



Criminal Appeal (MD) Nos.482 and 513 of 2017

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M.S.RAMESH,J.,
and
N.ANAND VENKATESH,J.,

(Order of the Court was made by **N.ANAND VENKATESH,J.,**)

Pursuant to the earlier order passed by this Court on 14.03.2023, the matter was listed for hearing today.

2. The learned State Public Prosecutor submitted the Status Report filed on behalf of the Director General of Police, Tamil Nadu. The Status Report gives the particulars of investigation conducted by the Specialised Wing in 11 Taluk Police Stations and also in the Coimbatore Commissionerate.

3. On carefully going through the same, we find that there is a visible improvement in the completion of the investigation on time and filing of the Final Reports before the concerned Jurisdictional Court. On



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going through the particulars furnished to us, we find that such filing of Final Reports before the concerned Court has taken place on time in some serious offences like, murder, dacoity etc., The State Public Prosecutor submitted that the creation of Special Wing will be extended to other Taluks/Cities and already steps have been taken in this regard. We expect that the Director General of Police, Tamil Nadu will identify some more Police Stations and expand the operation of specialised Investigation Wing.

4. Insofar as the finalisation of the Digital Evidence Manual and preparation of Check List for effective investigation in cases involving electronic evidence, the State Public Prosecutor produced certain materials before us. It is seen that the Director General of Police is in the process of finalising the Digital Evidence Manual and in his Report, the Director General of Police has sought for two weeks time in this regard.

5. The finalisation of the Digital Evidence Manual is a very important step in ensuring that the procedure is followed methodically in all cases involving electronic evidence. In view of the same, this process



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cannot be hastened and it involves lot of application of mind. Hence, we deem it fit to grant more time to the Director General of Police, Tamil Nadu to finalise the Digital Evidence Manual. Accordingly, we grant four weeks time to the Director General of Tamil Nadu in this regard.

6. The learned State Public Prosecutor submitted that a Meeting was convened recently for the Public Prosecutors and it was attended by all the Officers across the State of Tamil Nadu. During the meeting, emphasis was laid for filing Final Reports on time after an effective investigation and to ensure that such Final Reports pass muster and is legally sustainable. The learned State Public Prosecutor submitted that the practice of placing the Final Reports before the Public Prosecutors has come to an end by virtue of the Circular issued by the Director General of Police dated 08.04.2022. We carefully went through the Circular dated 08.04.2022. The Director General of Police, Tamil Nadu has taken note of the judgement of this Court in the case of *Muthu Vazhivittan vs The Additional Chief Secretary to Government and others (HCP (MD)No.1121 of 2021 dated 11.02.2022)* reported in *2022-1-L.W.(Crl.)388* and pursuant to the same, the Circular has been issued.

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7. We have carefully gone through the judgment dated 11.02.2022 which has been taken note of by the Director General of Police, Tamil Nadu in the Circular dated 08.04.2022. For proper appreciation, the relevant portions in the judgment are extracted hereunder:-

“ 16. The law laid down by the Hon'ble Apex Court considering various judgments referred to in the above judgment, makes it very clear that the investigating officer is not legally obliged to take the opinion of the Public Prosecutor or any authority except the superior police officer in rank as discussed in the above judgment.

17. In such view of the legal position enunciated in the above judgment, further the Code of Criminal Procedure does not contemplate the opinion from the Public Prosecutor before laying final report, we deem it necessary to issue a direction to the Director General of Police to issue a Circular in this regard to all the investigating officers to file a final report within a time period prescribed under the Criminal Procedure Code indicating that the investigating officer need not submit the final



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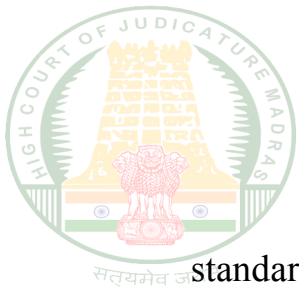


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*report to the Public Prosecutor for their opinion.
Such Circular shall be issued immediately after
receipt of the copy of the order.”*

8.The Division Bench of this Court after taking into consideration the relevant provisions of Code of Criminal Procedure, the relevant rules under the Criminal Rules of Practice and the legal precedents, has come to a conclusion that the Investigating Officer is not legally obliged to take the opinion of the Public Prosecutors and law does not contemplate obtaining a opinion before a Final Report is filed before the Jurisdictional Court.

