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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision:-9th September, 2024.

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CRL.REF. 4/2021

COURT ON ITS OWN MOTION

.....Petitioner

Through: Mr. Sanjeev Kumar Dubey, Sr.
Advocate, Amicus Curiae.

versus

STATE

.....Respondent

Through: Ms. Nandita Rao, ASC (Crl.) for the
State with SI Mahendra, P.S. Vasant
Kunj South.

CORAM:

JUSTICE PRATHIBA M. SINGH
JUSTICE AMIT SHARMA**Prathiba M. Singh, J. (ORAL)**

1. This hearing has been done through hybrid mode.
2. In a bail matter of the year 2021, being *Bail Application No. 2000/2021*, arising out of FIR No. 489/2021 under Sections 25/54/59 of the Arms Act, registered at P.S. Vasant Kunj (South), named *State v. Karim*, the Id. Additional Sessions Judge, on 4th October, 2021 had passed the following order:

“It is noticed that SCRB report of previous involvement of accused filed with reply to bail application is showing that accused/applicant is running in JC and PC in several cases, which cannot be correct and therefore, it seems that SCRB has not updated the online criminal dossier pertaining to the accused despite previous direction of this court which



were duly conveyed to the Ld. Commissioner of Police.

The relevant portion of the said order dated 14.09.2021 is quoted for ease of reference:

During the arguments on the bail application, counsel for the applicant/accused has alleged that in the present case, FIR has been registered only for the purposes for claiming insurance amount by the owner. No PC remand was taken by the police for recovery of the articles and the claim that articles were washed away in the river, also requires investigation. It has also been claimed that the previous involvement of the accused may not be reflected correctly in the criminal database maintained by the Delhi Police.

In the present case, there is a claim that accused is already involved in 6 other cases. The 2 pages of report placed before the court do not match with each other. In one report, 4 cases have been shown against the accused, whereas in the other report, 6 cases have been disclosed against the accused. The report dated 23.08.2021, however, seems to be the latest one and contains particulars of four cases but even in this, the current status of the said cases are not properly reflected.

I may note that previous involvement of the accused plays a vital role, when the court applies its mind to grant of bail/refusal of bail to the accused. Therefore, a serious responsibility lies on the shoulder of the SCRB/Delhi Police, to regularly update the database, pertaining to the accused person. In law, a person can be categorized as an under trial, as a convict/and in case of acquittal, there is no criminal record. If despite acquittal from courts, a system reflects a person as a criminal without indicating the fact of acquittal then, in my view, presumption of innocence goes for a toss. Therefore, heavy onus lies on the department to maintain its records in such a manner that the police cannot misuse the information fed in the system by selectively prejudice against the accused persons.



Therefore, there is a responsibility/duty on the authority maintaining such a database, to keep it updated so that correct particulars and information is produced before the court before arguments on bail application are being heard. Failing to do so may be denying a person a right to his reputation as well as to his liberty enshrined in Article 21 of Constitution of India. Therefore, State is under an obligation to keep such criminal databases updated and it is excepted that the said exercise by carried out at the earliest, as also, periodically to ensure justice to one and all. Therefore, first of all, SHO concerned is directed to file a reply whether information regarding accused persons is periodically sent to the SCRB for updation or not.

Secondly, explanation is sought as to why in the present case, PC remand was not taken but the bail is being opposed tooth and nail.

Copy of this order be also sent to the Id. Commissioner of Police seeking compliance of the aforesaid directions regarding regular/periodical updation of record pertaining to status of cases, which will go a long way in ensuring justice to all.

Therefore, a question of law has arisen in the present case which needs to be decided by the Hon'ble High Court of Delhi which is the protector of the fundamental rights of the citizens as well as individuals guaranteed by our Constitution therefore, reference is being made under Section 395(2) Cr.P.C. with the following questions of law:

firstly, whether failure on part of State to update criminal dossier system regularly and from time to time is in violation of Articles 21, 19 and 14 of the Constitution of India under the Constitution of India.

secondly, whether the State is bound to keep the criminal dossier maintained or updated and well maintained?

And thirdly, whether failure to up date criminal dossier, whereby ever after acquittal, the accused is shown as involved in particular case, can be considered



defamatory or in breach of law or fundamental rights guaranteed under Article 21, 19, and 14 of the Constitution of India.

