



2023:DHC:4173

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

% *Judgment delivered on : 25.05.2023*

+ **BAIL APPLN. 3805/2021**

NEETU SINGH Petitioner

Through: Dr. Arun Mohan, Amicus Curiae.

versus

STATE OF NCT OF DELHI Respondent

Through: Ms. Nandita Rao, ASC for District and
Session Judge, HC with Mr. Amit Saini,
APP for State and Mr. Gaurav Sharma,
JA, Litigation Branch.
Inspector Yad Ram Yadav, PS: EOW

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:(Oral)

1. Above is a bail petition moved by the petitioner. On 18.04.2022, the following order was passed by this Court:

"1. Arguments heard.

2. Both the parties may place on record a brief written synopsis of not more than two pages each within one week from today.

3. It is the submission of the learned senior counsel for the petitioner that the petitioner was declared a proclaimed offender at her back and without her knowledge. The police tried to serve her at her old Ghaziabad address whereas the property in question was already taken over by the bank in some recovery proceedings.

4. It has come to the notice of this Court that in a judgement CRL.M.C. 5328/2013, titled as 'Sunil Tyagi V5. Govt. of NCT of Delhi & Am. Certain directions were issued by this Court as to how to deal with the process of declaring the persons as proclaimed offenders and the steps to be taken thereafter. In my view, the names of the proclaimed offenders/proclaimed persons be there in public domain so that any concerned citizen may be able to assist the police as to the whereabouts of the said proclaimed offenders/proclaimed persons and it will help the State in taking further

2023:DHC:4173

steps to ensure that the said proclaimed offenders/proclaimed persons are brought before the Courts.

5. Secondly, another aspect which has not been highlighted till date is the fate of the persons declared as proclaimed persons in Section 138, NI Act proceedings by the Magistral Courts in Delhi where recovery matters were filed against the persons who were no longer available at their addresses known to the complainants. There may be the cases of other types of complaints where the proceedings were adjourned sine die and the files were consigned to the record rooms after declaring respondents as proclaimed persons, to be retrieved as and when those persons are arrested.

6. It appears that even the police authorities are not aware of the details of those proclaimed persons who have been so declared in complaint cases. So, who will bring those proclaimed persons to Court is a big question.

6.1 Under these circumstances and in view of the directions issued in CRL.M.C. 5328/2013, let a detailed report be filed by DCP, Legal as well as by the Principal District and Sessions Judge (Headquarters) suggesting the ways as to how to streamline the system so that the names and particulars of the persons who have been declared as proclaimed offenders/proclaimed persons in police cases as well as in complaint cases are published in public domain so that further steps may be taken to bring those persons before respective Courts to face trials.

7. Let the reports be filed within four weeks from today. The matter will be kept pending for the compliance part regarding the status reports in respect of proclaimed offenders/proclaimed persons. The concerned DCP shall appear in person on the next date of hearing. Copies of this order be sent to Ld. Principal District and Sessions Judge (Headquarters) and the DCP (Legal) for compliance.

8. The matter be now listed for filing of the brief synopsis on 26.04.2022.

9. The matter be listed for filing of the report by the DCP (Legal) and learned Principal District & Sessions Judge (Headquarters) on 23.05.2022". [Emphasis Supplied]

1.1. Although the above order was passed in a bail application, which was disposed of on 20.05.2022, yet the matter was posted for compliance of the above order on 23.05.2022 when the following order was passed:

1. Mr. Harendra Kumar Singh, DCP, Legal Division is present in Court today. He has submitted that inadvertently, order dated 18.04.2022 was not brought to his notice. Now he has been made aware of the said order. He has sought four weeks' time to file a compliance report as to whether the list containing the names of Proclaimed Offenders/Proclaimed persons can be made public so that the citizens of this country may be able to assist the Police in nabbing them.