9. In our considered view, the Director General of Police, Tamil Nadu has taken this judgment to its extremity, as a result of which, Final Reports are filed even without the minimum scrutiny of the Public Prosecutors. Such filing of the Final Reports without scrutiny of a trained legal mind may prove to be counter productive in cases involving serious offences. The nuances of various provisions under penal law can be appreciated well only by a legally trained mind and we cannot expect such

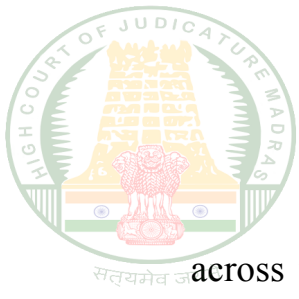


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standard from an investigating officer. Hence, some methodology must be devised to ensure that scrutiny takes place before Final Report is laid before the Court atleast in cases involving serious offences.

10. The judgment that was taken note of by the Director General of Police does not completely prohibit the Public Prosecutor from scrutinizing the Final Report. It only lays down the law that the investigating officer is not legally obliged to take opinion from the Public Prosecutor and there is no necessity for taking a opinion before Final Report is laid before the Court. This judgment nowhere states that the Final Reports need not be scrutinized by the Public Prosecutors. This Court only wanted to ensure that the Final Reports are not filed beyond the statutory period in cases involving serious offences on the ground that there is a delay in obtaining the opinion of the Public Prosecutors since the same results in the offender coming out on statutory bail.

11. In the light of the above discussions, we deem it fit to direct the Director of Prosecution to issue a Circular to all the Public Prosecutors



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across the State of Tamil Nadu sensitizing the Public Prosecutors to deal with final reports placed before them for scrutiny by the investigating officer at the earliest. It is not necessary for the Public Prosecutors to give an opinion and any defects that are identified in the Final Report can be informed to the investigating officer who can rectify those defects and thereafter file it before the concerned Jurisdictional Court. The Circular shall also make it abundantly clear that the delay in scrutinizing the Final Report should never be the cause for filing the Final Report beyond the statutory period prescribed under the Code of Criminal Procedure and the other special laws. In view of the the same, the Director of Prosecution can prescribe some outer time limit for the scrutiny of the Final Report to ensure that it is filed on time before the concerned Jurisdictional Court. This procedure shall be followed scrupulously in cases involving serious offences.

12. In the light of the above direction given by us, it will be left open to the investigating officer to get the Final Report scrutinized by the Public Prosecutor before the same is filed before the concerned Jurisdictional Court. The investigating officer shall furnish the Final Report

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to the Public Prosecutor by ensuring some reasonable time to the Public Prosecutor to go through the papers and to rectify the defects, if any.

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13. We once again reiterate the position of law that the Final Report placed for scrutiny before the Public Prosecutor is not for the purpose of getting an opinion from the Public Prosecutor and this procedure should be adopted only to ensure that the Final Report is filed before the Court in an effective manner and is legally sustainable. It is not necessary that this procedure has to be adopted in all cases and it can be restored to in serious crimes. To that extent, the Director General of Police, Tamil Nadu can issue a clarificatory Circular.

14. We place on record our appreciation to the Chief Secretary to the Government of Tamil Nadu and the Director General of Police of Tamil Nadu for taking effective steps in conducting the orientation programme for the Public Prosecutors across the State of Tamil Nadu and sensitizing them on effective investigation and filing final report within the time prescribed by law.



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Post the matter for further hearing on 21.07.2023 at 2.15 p.m.

(M.S.R.J.) (N.A.V.J.)
20.06.2023

sr

M.S.RAMESH,J.,
and
N.ANAND VENKATESH,J.,

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