

Court No. - 9

Case :- MISC. BENCH No. - 31296 of 2018

Petitioner :- Arjun Singh @ Ajai Kumar Singh

Respondent :- State Of U.P Thru Prin Secy Home & Ors

Counsel for Petitioner :- Ramendra Kumar

Counsel for Respondent :- G.A.

Hon'ble Ajai Lamba,J.

Hon'ble Dinesh Kumar Singh,J.

1. The petition seeks issuance of a writ in the nature of Certiorari quashing First Information Report No.294 of 2018, under Section 395, 397, 341, 384, 506 Indian Penal Code, Police Station Amethi, District Amethi.

2. We have heard learned counsel for the petitioner, Shri Ramakar Shukla, learned counsel for respondent no.4 and Ms.Smiti Sahay, learned counsel for the State.

3. Order dated 27.10.2018 notices the gist of the issue raised by the petitioner. The order reads as under :-

"1. The petition seeks issuance of a writ in the nature of Certiorari quashing First Information Report No.294 of 2018 under Section 395, 397, 341, 384, 506 Indian Penal Code, Police Station Amethi, District Amethi.

2. We have heard learned counsel for the petitioner and learned counsel for the State Smt. Smiti Sahay.

3. Shri Ramakar Shukla, Advocate has filed his Power of Attorney on behalf of respondent no.4 in Court, which is taken on record. His name shall be printed in the cause list as counsel for the respondent no.4.

4. We have gone through the contents of the impugned First Information Report.

5. Contention of learned counsel for the petitioner is that the impugned First Information Report has been registered in

counter blast to Annexure-2. After registration of First Information Report No.106 of 2018 dated 18.7.2018 Police Station Kohdaur, District Pratapgarh under Sections 507, 323, 506, 504 Indian Penal Code, the accused were sent to jail. On release on bail the impugned criminal proceedings have been initiated vide the impugned First Information Report dated 11.10.2018. It has been pleaded that the impugned First Information Report has been registered in abuse of process of the law and process of the court.

6. Learned counsel for the State states that to her information injuries were caused on the person of Vikram Singh, respondent no.4 complainant. As many as 11 injuries were caused out of which four injuries were kept under observation. Photocopy of the injury report has been produced in court.

7. We find that although number of injuries can be deciphered, the seat of injuries and nature of injuries cannot be deciphered on account of bad handwriting of the Doctor.

We hereby direct the Doctor who authored the report dated 11.10.2018 after examination of Vikram Singh to remain present in Court along with typed copy of the injury report, on the next date of listing.

The said Doctor shall also come prepared in regard to further examination of the injured in respect to injury numbers 1,2,10,11.

8. In the meantime, the petitioner be taken in custody only if incriminating evidence against the petitioner is found.

9. List on 31.10.2018 as fresh high up in the list.

10. Let counter affidavit be filed."

4. Since injuries were caused in the incident, it became relevant for this Court to refer to the injury report/medical report of the injured to consider gravity of the offence; possibility of false implication of the accused and to consider whether prosecution case is believable or not.

5. In Para - 7 of the order extracted above, we have recorded

with anguish that only the number of injuries recorded in the injury report can be deciphered. Seat of injury and nature of injury cannot be deciphered on account of bad handwriting of the doctor. Under the circumstances, the doctor who authored the injury report was directed to appear before the Court, alongwith typed copy of the injury report.

6. In deference to above extracted order Dr. Amar Nath, Medical Officer, C.H.C. Amethi has appeared alongwith typed copy of the injury report, which is taken on record. Photocopies of the original medical reports are also retained on record.

Dr. Amar Nath has informed the Court in reference to the radiological examination report that injuries no.3 and 4 in the typed copy of the injury report were found to be fractures.

7. Short counter affidavit has been filed on behalf of the investigating agency in Court which is taken on record.

In the affidavit it has been stated that in view of the nature of two injuries, being grievous, Section 325 Indian Penal Code has been invoked. Consequently, the case is being investigated for commission of offence under Sections 323, 325, 504 and 506 Indian Penal Code.

Ms.Smiti Sahay, learned counsel for the State, has assured the Court that because the offences being investigated entail a sentence up to seven years, the investigating officer shall ensure compliance of provisions of Section 41 and 41A of the Code of Criminal Procedure as directed by Hon'ble Supreme Court of India in *Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273*.

8. In view of the statement of learned counsel for the State, as noted above, learned counsel for the petitioner states that let this petition be disposed of.

9. The petition is *disposed of*.

10. Before parting with the order we are constrained on recording that despite repeated directions of the Court and despite imposing costs to be recovered from the salary of a number of doctors, the doctors have not been recording medico legal reports/injury reports and post-mortem reports in readable and clear handwriting. In every other case the Court has to summon the doctor to the Court to read out the medico legal reports for the benefit of effective adjudication.

11. We have also considered that in view of directions issued in Criminal Miscellaneous Case No.6750 (B) of 2012 (Chhabiraj Vs. State of U.P.) even Director General, Medical & Health Services, U.P., Lucknow directed all the concerned authorities to ensure that medico legal reports be written in clear hand writing which is legible; simple words be used in medico legal reports, as far as possible; abbreviations/short form of the words be not used in medico legal reports, and signatures, name and designation of the doctor who prepare the medico legal report be clearly mentioned. The direction was issued vide Circular dated 08.11.2012/Letter No.11F/5470-72. Despite directions having been issued by the department head, the needful is not being done. We have not seen any improvement in the last six years after issuance of directions by Director General, Medical and Health Services, U.P., Lucknow (supra).

