

State of H.P. vs. Parveen Samal a/w connected matter

Cr. A. No. 182/2021 a/w Cr. A. No. 210/2021

12.7.2024 Present: Mr. Navlesh Verma, Ms. Sharmila Patial, Addl. A.Gs., and Mr. Raj Negi, Dy.A.G., for the appellant(s) in both the appeals.

Mr. Maan Singh, Advocate, for respondent No.1 in Cr. A. No. 182/2021.

Mr. Balram Sharma, Dy.SGI, for respondent No.3/UoI. in Cr. A. No. 182/2021.

Cr. A. No. 210/2021

Despite repeated efforts, the respondent being citizen of Nigeria could not be served. It was reported that the respondent had fled away to his country. This led to the passing of the following order on 8.9.2023:-

“In the present case, respondent No.2 was an accused in Criminal Case No.58 of 2020, under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 read with Sections 419 and 420 of the Indian Penal Code, 1860. He was acquitted on 9.3.2021. His Passport, taken in possession, is lying in the records of the trial Court. However, after acquittal respondent No.2 is stated to have been deported to his home country, i.e. Nigeria.

In the aforesaid circumstance, for facing difficulty to serve respondent No.2, Union of India through its Secretary, Ministry of Home Affairs to the Government of India, vide order dated 3.8.2023, was impleaded as party respondent and was directed to place on record reply/instructions relating to the issue in order to procure presence or representation of respondent No.2 in the present appeal.

Today, learned Deputy Solicitor General of India has sought further two weeks’ time to place on record the relevant information.

On request of learned Deputy Solicitor General of India, two weeks’ further time is granted to file

reply/instructions in terms of order passed on previous date, failing which, Officer responsible for imparting instructions shall remain present in person alongwith instructions and other relevant record to assist the Court relating to the issue in reference.
List on 28.9.2023 before appropriate Bench.”

2 Thereafter, this Court on 18.10.2023 passed the following order:-

“Learned Deputy Advocate General states that the technical team has cross-checked, the particulars of respondent No.2 as given in column Nos.2, 3 and 4 of para 5 of the short affidavit filed on behalf of respondent No.3 and the ICJS is lifting the details of respondent No.2, on any one or all the given fields and yielding the same result by identifying respondent No.2. We really wonder, why this system did not respond when the Deputy Central Intelligence Officer Bureau of Immigration MHA, (Government of India) New Delhi checked the particulars of respondent No.2 which apparently are different from the one given in the petition and different from one appearing in the ICJS.

2. Mr. Balram Sharma, learned Deputy Solicitor General of India assures this Court that he will take up the matter with the concerned department(s) and desirability of having access to the ICJS system would also be taken up not only with the department of Bureau of Immigration, but also with all other relevant and concerned departments like Passport Office, Immigration/Migration Office etc.

3. Let technical team of the State respond to the short affidavit filed on behalf of respondent No.3 within a period of two weeks.

List for consideration on 8th November, 2023.”

3 Since the respondent is reported to have fled from the country, therefore, we directed the Ministry of Home Affairs to the Government of India to file its affidavit.

4 In the affidavit so filed, it is indicated that the respondent had in fact given different biographic particulars and spelling in the court petition and the Inter-operable Criminal Justice System (ICJS) for the purpose of securing fresh passport and visa.

5 It is then that this Court felt that it was important to make ICJS foolproof. It is after that this Court has been striving to make ICJS system foolproof by involving various stake holders like officials/officers from the Home Ministry, Police and officials of the National Informatics Centre (NIC).

6 The objective of ICJS is to make the justice delivery system more effective by integrating main pillars (stakeholder) of criminal justice, namely, the Police (CCTNS), Courts (e-Courts), Jails (e-Prisons), Forensic Lab (e-Forensic) and Prosecution (e- Prosecution).

7 Although, the ICJS implementation has been implementing in the State, but there is still need to augment the pace along with ensuring data accuracy. The NIC has given certain suggestions for the proper implementation of the ICJS for utilizing full potential not only in the State but also in entire country. Based on the suggestions and guidelines, we proceed to pass the following directions:-

1. Data Accuracy:

For ensuring the accuracy of names, father's name, nationality, address, age in FIR data in CCTNS, the State Government shall issue directions to the Police Department to enter these fields from Aadhaar card of Indian Nationals and passport in case of foreigners. This will ensure that name-based searches become accurate since all stakeholders will consume FIR data in their software.

2. One Data Once Entry:

Once FIR data is entered, the other stakeholders shall use this data (consume API data from CCTNS). This will reduce data entry effort at all levels and also increase correctness of data so that criminal search based on name and other similar parameters is accurate across different data sets.

3. Government Instructions:

The State Government shall issue instructions to HP Police Department to completely fill FIR and Charge sheet data in CCTNS software instead of scanned charge sheet. Suitable instructions be issued and, if necessary, request be made to include the police data in e-Courts and use Court data in e-Prisons only through ICJS APIs.

4. District Police Module (DPM):

Since the police department has been provided with various softwares for the purpose of investigation and finding the Criminal Network of the criminal e.g. District Police Module (DPM), Foreigners Identification Portal (FIP), Look Out Circular (LOC), the Police Department shall use these tools extensively.

5. Foreigners Data:

The Foreigners data is captured while their stay in India by various softwares like Registration in

Foreigner Registration Office (FRO) (e-FRRO Module), C-Form for stay in Hotels, A-Form by Institutions for students of Foreign origin. This helps in tracking the whereabouts of the Foreigners through DPM Module. Therefore, the Police Department is directed to ensure that data of foreigners is captured at each stage by Hotels, Home Stays, Educational Institutes and no entry gets missed out while the foreigner is staying in India.

6. eSakshya App:

The introduction of new criminal laws w.e.f. 1st July 2024 has made it mandatory for Police to capture digital evidence from the scene of crime. A mobile application named as "eSakshya" has been made available to the Police for use and capture digital evidence by way of capturing Picture, making video, capturing witness photo from the scene of crime and getting it stored in digital locker (eSakshya Locker) for later retrieval and producing the same in the court. The State Government is directed to expedite its implementation.

7. New Initiatives:

The ICJS software is evolving as per requirements and new ideas as per suggestions being forwarded by the stakeholders and thus the State Government is directed to implement/develop following new software/ modules:

- a. Electronic communication of summons and warrants generation and digital delivery of these.
- b. Pre-Trial module to be used by Police, Courts and Prisons.
- c. Police shall also consider to develop a software for Remand Requests from CCTNS.

8 The Chief Secretary and the Director General of Police to the Government of Himachal Pradesh are directed to issue necessary directions and report compliance on the next date of hearing.

9 List on 26.7.2024.

(Tarlok Singh Chauhan)
Judge

(Sushil Kukreja)
Judge

12.7.2024
(pankaj)