

ITEM NO.4

COURT NO.8

SECTION II-B

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

MA NO.267/2017 IN SLP (CRL.) NO.657 OF 2017

(Arising out of impugned final judgment and order dated 31-01-2017 in SLP(Crl) No.657/2017 passed by the Supreme Court Of India)

DILAWAR

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(IA No.57504/2017 - For Modification of Court's Order)

Date : 16-07-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE VINEET SARAN

Mr. Sanjay Parikh, Adv. (Amicus Curiae)  
Ms. Sanjana Srikumar, Adv.

For Petitioner(s) Mr. Mukesh Kumar Maroria, AOR

For Respondent(s) Ms. Vibha Datta Makhija, Sr. Adv.  
Mr. T.A. Khan, Adv.  
Mr. Praveen, Adv.  
Mr. Rajat Nair, Adv.  
Mr. Vikas Bansal, Adv.  
Mr. B. V. Balaram Das, AOR  
Mr. A.K. Sharma, Adv.

Dr. Monika Gusain, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Order dated 01.05.2018 passed by this Court in the present matter recorded:-

"It is not necessary to refer to all the decisions of this Court articulating the mandate of the Constitution that there is implicit right under Article 21 for speedy trial which in turn encompasses speedy investigation, inquiry, appeal, revision and retrial. To determine whether undue delay has occurred, one must

have regard to nature of offence, number of accused and witnesses, workload of the court and the investigating agency, systemic delays. Inordinate delay may be taken as presumptive proof of prejudice particularly when accused is in custody so that prosecution does not become persecution. Court has to balance and weigh several relevant factors. Though it is neither advisable nor feasible to prescribe any mandatory outer time limit and the court may only examine effect of delay in every individual case on the anvil of Article 21 of the Constitution, there is certainly a need for in-house mechanism to ensure that there is no undue delay in completing investigation. This obligation flows from the law laid down by this Court inter-alia in *Maneka Gandhi versus Union of India*<sup>1</sup>, *Hussainara Khatoon (I) versus Home Secy., State of Bihar*<sup>2</sup>, *Abdul Rehman Antulay versus R.S. Nayak*<sup>3</sup> and *P. Ramachandra Rao versus State of Karnataka*<sup>4</sup>."

The matter has thereafter been engaging the attention of this Court and pursuant to the direction issued on the last occasion, "Road Map for Speedy Investigation and Monitoring Mechanism by Investigating Agencies" has been tendered across the bar by Ms. Vibha Datta Makhija, learned Senior Counsel appearing for Union of India.

Said document is taken on record. Various suggestions have been made in that document.

Ms. Makhija also placed on record Office Memorandum dated 14.11.2018 issued by Women Safety Division, Ministry of Home Affairs, Government of India, which records as under:

**"A. FSLs/Other Labs**

**i) Forensic set up in India:**

**\* Under Central Government : (07)**

**06 Central Forensic Science Laboratories (CFSLS)**

1 (1978) 1 SCC 248

2 (1980) 1 SCC 81

3 (1992) 1 SCC 225

4 (2002) 4 SCC 578

under Dte. Of Forensic Science Services (DFSS) at Bhopal, Chandigarh, Guwahati, Hyderabad, Kolkata & Pune and 01 CFSL (CBI) at New Delhi.

\* Under State Government : (448)

State Forensic Science Laboratories : 31

Regional Forensic Science Laboratories : 68

Mobile Forensic Science Units : 349

ii) Details of Manpower:

| Sr. No. | Laboratories                                                                | Total No. of Units | Sanctioned Posts |
|---------|-----------------------------------------------------------------------------|--------------------|------------------|
| 1       | CFSLs under DFSS at Bhopal, Chandigarh, Guwahati, Hyderabad, Kolkata & Pune | 06                 | 450              |
| 2       | CFSL (CBI) at N. Delhi                                                      | 01                 | 184              |
| 3       | State FSLs                                                                  | 31                 | 7582             |

According to the statistics so furnished, there are only seven Central Forensic Science Laboratories in the country.

In *Hussainara Khatoon & Others (V) v. Home Secretary, State of Bihar, Patna, (1980) 1 SCC 108*, the need to have the scientific and forensic laboratories and trained manpower was stressed by this Court so that the progress of investigation is not hampered.

Though the observations of this Court in *Hussainara Khatoon (supra)* were made almost 40 years back, the situation as depicted in the above statistics shows that even today, in the entire country there are only seven Central Forensic Science Laboratories. Ideally, there should be at least one Central Forensic Science Laboratory in every State. Lack of facilities and inadequate manpower to deal with scientific and forensic aspects of investigation definitely delays the entire process.

"Forensic Medicine" as a subject is part of curriculum of Medical Education. Consequently, the trained manpower as well as the facilities in that behalf would naturally and normally be available in concerned medical colleges. It would perhaps be easier to upgrade the facilities and have additional manpower so that the infrastructure available in some of these colleges can also be put to proper use to expedite the process of investigation.

In our view, not only should there be at least one Central Forensic Science Laboratory in every State, but the infrastructure already in existence in Government Medical Colleges may also be utilized after due upgradation so that the process of investigation will never be prejudiced for want of due support on scientific or forensic front.

We, therefore, call upon the Union of India to place on record the material as to:

- a) What would be the capital outlay required to have a full-fledged Central Forensic Science Laboratory in every State; and
- b) What would be the capital expenditure to upgrade the facilities in every Government Medical College as stated above so that those facilities could also be utilized for forensic and scientific examination.

Let an affidavit in that behalf be filed within three weeks from today.

Our attention was invited by Sanjay Parikh, learned Amicus Curiae to two Notes submitted by him on 09.10.2018 and 22.04.2019.

We request the learned Amicus Curiae to catalogue the suggestions which could be incorporated as directions to facilitate speedy investigation. The suggestions may also contemplate as to what role could be exercised by the concerned Courts/Magistrates to ensure speedy investigation without compromising in any manner, the quality of investigation.

Let a Note be filed by the learned Amicus Curiae within two weeks from the date of filing of the affidavit by the Union of India.

List the matter on 03.09.2019.

(MUKESH NASA)  
COURT MASTER

(SUMAN JAIN)  
BRANCH OFFICER