2. It has been brought to my notice that the Haryana Police is already



2023:DHC:4173

maintaining such a list and the list of Proclaimed Offenders/Proclaimed Offencers is available at the District Court website as well as website of the Haryana Police. The concerned DCP may go through the said list and make the suggestions accordingly.

3. A report has been received from the office of learned Principal and District and Sessions Judge (HQ). The report is quite vague. The specific query to be answered is as to how many persons have been declared as Proclaimed Offenders/Proclaimed Offencers in complaint cases, specially in cases under Section 138, NI Act till date and as to whether any consolidated list is being maintained by respective Courts or the offices of respective Principal District and Sessions Judges or whether any such list has been ever forwarded to the local Police for apprehending the said Proclaimed Offenders/Proclaimed Offencers.

3.1 If the said exercise has not been done, let the same be done during summer vacations and records of all the 138 NI cases, which are pending or have been adjourned sine die because the Proclaimed Offenders/Proclaimed Offencers were not traceable, the said files be examined, proper list be prepared Court-wise, and thereafter, the said lists be sent to this Court before the next date of hearing. Same exercise be also done in respect of other criminal complaints/cases pending in Courts.

3.2 The consolidated list be also sent to DCP, Legal for further action at the end of Delhi Police.

4. The learned Principal District and Sessions Judge (Headquarters) is requested to constitute a committee to accomplish this task during summer vacations and send a compliance report along with the list of the said Proclaimed Offenders/Proclaimed Offencers in consolidated form to this Court at least two weeks before the next date of hearing.

5. Let a copy of this order be sent to Principal District and Sessions Judge (Headquarters) by the Registry.

6. A copy of this order be also handed over to the DCP, Legal for compliance.

7. The DCP, Legal may approach the office of learned Principal District and Sessions Judge, so that a coordinate effort be made in this regard and appropriate steps may be suggested. Learned Principal District and Sessions Judge may call a meeting of all concerned officers/officials including the DCP, Legal for this purpose.

8. List on 28.07.2022”.

1.2 The matter was further adjourned to 28.07.2022. As directed by this Court a committee was constituted under the chairmanship of the learned Principal District and Sessions Judge (Headquarters) and all the stakeholders were nominated as members of the same. Compliance report was filed



2023:DHC:4173

detailing the steps to be taken for working out the modalities for publishing names of all the proclaimed offenders and proclaimed persons on user friendly portal on internet.

1.3 On 16.11.2022, Dr. Arun Mohan, Senior Advocate was appointed as Amicus Curiae with a request to help in formulating the policy regarding publication of the names and particulars of the proclaimed offenders/persons declared by the police as well as by the Courts, on the internet.

1.4 On 23.02.2023, an interim report was submitted by the learned Amicus Curiae, suggesting that certain legislative changes may be required as the law is silent about treatment of the proclaimed offenders/proclaimed persons. The Delhi Police also filed the compliance report. Minutes of the committee meeting dated 15.05.2023 were also brought on record. A detailed note (termed as working draft) was also submitted by the learned Amicus Curiae. The same is reproduced hereunder:

Working Draft:

Preferably, a new section 82A is required in the CrPC.

“82A Declaration as Proclaimed Offender or Proclaimed Person

- (1) Where, despite procedures u/§ 82, the person [p-i-q] has not appeared or been arrested, the police officer shall file an Affidavit stating that the necessary formalities have been completed, the person [p-i-q]’s particulars & address has been re-verified, descriptions are clear, and that there is no impediment to the person being declared as Proclaimed Offender or a Proclaimed Person-RbL (as the case may be).*
- (2) Upon receiving the Affidavit under sub-section (1), and being satisfied, the Court may issue an Order declaring the person named to be a ‘Proclaimed Offender’ or a ‘Proclaimed Person-RbL’.*
- (3) It is only upon the order of the Court under sub-section (2) that the name of the person with some descriptive details may be uploaded by the police on the Website – placed in public*

2023:DHC:4173

domain.

