is illegal, as the court has to take cognizable directly under section 190 Cr.P.C.

(2). No prosecution for an offence punishable under section 211 of the Indian Penal Code shall be launched, when such offence is alleged to have been committed in, or in relation to a proceeding in any court except on the complaint in writing of such court or some other court to which such court is subordinate. Hence, a complaint in writing of such court is necessary in the following cases:-

- (a). When the original complaint was made to the Magistrate and referred to the Police under sub-section (3) of section 156 or section 202 of the Code of Criminal Procedure;
- (b). When the Magistrate has taken any judicial proceeding in a case in which the original complaint was made to the Police and the case referred by them as false (dismissal of a case under section 159 of the Code of Criminal Procedure without investigation does not constitute a judicial proceeding); and
- (c). When a complaint has been given to the Police as well as to a Magistrate.

(3). In the case of a complaint directly made to the Police, the Police can themselves without a written complaint of a court under section 195 of the Code of Criminal Procedure, launch prosecution under section 211 of the Indian Penal Code, even though proceedings may have been issued by a Magistrate treating it as false.

FINAL REPORTS / REFERRED CHARGE SHEETS

1800. If, after the completion of an investigation, the investigating officer considers that in spite of all steps taken, there is no prospect of obtaining any further clue and that nothing more can be done in the case, he will submit a final report treating the case as undetectable. But, in instances where cases have to be referred as mistake of fact, mistake of law, civil in nature or false, the final report should be submitted forthwith.

1801. In cases where accused person or persons dies / die before the completion of investigation and no person or persons can be charged, a final report should be sent in Form IF 5 with charge abated against the accused person who is dead. In this case also, all statements (oral and documentary) should be sent along with the Final Report Form. Final reports should be sent to the Magistrate having jurisdiction. This form will be used both for referring cases as false and for reporting them as undetectable.

1802. In cases referred by Magistrate under section 202, Code of Criminal Procedure for investigation, the final report shall be sent to the Magistrate.

1803. Cases must not be reported as false unless they are clearly so. Mere probability will not suffice. Delay in referring cases as false must be particularly avoided, and cases in which there has been serious delay must be returned as undetectable, unless fresh facts are elicited demonstrating them to be false.

1804. In cases disposed of under section 173 and proviso (b) to sub-section (1) of section 157 of the Code of Criminal Procedure, including charged cases, the Police have to serve a notice in Form No. 43 on the complainant or informant and forward the duplicate, duly endorsed, with the final report to the Magistrate. In cases in which investigation is refused, a copy of the notice will be attached to the First Information Report sent to court.

1805. Final reports have to be sent through the Circle Inspector who is bound to forward them to the Magistrate without delay, noting upon them any orders issued to the Station House Officer and any remarks that he may have to offer. The Inspector may order the Station House Officer to make further inquiry or do so himself or on the orders of the Superintendent of Police, if he makes observation (crime memo) through the case diaries.

PROSECUTION OF COMPLAINANT

1806. When the investigating officer reports a case as willfully or maliciously false, he should state in the final report whether he intends proceeding against the complainant or not, and in the latter event his reasons for not doing so.

ORDER OF MAGISTRATES ON FINAL REPORTS

1807. On receipt of a final report under section 173 of the Code of Criminal Procedure referring a case as false, mistake of fact or law, or civil nature or undetectable, the Magistrate may order further investigation, but is not open to him to direct the Police to charge the case

against their own report. The Magistrate has powers to take action himself under section 190 of the Code of Criminal Procedure, if he is not satisfied with the report of the Police in such a case.

1808. The fact that a final report has been sent in a case reporting it as undetected is no bar to further investigation. Further investigation may be taken up suo moto in such cases, if any fresh clues are forthcoming or under orders of a superior officer.

1809. It must be noted that the Police are to lay charge-sheets only in cases investigated by them.

1810. In all referred cases, the slip proceedings of the court shall be obtained and filed in the case diary with a diary note.

1811. SALIENT FEATURES TO BE REMEMBERED WHILE PREPARING FINAL FORM / REPORT (I.F. 5)

- (i). The name of the court shall be indicated.
- (ii). The final report / charge sheet number should be given serially.
- (iii). Sections and Acts shall be clearly mentioned.
- (iv). The type of final report such as charge-sheet, untraced, mistake of fact, etc shall be clearly indicated.
- (v). Name(s) of the investigating officer shall be furnished
- (vi). Details of things / properties seized shall be properly accounted and sent in the prescribed list.
- (vii). Particulars of accused persons shall be furnished a separate sheet must be used for each accused.
- (viii). Status of the accused such as bail, absconding, forwarded, etc., shall be mentioned.
- (ix). Particulars of the accused persons not charged shall also be furnished.
- (x). The number of RCS notice / complainant notice shall be mentioned.
- (xi). List of witnesses to be examined shall be furnished.
- (xii). If the case is a false one, indication about the proposal to take action under section 182 / 211 IPC should be made.

- (xiii). Result of the CFSL report (Central Forensic Science Laboratory) shall be furnished.
- (xiv). Facts of the charge with brief accounts of the motive, preparation, subsequent / previous conduct, the modus operandi adopted in the property offences shall be presented in clear and legal terms.
- (xv). The final report / charge sheet shall be sent to the court which shall include the following papers.
 - ❖ List of documents upon which the prosecution relies.
 - ❖ Memo of evidence
 - ❖ All statements recorded u/s 161 (3) Cr.P.C, (if they have not been sent earlier).
 - ❖ All documentary evidence (which was not been sent earlier).
 - ❖ Any other documents / papers.

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