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SEPARATION OF POLICE DEPARTMENT: INVESTIGATION WING AND LAW & ORDER MAINTENANCE WING AND ITS IMPACT ON ESTABLISHMENT

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Over the past decades, it is observed that Government is somewhere lacking in showing its concern about the issue of losing a huge number cases in the Court of Law because of improper and inadequate investigation due to lack of training and specialization, which is due to alarming deficiency of police personnel and their engagement in various purposes apart from investigation.

In the light of the above issue, it is of utmost importance to bifurcate the police and provide for a separate Investigation Wing from Law & Order Maintenance side.

This research aims to measure perception of officers towards this “Separation of Wings” and this may also be sincerely and purposefully observed the quote of *Andre Gide* who has shared that “**Everything has been said already, but as no one listens, we must always begin again**”.

This paper will focus on four main questions:

- a) **First**, whether bifurcation of Indian Police into two Wings: One agency strictly for investigation, responsible for crime investigation and second, a separate agency for maintaining law and order, necessary? (Including Literature and Comparative Study)
- b) **Second**, how states are working towards the bifurcation in Police Department since the seven directives were issued by Supreme Court in the case *Prakash Singh*?
- c) **Third**, what are the approaches to achieve a successful solution for this change in letter and spirit?
- d) **Fourth**, what will be its overall impact on the system?

HISTORICAL BACKGROUND

An exoskeletal structure of Police existed in ancient India. This system traces back to the period of Ramayana and Mahabharata where efforts for establishment of local administration and policing were seen for safety and security of the citizens. In Mauryan's era, Arthshastra as well speaks about a highly organized form of policing in the kingdom of Kautilya (Chanakya). Kautilya through his '*Saptanga Theory of State*' mentioned '*Danda*' which means police or army as an essential element for establishment of a state. Further down the historical lane a more complex, organized and formal kind of police system was setup during the Mughal rule where the administrative structure incorporated the proper concept of policing, patrolling and law & order maintenance duties through various posts and ranks (Mansabdari System). With the entry of British in Indian sub-continent, the Police System was officially conceptualized. For almost 2 decades Britishers used to administer the territory with certain laws and rules based on Royal Irish Constabulary but later after facing huge backlash in 1857, they decided to tackle such problem with creation and implementation of certain new Acts and Rules. This eventually culminated in the creation of Police Act V of 1861 which is still governing Indian Police System in the 21st century. Even after 75 years of independence Indian Government continued with the colonial form of administration despite of initiatives and concerns to alter the police administration by giving it an independent position from political influence and interference.

The Police Act, 1861 was introduced by the British lawmakers in order to oppress and control population, and since then there has only minor changes on this system. The core structure of function and reporting remained same. According to 7th Schedule of Indian Constitution, "Police" comes under the category of State governed subject (Entry 2) under Art.246 which means that the state governments are responsible for providing and regulating police service to the citizens. Therefore, each of the 28 states have their own police force. After Independence, however, most of the states implemented the Act of 1861 unchanged and some with minor changes.

The implementation of reforms in Indian Police System is need of the hour. Over a period of almost 40 years, several attempts were made by various committees/commissions/reports in order to introduce reforms in the Indian Police System. However, most of these reforms were not adopted, as a result of this the Supreme Court of India issued seven directives on police reforms in the case of **Prakash Singh & Ors v. Union of India & Ors**, one of the major highlights of this verdict was separation of the investigation and law and order function of the police. Even Supreme

Court believes that the core of the Police Reforms is embedded in this separation.

This battle for bifurcation of police traces back to the independence era where lawmakers were concerned about the failure of the police mechanism along the colonial lines. The law makers were well aware of how deeply the police system was embedded in the roots of political influence and interference but the government's dominance suppressed any form of changes in the existing police set up. Even today, no political party is willing to surrender their powers and privilege to direct, interfere and influence police. It is important to understand the ground problems with the implementation of this separation in Police Department.

Part-I

Study of Literature-

Comparative Study of other countries

The conceptual study of Criminal Investigation

The aim of criminal investigation is ultimately to search for truth and bring the offender to book.

