



IMPORTANCE OF INVESTIGATION PROCESS IN CRIMINAL JUSTICE SYSTEM WITH REFERENCE TO MALIMATH COMMITTEE

Valle Babji Rao

Research Scholar

Dr. B.R. Ambedkar College of Law
Andhra University

Of all the functions of the police, investigation is the most important and vital one. In the constantly evolving socio-economic scenario the criminals using sophisticated tools and techniques commit more and more crimes. In order to overcome these complexities the police all over the world are depending more and more on scientific methods of investigation. A wide range of scientific techniques are now available for analysis of varied nature of objects and materials encountered in the process of commission of crime by the culprit in and around the crime scene, on the suspect and victim.

It is an established fact that the criminals while committing crimes either due to carelessness or due to anxiety, or due to contact with other objects leave traces at the scenes and these are the basis for scientifically exploiting their culpability. This physical evidence when located, collected, preserved and forwarded for scientific evaluation and report is bound to have enormous potential in linking the criminal to the crime scene, victim or any other circumstances leading to the crime. Moreover, evidence collected and based on scientific evolution and report is unbiased, universally acceptable and also stands the test of time.

An attempt is made in this paper to understand the importance of

investigation process in criminal justice system.

Investigation plays an important role in Criminal Justice System. Police officer in investigation process plays an important role. The definition and meaning of investigation are given below.

Definition

"Investigation" includes all the proceedings for the collection of evidence conducted by a police officer or by any other person authorised by a magistrate. The definition is inclusive and not exhaustive: In common parlance. (the word "investigation" extends to search for and collection of evidence in order to find out whether an offence has been committed.

Object

Investigation is the first stage of a criminal case. The primary object of investigation is to collect material and find out evidence as to commission of an offence. It, therefore, ends with the formation of opinion as to whether on the material collected, there is a case for trial against the accused.

Investigation, Inquiry and Trial: Distinction

There is distinction between investigation, inquiry and trial. Stated simply there are three stages of a criminal



case; (i) investigation; (ii) inquiry; and (iii) trial. Investigation of an offence is the beginning and the first stage of a criminal case. Inquiry and trial follow investigation.

Chapter XII of the Criminal procedure Code deals with information to the police about commission of offences and investigation by police authorities.¹

Powers and Duties of Police in Investigation

The powers of police under the Code of Criminal Procedure to investigate offences are extensively wide and unfettered. The investigating officer is the arm of the law and plays a pivotal role in the dispensation of criminal justice and maintenance of law and order. The police investigation can, therefore, appropriately be described as the foundation stone on which the whole edifice of criminal trial rests. The investigating officer ascertains facts, collects evidence, extracts truth from half-truth, connects the chain of events, obtains information from disclosed and undisclosed sources and makes the investigation successful. For these purposes, very wide and extensive powers have been conferred on him. He has been given free liberty to collect the necessary evidence in any manner he thinks expedient. It is, therefore, of utmost importance that people entrusted with such task must not only be competent, efficient and sincere but must be honest, impartial and unbiased. They are guardians of liberty of innocent persons and it is their duty to see that neither

innocent persons are convicted nor guilty persons are acquitted. Their duty is to discover truth and not to secure conviction at any cost.⁵⁹

It is submitted that every investigating officer should always keep in mind the following oft-quoted observations of BEG, J. (as he then was) in the case of *Jamuna Chaudhary v. State of Bihar*,

The duty of the Investigating Officers is not merely to bolster up a prosecution case with such evidence as may enable the Court to record a conviction but to bring out the real unvarnished truth².

Sections 154 to 176 Cr.P.C enact the law relating to investigation of all cases, cognizable as well as non cognizable by considering information received by police as to commission of cognizable and non-cognizable offences. In the present Chapter, it is intended to the relevant provisions of investigation officer. Relevant provisions showing that a distinction has been made by the Code in this regard between cognizable and non-cognizable cases and it is provided that investigation of non cognizable cases can be made by the police only under the orders of a competent magistrate.

Investigation in Cognizable Cases

Section 156(1) empowers an officer-in-charge of a police station to investigate a cognizable case without an order of a magistrate. It also limits his power to investigation of such cases within the local jurisdiction. The violation of this provision is cured by subsection (2) of Section 156. Any defect or illegality in

¹ State of Punjab v. Bhajanlal, AIR 1992 SC 604 : 1992 CrLJ 527 : (1992) supp (I) SCC 335; Shasikant v. cm, AIR 2007 SC 351 : 2007 Cr LJ 995 (2007) 1 SCC 630; State of w.B. v. Swapan Kumar, AIR 1982 SC 949.