Copy of this order be therefore, forwarded to the worthy Registrar General of the Delhi High Court, with a request to treat the same as a reference under Section 395(2) of Cr.PC and for it to be proposed accordingly.”

3. Pursuant to the above extracted order, the following questions have been referred to this Court for consideration under Section 395(2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as ‘Cr.P.C.):

“Q.a) Whether failure on part of State to update criminal dossier system regularly and from time to time is in violation of Articles 21, 19 and 14 of the Constitution of India and in breach of the fundamental rights guaranteed to an individual under the Constitution of India?

Q.b) Whether the State is bound to keep the criminal dossier maintained or updated and well maintained?

Q.c) Whether failure to update criminal dossier, whereby even after acquittal, the accused is shown as involved in particular case, can be considered defamatory or in breach of law or fundamental rights guaranteed under Article 21,19 and 14 of the Constitution of India?”

4. The present Reference was then constituted and referred to the Ld. Division Bench. On 28th October, 2021 the Court had issued notice to the State and had called for status reports from time to time.

5. Initially on 26th November, 2021, the SHO PS Vasant Kunj (South) had placed on record a status report. In the said report it was stated that the entire issue would come within the purview of the State Crime Record Bureau (hereinafter, ‘SCRB’), Delhi; the Deputy Commissioner of Delhi, South-West



District, New Delhi had written a letter dated 20th November, 2021 being No. 4005/Legal Cell/SWD to the Director, SCRB, Delhi, to send necessary information.

6. Thereafter, the Deputy Commissioner of Police, Legal Division, Delhi had filed a status report dated 1st July, 2024, wherefrom, it is clear that the SCRB and the Police are working towards automatic updation of the information relating to orders and judgments. As per the status report, the Inter-operable Criminal Justice System (*hereinafter*, 'ICJS') platform, which is being used for updation of orders, is not synced automatically with the criminal data base of the Police. In view of the non-syncing of the SCRB's data with the data maintained by the police, the correct data is not being made available to the Courts. The relevant portion of the report is extracted hereunder:

“2. That the accurate and authentic previous involvement / conviction report of an accused is generated from the State Crime Record Bureau (SCRB) web portal /database. The SCRB reports of arrested / convicted persons are collected from multiple application software data base such as Crime Criminal Tracking Network System (CCTNS), Criminal dossier Cell, Crime Criminal Information System (CCIS) and finger printing data base.

3. That it is also pertinent to mention that the status/information regarding court cases is not updated several times. The same issue has been raised at several quarter and studies/discussions have been conducted with various stake holders to find the solution of the same. After much deliberation, a consensus of all stakeholders has reached to the conclusion that a technical/automated solution is the only reasonable solution to the issue raised.

4. That the ICJS (Inter-operable Criminal Justice



System) is a common platform, whereby the system/applications of various pillars of the criminal justice system have been integrated across the nation and data is being shared among them as per the matrix approved by e-Committee of the Hon'ble Supreme Court of India, and connected through a secured network.

5. That currently, the court orders are being uploaded on E-Court/ICJS. NIC has been requested to create a technical solution whereby the status of the cases are synced automatically in the Criminal database of the police so that discrepancy can be reduced in SCRB reports. At present, the NIC is working to create a technical solution as required.”

7. Vide order dated 30th July, 2024, this Court had considered the matter and had observed that the reference has been initiated due to non-updation of the online Criminal Dossier System maintained by the SCRB. In view of the non-updation, the Accused was being wrongly reflected as having been involved in several cases and was also shown to be in judicial custody and police custody. Admittedly, the said information was incorrect. The relevant portion of the order dated 30th July, 2024 is extracted hereunder for ready reference:

“A perusal of the above would show that the reference has been the result of non-updation of the Online Criminal Dossier System, maintained by the State Crime Record Bureau (hereinafter referred to as (“SCRB”), where the Court was of the opinion that in respect of the particular accused, the above stated system showed that the accused was involved in several cases and the status of the accused was also shown as in Police/Judicial Custody. This according to the ASJ/PO, MCAT, Patiala House Courts was incorrect information.”



8. Further, on the last date of hearing, an official from the SCRB, Insp. Nitin Verma had submitted that the National Informatics Centre (*hereinafter*, 'NIC') was overseeing this matter. The Court had then directed as under:

“8. Accordingly, let the SCRB and the NIC work on this issue in an expeditious manner and a technical solution be finalised for syncing the records, so that whenever Courts call for SCRB reports, the updated data is readily available.