Section 2 (h) of the Cr.P.C defines investigation as follows-

“Investigation” includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf;

Criminal investigation literally means a lawful search and conduct for people and objects which will lead to solving a crime and the evidence so collected can be used to reconstruct the circumstances of an unlawful act/omission and the accompanying mental state. The prevailing procedure for investigation has been defined under sections 157-173 of the Cr.P.C. An investigation begins as soon as the police registers an offence (generally criminal). It initiates from an unknown fact or circumstances and the evidence and clues which ultimately helps in discovering and revealing the reason and event of the crime. Efficient and effective criminal investigations increase the probability of apprehension and conviction of offenders. Without the preliminary investigation the case cannot proceed further to the judicial magistrate.

It is important to ensure the adequate and proper investigation in cases of criminal investigation. It lays the foundation of the guilt of the accused in the trial. The police have been given the job of

collection of evidence, solving a crime and finally charging a charge sheet in the magistrate's court. Without any investigation, the police complaint or information cannot culminate into a judicial proceeding. To bring the suspected offenders before the criminal courts, the police have responsibility for the investigation of suspected offences and for the collection of evidence sufficient to charge a specific person.

“Investigation” includes all the proceedings under the Code for the collection of evidence conducted by a Police officer or by a person (other than a Magistrate) who is authorized by Magistrate in this behalf.”

Crimes in today's world are unique in nature and no two crimes are exact replicas of each other. The police need to be well equipped and trained in handling each and every crime with efficiency and expertise. Being equipped with the latest technology is only half battle won, but the main emphasize lies in the expertise and experience of the investigating officer. Criminal investigations with all its modern methods can, at times, still be more an art than a science and is learned by experience. This comes through specialization and consistency at work without any political interference at any level.

Some of the reasons for poor quality of investigations have been laid down in *The Expeditious Investigation and Trial of Criminal Cases against Influential Public Personalities Report* Submitted in March 2012 which are as follows:

1. Police being crippled in undertaking investigation for want of latest technology instruments.
2. Satisfactory priority is not given for investigation of crimes due to calling of investigating officers for unimportant duties.
3. Lack of awareness and failure to regularly upgrade skills of investigating officers.
4. Submission of incomplete final reports/charge- sheets to the judicial magistrate due to lack of sufficient time for carrying out investigation.

Therefore, in light of the importance given to investigation procedure and the prevalent issues at hand regarding the criminal justice system it is important to bifurcate the police and provide for a separate investigation wing under which the police officers are exclusively responsible for investigation and are relieved off other law and order maintenance duties to enhance the quality

of investigation and work.

In America, the Federal Bureau of Investigation is an independently functioning body that is responsible for solving particular kinds of crimes relating to terrorism, human trafficking and drug trade. The advantage of having a separate wing promotes specialization and improves accountability of the police system at large. Even at the state level, America has separation of the police into a different wing for investigation and different wing for maintaining law and order. They have a dual system and each state is free to adopt any system as per the need. In a decentralized system, each precinct in a city has its own local detective squad, which investigates all crimes occurring in the precinct and the detectives or investigators in a decentralized squad are considered as generalists.¹ Whereas, in a centralized system, in contrast, all detectives operate out of one central office or headquarters and are each responsible for particular types of crime in the entire city.² Some departments are for very serious crimes like homicide squad, sex crime squad, theft squad and cyber-crimes squad.³

Taking an example of one of the most advanced and organized police structures in world- New York Police Department (NYPD) where the Crime Scene Unit forms part of the NYPD Detective Bureau's Forensic Investigation Division and this unit is solely responsible for forensic investigation in relation to crimes of sexual assaults, homicides and any other crimes.⁴ The investigation unit comprises of detectives that have been trained for processing crime scenes and evidence collection and have been equipped with state-of-the-art equipment required to go down to the root of the crime scene like cast footwear, impressions, fingerprint recognition, blood stains detection methods etc.⁵ The main aim of these detectives is to do whatever is necessary to ensure that all relevant evidence required to identify the perpetrator of crimes is provided to the District Attorney in order for the trial to proceed smoothly.⁶

¹ Edward R. Maguire, *Organizational Structure in American Police Agencies: Context, Complexity, and Control*. Sunny Press Publication

² Ibid

³ Ibid

⁴ Michael D. White, Ph.D., *The New York City Police Department, its Crime-Control Strategies and Organizational Changes, 1970-2009*, <http://www.jjay.cuny.edu/white.pdf>

⁵ Peter K. Manning, *The Technology of Policing: Crime Mapping, Information Technology, and the Rationality of Crime Control*. NYU Press.