- (4) *The list as uploaded (and appearing on the Website) will be periodically verified by the police.*
- (5) *A person whose name is appearing in the uploaded list as a Proclaimed Offender or Proclaimed Person-RbL may be arrested and produced before a Magistrate.*
- (6) *Once the person has appeared, the Court may, upon an application, either direct addition of a suffix 'since deleted' (which will operate as a clearance) or simply direct removal as it thinks proper.*
- (7) *In addition to the general power to make rules, for efficient operation of these procedures, such practice directions, guidelines, and forms may be issued by the High Court as it deems proper."*

Sequence of Operations:

1. Information gathering from – courts, record-rooms, police-stations
2. Internal uploading only
3. Verification of descriptive details from existing police and court records
4. Sent to DL-RP-IC for (only) electronic search:
 1. Open source (Google)
 2. CCTNS

After search they send it – with material as found by them appended – to the concerned police station

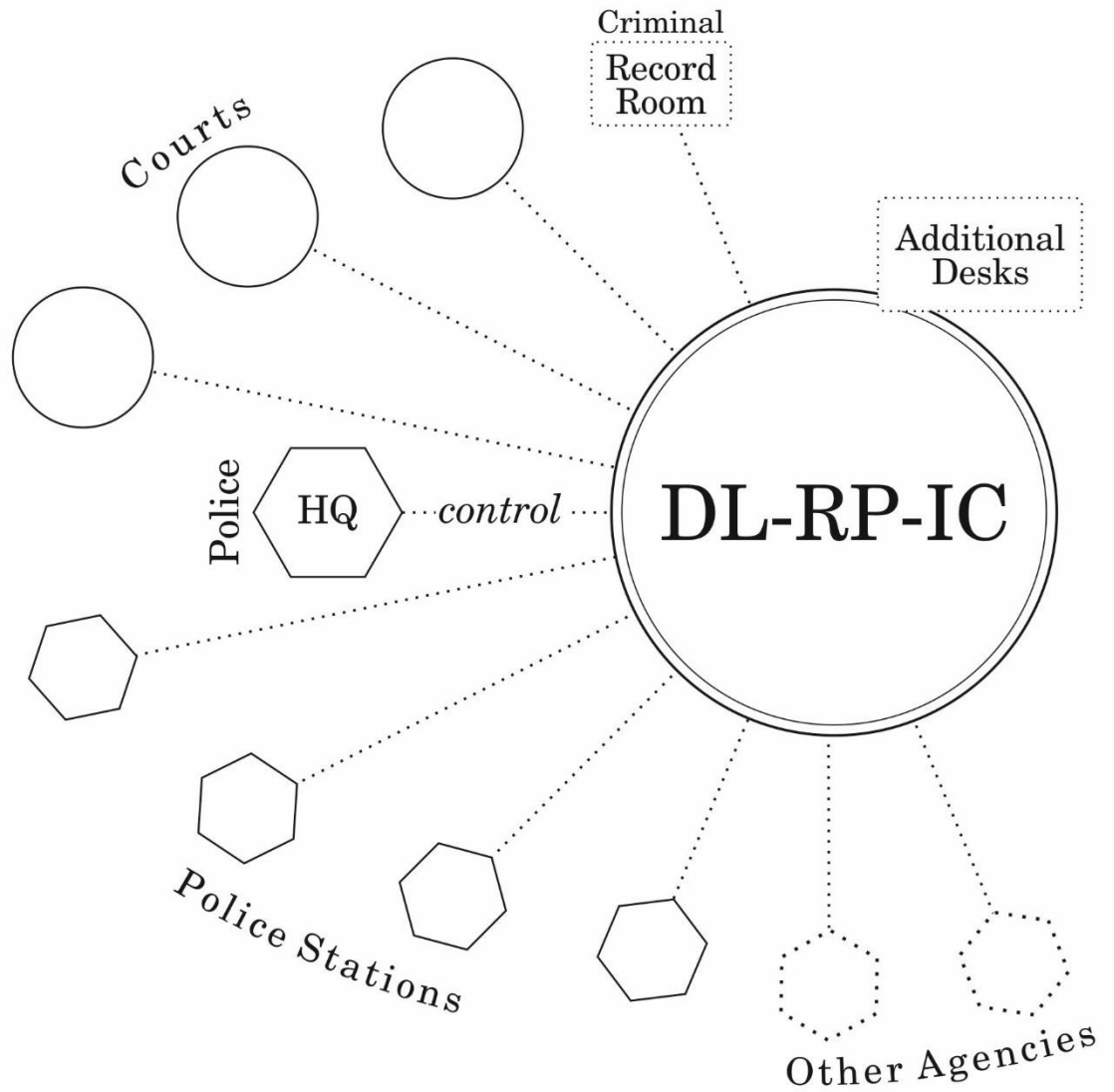
5. Back at police station, ground level verification is carried out and some descriptive details are also added
6. Police Station [SHO / IO] certifies on affidavit and sends it to court for orders
7. Court – based on certification – orders public-uploading of the Required Person's name with some descriptive details

