

761/2021  
FIR No. 323/2017  
U/s 279/338 IPC  
Police Station: New Friends Colony

16.02.2021

Present: Shri Shree Krishna Pandey, learned APP for State.

Accused is stated to be on police bail.

Submission heard. The entire material on record perused.

I hereby take cognizance of the offence in exercise of power u/s 190(1)(b) Cr.P.C.

A prima facie case to proceed against accused Ravi Yadav is made out.

Before parting with the order, it is necessary to observe that present FIR was registered on 13.10.2017 and after completion of investigation, chargesheet was forwarded by ACP concerned on 09.10.2018. IO/ASI Jagat Singh, for reasons best known to him, retained the duly forwarded chargesheet with him and chose to file the same with Court only on 30.01.2021. In fact, filing of chargesheet was triggered by a miscellaneous application of registered owner of offending vehicle, otherwise IO would have retained it for even longer. Such negligent conduct of IO raises some significant legal issues.

One, IOs need to understand and know that investigation of all '*summons cases*' generally needs to be concluded within 06 months from the date on which accused was arrested, and failure may result in an order by concerned Magistrate stopping further investigation into the offence. This provision, of course, is subject to exception mentioned in Sec. 167(5) Cr.P.C itself and Sec. 167(6) Cr.P.C. However, it has been observed that most of the IOs are not aware of this provision and therefore, continue investigation even after the initial period of six months. The cases, *inter-alia* u/s 279/337/338/304A/427/323/341 IPC etc., suffer the most. It is incumbent upon worthy DCP concerned that this provision is reminded to IOs.

Second, the provisions concerning period of limitation for filing the chargesheets are most neglected. Like in the present case, chargesheet should have filed within 03 years of commission of offence, however, was filed beyond the said period. Although, the exclusion of period of lockdown due to COVID-19 and order of Hon'ble Supreme Court in ***Re: Cognizance for extension of limitation, Suo Motu Writ Petition(Civil) No. 3/2020 dated 23.03.2020*** saved the day for IO, there are many cases where the provisions of Sec. 468-473 Cr.P.C are never kept in mind affecting many aspects of the case. IOs even fail to file application for condonation of delay owing to their want of knowledge of these provisions. While a right of hearing accrues in favour of accused because of such negligence of IO (even before cognizance of offence is taken by Court), it also delays dispensation of justice leading to further victimisation of complainant/victim. The concerned worthy DCP and ACP concerned must take it upon themselves to ensure training of IOs on this aspect.

Thirdly, the retaining of '*forwarded*' files by IOs reflect a missing link in the chain of factors requiring expeditious administration of criminal justice. The Court could not find any Rule in the '*standing order*' of worthy Commissioner of Police, Delhi requiring the IOs to submit the chargesheets with Court within a stipulated time frame. However, late filing of chargesheets despite timely completion of investigation shakes the confidence of an ordinary citizen in the justice delivery system. It may further result in accused fleeing away from justice and witness(es) disappearing or losing interest in the case. It creates an overall disappointing scenario for all the stakeholders. It is felt that a time period for filing forwarded chargesheets be fixed and IOs be asked to strictly comply with the same. Such time should not be more than 30 days from the date of forwarding of chargesheet by ACP concerned.

It is also directed that concerned ACsP should devise a

mechanism under the guidance of worthy DCP, South-East to check and ensure that all the chargesheets signed/forwarded by them are duly submitted with Court. It is observed that non filing of chargesheets despite being forwarded by a senior officer amounts to undermining the hierarchy and discipline of service.

Meanwhile, the ACsP concerned should prepare a list of chargesheets forwarded in last 03 years (2018-2020) and seeks status of filing from the concerned IOs. It is firmly believed that the same would definitely unearth many hidden ghosts (files) and wake up many souls (IOs) from slumber.

A copy of this order be sent to worthy DCP, South-East for necessary intimation and compliance. A compliance report be also filed by worthy DCP concerned and both the concerned ACsP on the next date.

Put up on 06.04.2021.

(ARVIND BANSAL)  
ACMM (South-East): Saket Courts  
New Delhi / 16.02.2021