⁶ Supra 1

This has been possible only due bifurcation of the police system into two separate wings. A police officer working under the investigation wing is not called upon by the law-and-order enforcement wing. Therefore, an officer can work with full dedication and concentration on the case he has been appointed without any distractions.

The investigation wing consists of detectives and support staff who are collectively responsible for preparing the case for the District Attorney's Office. Further, the wing is divided as per the crimes: Crimes against persons, crimes against property and crimes related to narcotics. The investigation wing has forensic specialists' who are capable of rebuilding the crime scene with the help of modern specialized technology by using digital photography, video equipment, and computer-aided sketches. Police in small towns and villages in India can adopt a similar type of police structure.

Several State Police Commissions, at different period of time, suggested structural reforms in the police and emphasized the need to insulate it from extraneous pressures, but their core recommendations were never implemented by the executive. The Government of India appointed a National Police Commission in 1977 which issued various reports on alarming need of Police Reforms and the Commission even drafted a model Police Bill which could be enacted. Its recommendations, however, received no more than a cosmetic treatment at the hands of the Government of India. The political leadership was just not prepared to give functional autonomy to the police because it had found this wing of the administration a convenient tool to further its partisan objectives. As for the bureaucracy, control over the police was - and continues to be - an intoxicant they have become addicted to and are just not willing to give that up. And so, the Act of 1861 continues to be on the statute book even after nearly 150 years – a millstone around the police neck. Apart from the National Police Commission, several other bodies were constituted from time to time to go into the question of police reforms. These were:

1. Gore Committee on Police Training (1971-73)
2. Ribeiro Committee on Police Reforms (1998)
3. Padmanabhaiah Committee on Police Reforms (2000)
4. Group of Ministers on National Security (2000-01)
5. Malimath Committee on Reforms of Criminal Justice System (2001-3)

The Gore Committee was constituted to review the state of police training in the country and suggest improvements in overall policing techniques. The Ribeiro Committee was set up by the Supreme Court while it was deliberating over the Public Interest Litigation filed for police reforms; the Court wanted the Committee to examine if the National Police Commission's recommendations, which formed the core of the PIL, were still relevant or that any modifications were called for. The Padmanabhaiah Committee examined the requirements of policing in the new millennium. The Group of Ministers examined the reports of various Committees which were set up in the wake of Pakistan's aggression in Kargil, including the one dealing with internal security, and suggested comprehensive measures to strengthen the internal and external security apparatus. The Malimath Committee made far-reaching recommendations to reform the criminal justice system which primarily focuses on bifurcation of Investigation and Law and Order Maintenance Wing to improve police credibility and accountability. It was also of the view that the present Adversarial System could be improved by adapting some features of the Inquisitorial System, and recommended that 'Quest for Truth' should be the guiding principle of the entire criminal justice system. The Committee suggested significant changes in the Criminal Procedure Code to expedite the disposal of cases and in the Evidence Act to facilitate securing of convictions. Unfortunately, the recommendations of the Malimath Committee were trashed because of the chorus of protest from the human rights lobbies.

The Supreme Court of India has passed a judgement on September 22, 2006 in Writ Petition (Civil) No.310 of 1996 – **Prakash Singh and others vs UOI and others** on several issues concerning Police reforms. The Court in the said judgement directed the Union Government and State Governments to set up mechanisms as directed by December 31, 2006 and file affidavits of compliance by January 3, 2007. The directions inter-alia were:

- (i) Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.
- (ii) Select the Director General of Police of the State from amongst three senior-most officers of the Department empanelled for promotion to that rank by the Union Public Service Commission and once selected, provide him a minimum tenure of at least two years irrespective of his date of superannuation.
- (iii) Prescribe minimum tenure of two years to the police officers on operational duties.

- (iv) Separate investigating police from law & order police, starting with towns/ urban areas having population of ten lakhs or more, and gradually extend to smaller towns/urban areas also,
- (v) Set up a Police Establishment Board at the state level for inter alia deciding all transfers, postings, promotions and other service-related matters of officers of and below the rank of Deputy Superintendent of Police, and
- (vi) Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers.
- (vii) The Supreme Court also directed the Central Government to set up a National Security Commission at the Union Level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years, with additional mandate to review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper coordination between them and that the forces are generally utilized for the purposes they were raised and make recommendations in that behalf.