9. The team from the SCRB and the NIC shall hold regular meetings within the next two weeks, and a status report be given with regard to the solution that NIC is suggesting for such syncing of data and a proper timeline for implementation of the same.”

9. A status report has now been filed dated 5th September, 2024 by the Additional Standing Counsel, Criminal under the signatures of Sh. Amit Goel, Deputy Commissioner of Police, Crime Branch, Delhi. As per the said report, meetings were held between the Delhi Police and the NIC in order to allow the status of the Accused(s) updated in the structured manner in the Crime and Criminal Tracking Network and Systems (*hereinafter*, the 'CCNTS') data base. Second meeting was also held on 21st August, 2024. The status report dated 5th September, 2024 further states that the Court orders in PDF format are being received, but the entries are not made in a structured manner. The relevant portion of the said report is set out below:

“1. A meeting was held on 09.08.2024 and was informed NIC Team to provide a technical solution that will allow the Status of the accused in a particular case to be updated in a structured manner in CCNTS database as the accused is either granted bail/discharged/acquitted/convicted in a particular FIR. He further clarified that the PDF copy of the order would not meet the requirement. The NIC officials stated that they will discuss the matter and come back. The NIC



team was requested to provide solution in a timely manner and as early as possible. If anything is required from Police side, then it may be intimated to us.

2. A meeting was again scheduled on 21.08.2024 Sh. Shashi Kant, Deputy Director General, NIC was also available in the meeting. DDG/NIC was apprised regarding the direction of the Hon'ble High Court that the status of accused need to be updated with latest status. DCP/Crime explained the format of Report of Conviction/Previous Involvement in detail. He informed the DDG/NIC that our only requirement is that the status of accused in a particular FIR is updated in CCTNS database. Remaining linkages would be made by SCRB on their own.

3. DDG/NIC informed that there is already a provision in Court System in pre-trial cases to enter the status of accused. It is observed that information in the requisite field is not available in all cases. Currently, only court orders in PDF format are being received, which are not helpful for making structured entries. Therefore, entries need to be made in a structured manner. It is requested that the Hon'ble Court pass directions to ensure that the necessary entries are made accordingly.

4. DDG/NIC further informed that in cases under trial, proper recording of data is being done but it is not being shared. He further apprised that for sharing the data, permission of the e-Committee of Supreme Court of India is required. Hon'ble court may refer the issue to e-Committee of Supreme Court of India for kind consideration.”

10. A perusal of the above report would also show that the NIC has informed the police that in undertrial cases, proper recording of data is done, but nothing is being shared with the police. Orders of Courts are also being uploaded in PDF format. The structured entry of data is however needed to make the database accurate. It is thus prayed that for sharing of the data, the



permission of the e-Committee of the Supreme Court of India is required and that the matter may be referred to the e-Committee.

11. Heard the Id. Amicus and the Id. ASC (CrI). The Court has also perused the status reports on record.

12. There can be no doubt that the data available with the police and the Courts ought to be shared in a seamless manner between each other inasmuch as in criminal matters, an error of this nature as was noticed by the Id. ASJ could be extremely detrimental to the Accused. It may also prevent the Court from granting bail in such matters under the presumption that the Accused is also involved in some other cases, when the data itself is not reliable data. On the other hand, if an Accused is convicted and the SCRB reflects to the contrary, it would have an impact on how the matter is treated by the Court.

13. This Court also notices that the SCRB data has errors, as the complete details of the Accused are not properly matched while generating reports. For *eg.*, if there are two accused persons with similar names, sometimes cases pending against one accused are reflected against the other accused. Thus, the sharing of the accurate data between the police and the Courts dealing with criminal cases is an absolute essentiality, inasmuch the same would remove the possibility of discrepancies that may creep in due to non-compatibility of the two systems.