Note: public uploading may be deferred for a few months till the process and procedures have been finalised and beta-tested.



2023:DHC:4173

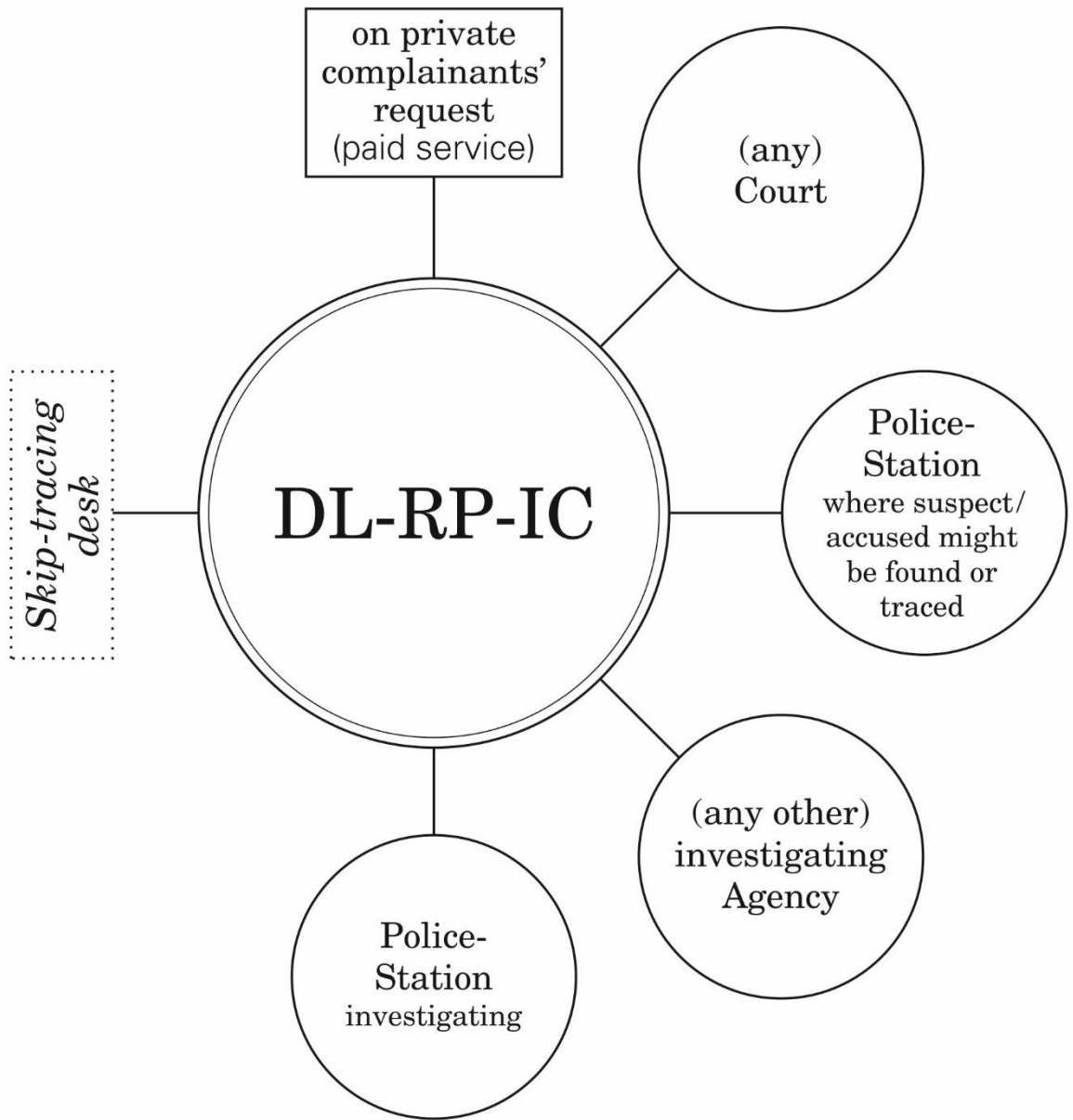
1. Delhi police may inform this court by when they can set up the Centralised Dedicated Cell i.e., DL-RP-IC [Delhi (Required Persons) Information Processing and Co-ordination Cell] and also Desks within it including the (AW & POs) Coordination Cell as suggested by the Amicus to process and coordinate the information of Required Persons (offenders and others).
 2. Once they (Delhi Police) have set up the cell, the Amicus offers to provide further assistance.
 3. Keeping in view the aforesaid, the Committee headed by the learned Principal District Judge may, for the present:
 - (a) (noting the distinction between ‘internal uploading’ vis-à-vis ‘public uploading’) proceed with the help of NIC to develop the software design and systems and also carry out beta-testing; and
 - (b) Confine it to the Delhi Police. Other agencies, will be considered later.
 4. When the Committee’s Report on design is finalised and placed before this court, this court will consider issuing directions for the next step, i.e., ‘public uploading’.
- 1.5 Along with these suggestions, learned Amicus Curiae has also submitted the work process flow diagrams as under to ensure smooth functioning of the entire process:



Delhi [Required Persons] Information Processing and Co-ordination Cell

Desks

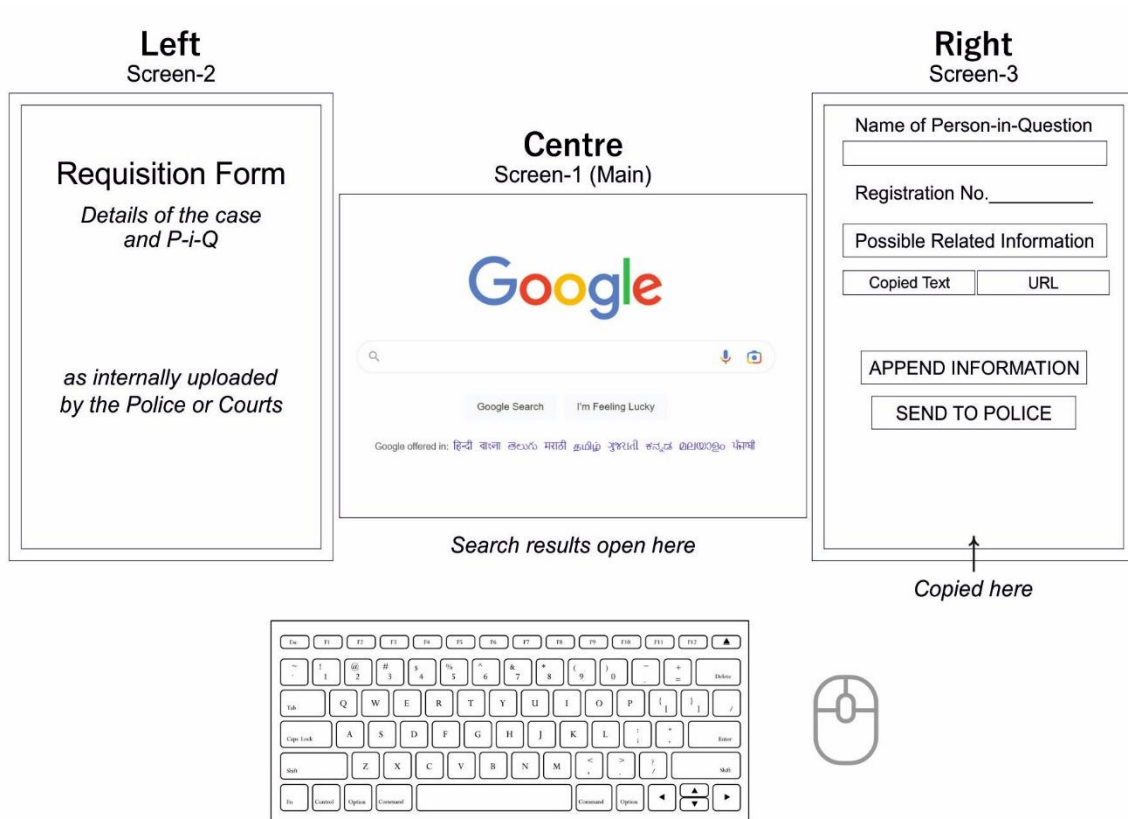
2023:DHC:4173



explanatory chart

DL-RP-ID

2023:DHC:4173



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2. I have heard all the stakeholders and after going through the report of the learned Amicus Curiae as well as minutes of the meetings of the committee, my considered views at this stage are as under:

- (i) The committee constituted by this Court under the chairmanship



2023:DHC:4173

of learned Principal District and Sessions Judge (Headquarter) shall continue to meet periodically, as decided by learned Principal District and Sessions Judge (Headquarter), Delhi, and shall monitor the implementation of the earlier orders as well as the order passed today by this Court;

(ii) the NIC, under the guidance of the above monitoring committee, shall develop the necessary software and provide the infrastructure, web space and search facilities for the data for implementing the project for uploading the names and other details of the proclaimed offenders and proclaimed persons;

(iii) The Director/In-charge of Inter-Operational Criminal Justice System (hereinafter referred to as 'ICJS') shall also coordinate with the monitoring committee and shall ensure that all possible technical and tactical support is provided to this project;

(iv) Initially the data regarding proclaimed offenders/proclaimed persons be uploaded on the internal servers and the same should be accessible only to authorised persons, till the data is checked, re-checked and verified by the stakeholders and thereafter the same may be uploaded on the public platform to be developed by NIC for Delhi District Courts.

(v) At this stage, only the data of proclaimed offenders/proclaimed persons in cases registered by Delhi Police and the accused, who have been declared as proclaimed offenders/proclaimed persons in private complaint filed directly in Delhi District Courts, may be uploaded.

(vi) The data of proclaimed offenders/proclaimed persons in cases/complaints registered by other law enforcement agencies, like



2023:DHC:4173

Central Bureau of Investigation (hereinafter referred to as 'CBI') and Enforcement Directorate (hereinafter referred to as 'ED') etc., may be uploaded after a gap of at least six months, subject to the final decision to be taken by the above said monitoring committee, depending upon the progress made in implementation of the project.