Out of the above seven directives, the first six were meant for the State Governments and Union Territories while the seventh directive related solely to the Central Government.

Even after the implementation of several monitoring committee, no state is fully compliant with these reforms which indirectly shows that no State Government is willing to show its interest and concern about these concerns by giving Police Department an independent position in the environment.

Whether of bifurcating of the Indian Police into two separate wings- one an exclusive investigation agency responsible for strictly investigation of crimes and second, maintaining law and order necessary?

The importance of this bifurcation could be seen in the era of post-independence where law makers were aware of the fact that how deeply the police is influenced by politics. In most of the developed countries, we see a separate independent crime investigation wing which is solely

responsible for investigation work for solving crimes of different nature. Countries like America, developed an independent functioning body Federal Bureau of Investigation for solving particular kinds of crimes relating to terrorism, human trafficking and drug trade. The advantage of having a separate wing promotes specialization and improves accountability of the police system at large and also ensuring the investigation in a speedy way which ultimately decrease the burden over the judiciary. They have a dual system (Investigation as well as Law and Order Agency) and each state is free to adopt any system as per the need.

Even if we look at the small towns like Seattle, the Police Department follows a centralised system where the investigation wing is divided as per the type of crime.⁷ The police has a different wing for patrolling and an exclusive wing for investigation purposes, but at the same time there is coordination between both the wings of the police. Due to the bifurcation, there is specialization of police officers in developing expertise for proper investigation and ultimately present the offender in the District Attorney's court. The officers are well equipped with modern methods of collecting evidence and solving complex scenarios in cases of homicide, sexual offences and robberies.⁸ In India similarly established cities of similar demographic features can adopt a system like this. Cities like Chennai, Hyderabad and Kochin can adopt a system of bifurcation to provide speedy justice and assure conviction.

Also, small townships like Buena Park (City in California), with a population of about 80,000⁹ as well-defined police structure has been adopted and sufficient emphasis has been laid upon the importance of investigation wing.

The investigation wing consists of detectives and support staff who are collectively responsible for preparing the case for the District Attorney's Office. Further, the wing is divided as per the crimes: Crimes against persons, crimes against property and crimes related to narcotics.¹⁰ The investigation wing has forensic specialists' who are capable of rebuilding the crime scene with the help of modern specialized technology by using digital photography, video equipment, and computer-aided sketches.¹¹

⁷ <http://www.seattle.gov/police/units/investigations/default.htm>

⁸ Ibid

⁹ World Population Review (2022)

¹⁰ https://www.bppd.com/divisions/support_services/divisions/investigations.php Last visited on 1st May, 2022

¹¹ <http://www.seattle.gov/police> Last visited on 7th May, 2022.

In the above analysis of different forms of police structures in different places have a common thread running through them which is as follows:

- Assuring timely and proper collection of the evidence.
- Making sure the evidence reaches the District of Attorney for fair judicial proceedings.

This has been possible only due bifurcation of the police system into two separate wings. A police officer working under the investigation wing is not called upon by the law-and-order enforcement wing. Therefore, an officer can work with full dedication and concentration on the case he has been appointed without any distractions.

ADVANTAGE OF SEPARATE INVESTIGATION AGENCY

1. This separation will lead to specialization in the investigation process, and this specialization will further lead to the use of modern technology in the investigation process. Emphasis on use of modern technological equipment, modern interrogation technology, highly advance search devices will be increased in the investigation process. Training, specialization, research, and development institution will be set up to improve the investigation process.
2. A separate investigation wing will bring the investigation department under the protection and regulation of the judiciary as a result of this any type of political interference or interference from the executives in the investigation will be less. It will result in a proper investigation without any distraction or disturbance. Under judiciary, investigation will be in accordance with the procedures prescribed by the law. Under the judiciary, there will be coercion-free investigation and it will create a sense or feeling of security and assurance of fair investigation by the police which is much needed in the present scenario.
3. In several occasions we see police officers called to perform duties of any other department. For example, a police officer working in an investigation team will not be called to perform law and order duties. In the present situation where our country is consistently developing and urbanizing, it becomes very difficult for the police department to strike balance between maintenance of peace and security, and investigation of criminal offences. The separation of police wings will help the police to ensure peace and security of society and speedy investigation process both at the same time. Deployment of police force in case of a law and order maintenance result in removal of officers engaged in

investigating crimes. As a consequence, investigation suffers, not only in terms of quality of work but also time taken in completing investigation. Investigations require time and dedication, creation of a separate wing will assure quality work and faster investigations.