² Pala Singh v. State of Punjab, AIR 1972 SC 2679 : (1972) 2 SCC 640 : Arjun v. State of Bihar, 1994 supp (2) SCC 372 : 1994 SCC (Cri) 1551; Alia China v. State of A.P., AIR 2002 SC 3648 : (2002) 8 SCC 440.



investigation which has no direct bearing on the competence or the procedure relating to cognizance or trial would not vitiate the trial and conviction cannot be set aside unless such illegality or defect in the investigation has brought about miscarriage of justice.³ Sub-section (3) of Section 156 empowers a magistrate to order investigation by the police before taking cognizance of an offence. After the magistrate receives the report, he can act on it and discharge the Accused or straightway issue process against the accused or apply his mind to the complaint filed before him and take action under Section 190⁴.

Section 157(1) provides the manner in which the investigation is to be conducted. If from information received or otherwise, an officer-in-charge of a police station has reason to suspect the commission of a cognizable offence, he must forthwith send a report of the same to a magistrate empowered to take cognizance upon a police report, and must proceed in person or depute one of his subordinates to investigate the facts and circumstances of the case and to take steps for the discovery and arrest of the offender.⁵

■ The first proviso, however, enables the officer to dispense with the investigation on the spot if information is against a named person and the case is not of a serious nature or there is no sufficient ground for such investigation.

The second proviso, as added by the Amendment Act, 2008 requires investigation in a rape case to be

conducted at the residence of the victim by a woman police officer. It also provides for questioning the victim under eighteen years in presence of her parents or a social worker of the locality.

Section 157 requires an officer-in-charge of a police station to send the report of a cognizable offence to a magistrate. It is called an "occurrence report". The underlying object of this report is to enable a magistrate to have early information of every serious crime so that he may be in a position to issue necessary directions under Section 159⁶.

The use of the word "forthwith" enjoins the officer-in-charge of a police station to send a report to the magistrate as soon as he receives the information. The expression has, however, no fixed or absolute meaning and every delay in sending a report would not vitiate the trial. Mere delay in dispatch of the first information report is not a circumstance which will throw away the prosecution case in its entirety.¹⁸ Extraordinary and inordinate delay may, however, be a circumstance providing a legitimate basis for suspicion that the first information report was recorded much later than the stated date and hour affording sufficient time to the prosecution to introduce improvements and embellishments and set up a distorted version of the occurrence. In that case, the first information report may lose its evidentiary value.

On receiving the report, the magistrate may direct investigation, or

³ *Adri v. state of W.B.*, AIR 2005 SC 1057

⁴ Rights of accused in investigation under Article 22 of Indian Constitution and relevant provisions of Criminal Procedure Code see also *D.K.Basu Vs State of West Bengal* (AIR 1997 SC 610),

⁵ *State of U.P. v. Bhagwant*, AIR 1964 SC 321; *P,ukash Singh Baddi v. state of Punjab*, AIR 2007 SC 1274 : (2007) I SCC 1 : (2007) I SCC (Cri) 193.

⁶ *Rishbud v. State of De1hi*, AIR 1955 SC 196:



may hold preliminary inquiry, or may dismiss the case.

Investigation in Non-Cognizable Cases

section 155 deals with information relating to a non-cognizable offence. No police officer can investigate a non-cognizable case without the order of a competent magistrate. But once the police officer is permitted to investigate a non-cognizable case, he can exercise the same powers as in respect of a cognizable case, except that he cannot arrest any person without warrant. Where a case relates to two or more offences of which one is cognizable, the case will be deemed to be a cognizable case.

Interference with investigation By High Courts and Supreme Court

The investigation of an offence is the exclusive field of police officers whose powers are unfettered. It is the statutory right of the police to make investigation and for that purpose, it does not require any authority from judiciary. Consequently neither a Magistrate, nor a High Court nor even the Supreme Court can interfere with the said right. The power is independent and uncontrolled. A magistrate is kept in the picture at all stages of the police investigation but he is not empowered to interfere with the investigation or to direct the police how investigation should be conducted⁷.

At the same time, however, in appropriate cases, the court can quash criminal proceedings if they are frivolous, vexatious or mala fide; or without jurisdiction,

arbitrary, inherently improbable or the allegations taken at their face value and accepted.

This discussion has provided an overview of the criminal investigation process and the role, function, and utility of various types and sources of evidence within the process. With these understandings, one may be able to better appreciate the complexities of criminal evidence and the criminal investigation process. Thus investigation plays an important role in Criminal Justice system. The success of the trial depends upon success of investigation

⁷ State of Bihar v. P.P. Sharma, AIR 1991 SC 1260 : (1992) supp 1 SCC 222 : 1991 cru 1438; Rampal v. State of Maharashtra, 1994 Supp (2) SCC 73 : 1994 CrLJ 2320; Kashiram v. State of M.P., AIR 2001 SC

2902 : (2002) 1 SCC 71; state Inspector of Police v. suryaSankaram, (2006) 7 SCC 172 : (2006) 3 SCC (Cri) 225; state v. Navjot Sandhu, (2005) 11 SCC 600 : 2005 crLJ 3950.