(vii) Although the learned Amicus Curiae has suggested that Centralized Dedicated Cell must be constituted at the Headquarter level of Delhi Police for processing and coordinating the information of proclaimed offenders/proclaimed persons but Delhi Police has certain reservations about the same, especially on the ground of lack of work force in the Delhi Headquarter Legal Cell. It has been submitted by learned ASC appearing on behalf of Delhi Police that the said cells can be made operational at district level and the coordination amongst them as well as with other stakeholders like Courts, NIC, CCTNS, ICJS, etc., can be taken care of by an ACP level officer at Head Quarter level. The ACP, so nominated by Commissioner of Police, shall also represent Delhi Police in the monitoring committee meetings. This suggestion of learned ASC is accepted for the time being but in the long run, a centralised cell must be established at Headquarter level of Delhi Police. In the meantime, Delhi Police (Headquarter) shall assess the manpower required to man that Cell and shall take up the issue of additional manpower with relevant authorities.

(viii) As far as uploading of data is concerned, the Delhi Police shall be responsible for uploading the data of proclaimed offender/proclaimed persons declared by the Courts in criminal cases registered by Delhi Police.



2023:DHC:4173

(ix) Delhi District Courts shall be responsible for uploading the data of all the proclaimed offenders/proclaimed persons in cases where criminal complaints were directly lodged in the courts. The monitoring committee must devise a method for up-dation of the data in cases where the proclaimed offenders/proclaimed persons have appeared in the Court and the purpose of issuing the proclamation stands satisfied.

(x) The suggestion of the learned Amicus Curiae that the details of proclaimed offenders/proclaimed persons be also verified from the available web-search engines and other data available with the agencies like CCTNS and ICJS is also accepted and it is expected that the officials of Delhi Police as well as Delhi District Courts responsible for uploading the data shall use these data bases for updating the information about the addresses and other details of the proclaimed offenders/proclaimed persons.

(xi) The suggestion regarding incorporation of Section 82A in the Code of Criminal Procedure, 1973, may be forwarded by the Government of NCT of Delhi to the appropriate authorities for considering the suggestion of learned Amicus Curiae in this regard, which is reproduced hereunder:

“82A Declaration as Proclaimed Offender or Proclaimed Person

- (1) *Where, despite procedures u/S 82, the person in question [p-i-q] has not appeared or been arrested, the police officer shall file an Affidavit stating that the necessary formalities have been completed, the person [p-i-q]’s particulars & address has been re-verified, descriptions are clear, and that there is no impediment to the person being declared as Proclaimed Offender or a Proclaimed Person (as the case may be).*
- (2) *Upon receiving the Affidavit under Sub-Section (1), and being satisfied, the Court may issue an Order declaring the person named to be a ‘Proclaimed Offender’ or a ‘Proclaimed Person-RbL’.*
- (3) *It is only upon the order of the Court under sub-Section (2) that the*



2023:DHC:4173

name of the person with some descriptive details may be uploaded by the police on the Website-place in public domain.

- (4) *The list as uploaded (and appearing on the Website) will be periodically verified by the police.*
- (5) *A person whose name is appearing in the uploaded list as a Proclaimed Offender or Proclaimed Person-Rbl may be arrested and Produced before a Magistrate.*
- (6) *Once the person has appeared, the Court may, upon an application, either direct addition of a suffix 'since deleted' (which will operate as a clearance) or simply direct removal from the list, as it thinks proper.*
- (7) *In addition to the general power to make rules, for efficient operation of these procedures, such practice directions, guidelines and forms may be issued by the High Court, as it deems proper”.*

3. The learned Amicus Curiae has graciously agreed to provide all help to the Monitoring Committee, Delhi Police and Delhi District Courts as well as to other stakeholders for implementing the project and this Court is grateful to Dr. Arun Mohan, Senior Advocate for this kind gesture. The report submitted by learned Amicus Curiae shall form the basis of implementing the project and all positive suggestions made by stakeholders be also considered by the Monitoring Committee from time to time.

4. The Monitoring Committee under the chairmanship of learned Principal District and Sessions Judge (Headquarters) shall submit its report after every three months before this Court and the next date of hearing in the matter is now fixed on 06.09.2023.

TALWANT SINGH
(JUDGE)

MAY 25, 2023/nk

Click here to check corrigendum, if any