4. Due to bifurcation of the police into two separate wings, the investigation wing would have more autonomy and freedom. Police officer working for a particular case under the investigation wing would be responsible to the judiciary for the conclusive evidence presented in the court. The police officer will be relieved off other duties of maintaining law and order like security of VIP's, patrolling etc. and therefore his focus would be exclusively on investigation of the case at hand leading to speedier investigations. Investigation wing would be provided with modern equipment required for efficient and proper investigations. Separation of the wing would lead to professionalism and specialization of investigator leading to efficient outcomes. Proper coordination between both the wings of police would assure progress in the correct direction.
5. This separation ultimately bring specialization in individual's field of work. A good investigation officer should be competent in fields of psychology and sociology in order to address his witnesses, victims, suspects and accused persons with confidence and comfort.¹² The scorned image of the police in the eyes of the public will undergo a transformation and help us in progressing towards community policing where the community and police go hand in hand helping each other and securing common interests of the society at large.¹³

How successful have the states been in incorporating the above change in the Indian Police?

In an early experimental attempt, on the recommendation of the Police Reorganization Committee, 7 large cities of state of Uttar Pradesh were given a separate investigation wing. Unfortunately, the plan was dropped as it did not function satisfactorily.¹⁴ There could be two possible reasons for the failure of the experiment: firstly, there was lack of independence of the police from the clutches of the political interference and secondly, India had just attained freedom, yet it stayed in deplorable financial condition which could be one of the main reasons why the state could not

¹² Criminal Investigation, Becker, Ronald F. Becker, Aric W. Dutelle Jones & Bartlett Publishers

¹³ Policing- Reinvention Strategies in a Marketing Framework, Rohit Choudhary Sage Publications

¹⁴ https://www.humanrightsinitiative.org/programs/aj/police/india/initiatives/submission_ribeiro.pdf Page-19 Last Visited on 7th May, 2022

invest money in upgrading and training investigation facilities.

Despite the failed attempts of the past, various commissions, analysts and reports were confident of the positive change in the functioning of the police. Scenario changed after 1996 after involvement of the Supreme Court in enforcing recommendations of the National Police Commission after two former Director Generals' of Police (DGPs) in 1996 filed a Public Interest Litigation famously known as the Prakash Singh Case.¹⁵

According to a report of Commonwealth Human Right Initiative (CHRI) titled, 'Government Compliance with Supreme Court Directives on Police Reforms: An Assessment Report (2020)' noted that "not a single state, nor the Union Territories, comply with the directives in true earnest," since the passing of the directives over a decade ago.

The case continued for about 10 years which established various committees including the Ribeiro Committee in 1998 which was responsible to travel all over the country and carry out an analysis of changes adopted by various states. Later Padmanabhaiah Committee report was created in 2000 and submitted various recommendations to the law commission which eventually led to the formation of the Police Act Drafting Committee (Soli Sorabjee Committee) in 2005 which undertook the herculean task of drafting a new model police bill to replace the colonial 1861 Act. The case concluded in 2006 by formulating 7 binding guidelines for all states to adopt with immediate effect and the states had been given the discretion to adopt these guidelines through executive orders or through state legislation. One of the directions included separation of investigation wing for improving efficiency and quality of the investigations.

The position of the states in reference to compliance with this separation is somewhere mixed and it seems unfortunate that we have a long way to go before a complete transformation can be brought about. Previously, on 8th November 2010, Supreme Court issued notices to the States of Maharashtra, Uttar Pradesh, Karnataka and West Bengal for total non-compliance following the findings of the Monitoring Committee which was set up based on Supreme Court directions.¹⁶ Further, the recent Justice Verma Committee Report 2013 reinforced the importance of the 7 directives of Prakash Singh Case and urged all states and Union Territories its full implementation

¹⁵ (2006) 8 SCC 1

¹⁶ Report of the Committee on Amendments to Criminal Law, January 23, 2013 (Justice Verma Committee Report)

and not await new Police Act. Even judges exclaimed in anger, “water has flown over the bridge of their patience, unless some officers are convicted under the Contempt of Court Act, things are not going to improve. Lack of sensitivity on part of the states cannot be condoned under any circumstances.”

