

SC No. 144/2019  
State Vs. Afzal Ahmad @ Chote & Others  
FIR No. 37/2019  
PS: Dayalpur

26.02.2020

Present: Sh. Dharam Chand, Ld. Substitute Addl. PP for the State.  
All accused produced except Afzal Ahmad @ Chote from JC.  
Sh. Rajan Sharma, Ld. Counsel for accused Afzal Ahmed @  
Chotte, Amit @ Sachin and Charanjeet @ Dabboo.  
Sh. Vikash Goswami, Ld. Proxy Counsel for Kamaljeet @ Bitto.

Supplementary chargesheet has been received upon committal.  
Same be annexed with the main file.

As per the supplementary chargesheet, the FSL result qua the biological and DNA examination on the articles sent to FSL on 03.07.2019 has been filed. Another report qua the hard disk drive and the CCTV footage dated 31.01.2019 is also filed. The reports are dated 27.08.2019 and 28.08.2019 respectively. As per supplementary chargesheet, the ballistic result is still awaited. Neither in the supplementary chargesheet nor in the main chargesheet, it is disclosed as to when the articles were deposited with the FSL to seek the ballistic result.

In the present matter, FIR was registered on 01.02.2019 qua the murder of one Subash Rawat by firing upon him on 31.01.2019 at about 09:10 pm. During the investigations, one pistol with live cartridges .32 bore was recovered on 19.04.2019. The police has not claimed that the said pistol was licensed and has not incorporated any offence for the use of said pistol in contravention of provisions of Arms Act, 1959. No cognizance is taken qua the offence of possession of weapon contravening the provisions of Arms Act,

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1959 has been taken. There is no sanction given under Section 39 of the Arms Act, 1959 on file. For want of FSL report, the matter could not be put on trial so far and even now for want of ballistic report, further proceeding in the matter are not possible.

In regard to the role of the police officials in getting the FSL result/report, I deem it necessary to refer the standing orders issued by the office of Commissioner of Police. The relevant portion of said standing order no. 219/2010 is reproduced as under:-

***"Scientific aids to investigation by CFSLs/FSLs/GEQD – Instructions governing utilization of facilities offered by these institutions.***

**COLLECTION OF RESULTS & SUBMISSION IN COURT:**

*IOs shall pursue their cases personally to get the result of cases expeditiously from the concerned laboratories. On receipt of information from FSLs/CFSLs that the result is ready, the IOs shall collect the same and submit in the Court concerned expeditiously. In case the IO is transferred out, the SHO/Inspector (Investigation) should shoulder the responsibility for collecting and submitting the result in concerned Court or depute a responsible officer for the same and ensure compliance. This should be ensured through a register to be maintained for pending result FSLs/CFSLs and a review of the pendency after every fortnight. If concerned FSLs/CFSLs refuses to accept any exhibits, its refusal be obtained in writing so that the delay is not attributed on the part of IO. If the result is not received within a reasonable time frame, the matter may be brought to the notice of the concerned DCP for immediate intervention. The IO should not just hand over the FSL result to the Ahlmad of the Court but should at least move an application, if not a supplementary challan, before the Hon"ble court for getting the FSL result attached with the case file and should maintain proper receipt after the Presiding Officer has passed the necessary directions. The IO should also supply additional*

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*copies for the accused, for the police file and for the Prosecution. The IO should also specifically request the Court to summon the expert as a witness. IO should request for directions being issued to the forensic laboratory by the Court of the ADSJ once a case is committed to Sessions by the lower court. While making the request, the IO shall furnish relevant details including name of the FSLs/CFSLs/GEQD concerned, reference No. of the report etc.*

The reports as filed by way of supplementary chargesheet have been prepared on 27.08.2019 and 28.08.2019 and the same have been filed before the Ld. MM only on 16.01.2020. The Ld. Predecessor of this court has asked the police officials to file the report number of times so that matter may be proceeded further and as per order dated 27.09.2019 on being asked the court was informed that it would take about one month in filing the supplementary chargesheet after receipt of ballistic result and obtaining sanction under Section 39 Arms Act. About five months have expired but the status of the case is the same as was on 27.09.2019.

The facts of the case indicates that neither the subordinate police officials i.e. IO and SHO nor the supervisory officer i.e. DCP, North-East have made sincere efforts to get the expert opinion promptly in compliance of standing order.

The DCP, North-East being supervisory officer is directed to collect the expert report till next date of hearing and to file the same failing which it will be deemed that he is not interested to assist the court in trial of the case and matter will be brought to the disciplinary authorities for proper action and court will be forced to proceed further as per the facts of the case.

The DCP, North-East is also to file the list of parivi officers deputed for the cases committed to this court in compliance of standing order bearing no. 82 of 2012. It is also requested from the DCP, North-East to furnish the list of cases in which the FSL report is still awaited alongwith the

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tentative dates provided by the FSL upto which the result will be prepared.

Put up on 20.03.2020 for awaiting the report and further proceedings.

The bail application moved on behalf of applicant/accused Afzal Ahmed @ Chhote is adjourned for 20.03.2020.

Another application moved on behalf of one Jyoti Sharma for release of the vehicle i.e. Acura bearing no. DL-5SCB-5026 on superdari and application for releasing FDR of Rs. 25,000/- on behalf of the applicant/surety Pawan Kumar are also pending and same are disposed off vide separate orders.

Since accused Afzal Ahmad @ Chote is not produced, production warrant of accused Afzal Ahmad @ Chote be issued for 20.03.2020.

(Sunil Chaudhary)  
Special Judge (NDPS)/ASJ  
North-East/KKD/Delhi/26.02.2020