14. In view of these discrepancies with respect to the SCRB data, that were repeatedly found, a Id. Single Judge of this Court in ***Ravi Kumar @ Shooter v. State (NCT of Delhi) [2020: DHC:3610]*** directed following of a Standard Operating Procedure (*hereinafter*, 'SOP') till errors in the system are fixed. The SOP prescribed by the Court are reproduced below:-



“24. On the basis of the submissions made as aforesaid, and while the ICJS system gets fully operational and police officers are trained in its efficient use, in order to ensure completeness, accuracy and credibility of SCRB reports furnished to any court in any proceedings, it is directed that the following steps must be taken by an Investigating Officer or other police official before an SCRB report is presented to any court:

- i. When searching the criminal Involvement/record of any person, the concerned police officer shall accurately enter the full name of the person, the parentage, the alias as also the full address as per an official Identification document, such as Driver's Licence, Passport, PAN Card, Aadhaar Card; or, if no such document is available, then as disclosed by the person, ensuring that the wildcard sign (%) is appropriately used in the search to account for commonly used alternate spellings of any of these particulars;*
- ii. The particulars so entered shall be searched against each of the following databases: (i) Crime Criminal Information System (CCIS) database; (II) On-line Criminal Dossier database maintained by the police; (ill) Criminal Attributes Database (CADB) (iv) COINS Database/Core Application Software (CAS) Database (V) Register No, IX (Register No. 9) maintained at police stations; and (vi) Interoperable Criminal Justice System (ICS) database.*
- iii. If any element of information in relation to a person or in relation to a particular FIR Is not complete, say the status of a bail application or current stage of a pending trial, the Investigating Officer shall obtain such updated status from the concerned police station; prison or court; and file an additional Information sheet separately signed by him indicating such updated status,*



without making any Interpolations in the SCRB report generated from the aforesaid databases.

iv. Before an SCRB report is filed in any court, the SHO of the concerned police station shall counter-sign the SCRB report and the additional Information sheet, If any, confirming that the procedures set-out above have been followed by the Investigating Officer in preparing such report.

v. The foregoing procedures shall be incorporated as part of the Standard Operating Procedures (SOPs) to be followed by all Investigating Officers in all cases and circulated by the Special Commissioner of Police (Crime), Delhi to all police stations within the NCT of Delhi.”

Thus, the Court directed that until the ICJS portal can be made fully operational, certain safeguards ought to be followed by the police to accurately reflect the data, as far as possible.

15. Insofar as the questions framed for the reference is concerned, there can be no doubt that the State is bound to keep updated criminal dossiers in respect of under trials as well as convicts. It deserves to be noted that criminal dossiers which were hitherto being maintained in hard copies, are now being maintained electronically and technology has made it quite easier to share data on a real time basis. Thus, the obligation on the State to maintain an updated criminal dossier would also be effectively complied with if the data can be accurately fed into systems and the data available with the police is made available to the Courts and vice-versa.

16. From the various status reports and the submissions made, it is clear that data related to criminal cases being handled by Courts as available on the



ICJS portal needs to be synced with the Crime Record Bureau in order to ensure accurate availability of data relating to the Accused. The police authorities also appear to be using multiple databases which have data that is not fully updated. Enormous resources are being spent for maintaining and updation of databases but as the present case shows, the need is for a coordinated effort for: -

- structured feeding of data,
- sharing of data, and,
- securing of data

As is evident from the stand of NIC as informed to the Delhi Police the same is to be considered and approved by the e-committee of the Supreme Court. Thus, the present order be sent to the Member Project Management of the e-Committee of the Supreme Court for placing the same before the Hon'ble e-Committee.

17. It is made clear that until the data bases are duly synchronised and the data is fully shared, the *SOP bearing OB No. 03/2021* dated 21st January, 2021 shall be followed by the Delhi Police in all the criminal cases before the Trial Courts and the High Court.

18. The Court having considered the status reports and the stand of the NIC today, it is clear that until the ICJS is made fully operational and the SCRB data becomes fully accurate, *SOP bearing No. OB 03/2021* dated 21st January, 2021 shall be followed by all investigating and law enforcement agencies. No further orders are required to be passed in this reference.

19. Accordingly, the Reference is disposed of in the above terms.

20. In view of the above, the Reference is disposed of with the direction that the present order be sent to the Member Project Management, e-



Committee of the Supreme Court- *Dr. Parvinder Singh Arora* (mpm-ecommittee@aij.gov.in; +91 9418003104) to be placed before the Hon'ble e-Committee for appropriate orders and directions. Along with the present order, all the status reports and the complete file of this case be also transmitted to the Member Project Management, e-Committee of the Supreme Court of India.

**PRATHIBA M. SINGH
JUDGE**

**AMIT SHARMA
JUDGE**

SEPTEMBER 9, 2024/bsr/Pc/rks