One side it seems there is no hope but on the other side a long pending demand for separation of crime investigation from law and order in police stations has been complied with in the Union Territory of Goa where a separate investigation wing has been created for investigation of certain crimes.

According to a report of Commonwealth Human Right Initiative(CHRI), of the 28-states, only two – Andhra Pradesh and Arunachal Pradesh were partially compliant with the reforms. It is only after the first wave of COVID-19 pandemic where Delhi Police announces to separate the investigation from law-and-order duties. Also, Haryana Government recently mandate this separation to ensure fast disposal of cases and improve quality of investigation. Back in the year of 2020. Uttar Pradesh Government segregates crime and investigation from law and order with an intent to make policing smarter and effective.

Part-II

Study of Supreme Court and High Court Cases

Decisions of Supreme Court and High Courts From 2011-2021:

Some important decisions are discussed here under:

State of U.P v Chhoteylal¹⁷

36. *We are constrained to observe that the criminal justice system is not working in our country as it should. The police reforms have not taken place despite directions of this Court in Prakash Singh v. Union of India. We do not intend to say anything more in this regard since the matter is being dealt with separately by a three- Judge Bench.*

37. *The investigators hardly have professional orientations; they do not have modern tools. On many occasions impartial investigation suffers because of political interference It is high*

¹⁷ State of U.P V Chhoteylal, (2011) 2 SCC 550, Page 567, paragraph 36, 37

time that immediate and urgent steps are taken in amending the procedural and other laws to achieve the above objectives. We must remember that a strong and efficient criminal justice system is a guarantee to the rule of law and vibrant civil society.

Manohar Lal Sharma v. Principal Secy.¹⁸

The monitoring of investigations/inquiries by the Court is intended to ensure that proper progress takes place without directing or channelling the mode or manner of investigation. The whole idea is to retain public confidence in the impartial inquiry/investigation into the alleged crime; that inquiry/investigation into every accusation is made on a reasonable basis irrespective of the position and status of that person and the inquiry/investigation is taken to the logical conclusion in accordance with law.

Voices For Freedom vs Union of India and Others¹⁹

18.Having regard to (i) the gravity of the problem; (ii) the urgent need for preservation and strengthening of Rule of Law; (iii) pendency of even this petition for last over ten years; (iv) the fact that various Commissions and Committees have made recommendations on similar lines for introducing reforms in the police set-up in the country; and (v) total uncertainty as to when police reforms would be introduced, we think that there cannot be any further wait, and the stage has come for issue of appropriate directions for immediate compliance so as to be operative till such time a new model Police Act is prepared by the Central Government and/or the State Governments pass the requisite legislations. It may further be noted that the quality of Criminal Justice System in the country, to a large extent, depends upon the working of the police force. Thus, having regard to the larger public interest, it is absolutely necessary to issue the requisite directions.

Mohammad Qasim vs State Of U.P. And Others²⁰

2. Another reason for seeking dilution of the direction of this Court and the Apex Court in Prakash Singh's case¹ to separate the law and order from the investigation wing is the claim that contact of the investigating officers with the ordinary public would be lost, if the two duties are separated. We do not think that simply because law and order duties are separated from

¹⁸ Manohar Lal Sharma v. Principal Secy., (2014) 2 SCC 532 at page 556

¹⁹ Voices for Freedom v. Union of India, 2013 SCC OnLine P&H 7632

²⁰ Mohammad Qasim v. Union of India, 2013 SCC OnLine All 13067

investigation duties, it would interfere with carrying out investigations into crimes. Rather we think that in with that separation of functions can undivided attention be given to working out the crime committed, undisturbed with the need to maintain law and order or to perform VIP duties, by the investigating wing. We think that there are already specialized agencies such as the CBCID, and CBI etc. which are already engaged exclusively with investigation work. We think that the restriction of the roles for only investigation work and their non-involvement in law-and-order duties does not detract in any manner from their capacity to work out crimes.

Sanjiv vs State of Delhi²¹

25.Once again, we reiterate that if crime is to be controlled, the investigation police must be separated from law-and-order police as recommended by Malimath Committee. One copy of the judgment be sent to the Secretary, Ministry of Home, Government of India for necessary action.