12. We hereby take judicial notice of the fact that a doctor in a government medical facility is required to examine a large number of patients in a day. If for every hearing in revisional jurisdiction, bail jurisdiction before the Court of Magistrate, Court of Sessions or the High Court or in appellate jurisdiction government medical practitioner is required to appear, the work of the doctor in the hospital shall suffer. A large number of

patients would be deprived of the services of such medical specialist. In such circumstances, summoning a doctor simply for reading the report authored by him for bad handwriting does not make administrative sense.

13. We reiterate that the relevance of medico legal report in cases of hurt, homicide or suicide is enormous. In a case of incised wound, the injury depicted in the medico legal report/post mortem report can clarify whether the knife was sharp on one side or both sides ; the size of the blade ; the force with which the knife has been thrust in the body and the direction from which the knife has been thrust. Likewise, in blunt injury cases, explanation of the injury in the medico legal report speaks volumes about the manner in which the injury might have been caused and the nature of weapon of offence used. It assists the Court in formulating an opinion in regard to the manner in which an incident might have taken place.

In a firearm injury case, the location of entry wound; and exit wound if any, would assist the Court to decipher the facts. The trajectory of the projectile would inform the Court as regards placement of the victim vis-a-vis the assailant. Likewise the distance of fire can be gathered, if the injury report is clearly inscribed. Finding of tattooing, burning, scorching, presence of gun powder residue will assist the Court immensely in effective adjudication.

14. The judicial system is facing serious problems because ocular testimony is given only by interested witnesses. There is always an apprehension in the mind of the Court that the ocular version might be false so as to falsely implicate the accused or make the offence more serious by way of exaggerating the role of the accused. The number of accused is also increased so as to implicate the entire family/friends.

15. The medico legal report, if given clearly, can either endorse the incident as given by the eye witnesses or can disprove the incident to a great extent. This is only possible if a detailed and clear medico legal report is furnished by the doctors, with complete responsibility. The medical reports, however, are written in such shabby handwriting that they are not readable and decipherable by advocates or Judges.

It is to be considered that the medico legal reports and post mortem reports are prepared to assist the persons involved in the process of dispensation of criminal justice viz. counsel for the defence, the prosecutor, the counsel for the victim/complainant/informant and the Judge, at all stages of proceedings. If such a report is readable by medical practitioners only, it shall not serve the purpose for which it is made.

16. The author of the report, if required, only comes as a witness in the Court, ordinarily in trial proceedings. Preceding the date of recording evidence, there are number of stages through which the case passes and such reports are relevant at every stage. Under the circumstances the reports are required to be furnished with complete clarity, and preferably computer printer generated.

The medico legal reports/injury reports and post mortem examination reports may be made by the doctor in attendance in hand. Such reports can be produced as original as and when the occasion arises.

The attending doctor, however is required to prepare a computer printed version of the report, so that it can be read and understood during various proceedings at various stages in relation to that case. The computer printed report is required to

be signed by the author of the report as true copy of the original; or by some other authorised signatory, after its comparison with the original.

It is required that the investigating officers while filing chargesheets, may also file copies of handwritten medico legal reports/injury reports and post mortem reports alongwith their verbatim typed or computer printed version, duly certified by the authors of those documents or the head of the concerned hospital. These computer printed versions of medico legal reports/injury reports and post mortem reports would neither be a substitute of the original one nor would be taken as a supplement, however, they would facilitate not only the courts but also the counsel for the prosecution and the defence to clearly understand their contents and accordingly assist the court.

17. In view of the fact that the judicial orders, and circular issued by Director General, Health and Services, U.P., Lucknow dated 08.11.2012 (supra) are not being adhered, we are constrained on issuing a direction to Principal Secretary, Home, U.P., Lucknow, Principal Secretary, Medical and Health Services, U.P. Lucknow and Director General, Medical and Health Services, U.P., Lucknow to ensure that every medical facility where medico legal examination/post-mortem examination is being conducted is provided with computers and printers. Formats of post-mortem examination report and medico legal examination reports be made and loaded on the computer.

The doctor who authors medico legal reports/post-mortem reports, after making the report in his handwriting (which is required to be in clear readable handwriting) would enter the columns in the formats provided on the computer while

incorporating/detailing the injuries recorded in the original reports.

Such computer generated reports would be signed as copy of the original by the author of the report/head of the hospital and supplied to the investigating agency, or to the Court for consideration in the course of adjudicating a matter.

Such reports are required to contain simple words, as far as possible. Abbreviations and short forms be not used while making medico legal reports and post mortem reports. Name and designation of the doctor who examined the subject be clearly mentioned on the report.

18. Such computer printed reports would form part of the police report prepared under section 173 Cr.P.C.

19. We further direct Principal Secretary, Medical and Health Services, U.P., Lucknow to ensure that computer and printer with the format as stipulated above be made available within three months from today, in the interests of administration of criminal justice.

20. Let a copy of this order be sent to Principal Secretary, Home, U.P., Lucknow, Principal Secretary, Medical and Health Services, U.P., Lucknow and Director General, Medical and Health Services, U.P., Lucknow by Senior Registrar of this Court and Ms. Smiti Sahay, learned State counsel.

21. Compliance report be forwarded to the Court.

Order Date :- 31.10.2018

Nishant/-