Part-III Questionnaire

I. Distribution of the Questionnaire: After formulating the questionnaire, it is distributed to the Police Officers

The questionnaires were distributed to police officers and complainants, questionnaire were distributed to several police stations in the region of North Delhi in person.

1. **Method of Data Collection:** For data collection the researcher has adopted two methods i.e., Interview and Questionnaire.
2. **Interview Method:** The researcher adopted the interview method in the situation where the police officers are not willing to disclose their identity.
3. **Questionnaire Method:** Questionnaire were distributed in person to several Police officers

II. Approximate number of questions: 10-15

III. Approximate time taken to complete interview: 30 minutes

²¹ Sanjiv v. State of Delhi 2005 (79) DRJ 556

Questionnaire to Police Officers

Separation of Police Department: Investigation Wing and Law & Order

Maintenance Wing

Questionnaire to Police Officers (Sub- Inspector of Police)

Note: This questionnaire is set-forth for the purpose of analysis on the input(s) given by the respondents and submission of report. The input(s) given by Respondents are purely personal innature and does not warrant any publicity or shall not be share with others.

Date:

Rank & Name of the Police Officer:

District:

Experience/length of service:

1. Do you know about reforms in Police Department? (YES/NO)
2. How many cases are registered in your Police Station (approximately) in a month?
Ans.
3. How many cases are sent to the court after thorough investigation in a month?
Ans.
4. Do you have sufficient strength of police personnel and reasonable time to investigate properly all the cases? (YES/NO)
5. Are you over burdened with your work? (YES/NO). If yes, on which following account:
 - a) Deficiency of men power
 - b) Assigning additional duties
 - c) Inadequate infrastructure
 - d) Others
6. Do you receive any Training in (a) investigation (b) any training orientation program in special offences such as offences by women, organized crime, terrorist related crimes, drugs, and cybercrimes etc? (YES/NO)

7. What are the problems being faced by the investigating officer during the search and seizure?

- A)
- B)
- C)
- D)

8. Do you think that duties related to Investigation is different from maintaining Law & Order? If **NO**, then why?

Ans.

9. What are the reasons for the delay in the investigation in your opinion?

- A)
- B)
- C)
- D)

How would you justify this separation to be effective? According to you, what are the other ways to achieve this bifurcation.

CONCLUSION:

Indian police system continues to be saddled with the inherent colonial structure. Indian legal system has undergone a transformation ever since its inception but there are areas of law that remain obsolete and redundant. Western world has transformed Indian society's ideology and inbred crimes that the colonial set up police system of India is incapable of solving. The need for a separate investigation agency in the police has been re-emphasized since independence but till date we fight its non-applicability and failure of implementation by states all over the country. Supreme Court has played an active role in implementing separation of investigation agency, now it should be the prerogative of the states to implement these. The police cannot bring about a change itself, the functions of the judiciary and the police are complementary, but before that the investigation of case needs to be given prime importance. International perspectives need to be considered while implementing bifurcation of the Indian Police which will help us learn from their

mistakes and in return create a more suitable and refined system of police.

In order to fine-tune the independent investigation wing there has to be continuous training of officers, research and development, adoption of latest equipment and co-ordination between the police and prosecutor. Importance of investigation process cannot be undermined at any stage, specialization and accountability will lead to qualitative and precise results and increase efficiency of the criminal investigation system.

RECOMMENDATION:

In view of consideration of the proposal, research thereon with regard to survey with questionnaire responses received in light of various decision of Court of Law and conclusion arrived thereon, it is strongly recommended that there must be separate wings for investigation and law and order maintenance duties in the Police Department.

REFERENCES:

1. *Bifurcation of The Indian Police System: Investigation Wing and Law & Order Maintenance Wing* by Sarthak Karol.
2. *Problems in the criminal investigation with reference to increasing acquittals: A Study of Criminal Law and Practice IN ANDHRA PRADESH* by Bureau of Police Research and Development.
3. *Committee on Reforms of Criminal Justice System* by Government of India with Ministry of Hiem Affairs
4. *A review of the System of Functional Division of Work in the Sample Police Stations of Tamil Nadu, Karnataka and Punjab* by Bureau of Police Research and Development.