

CHALLENGES OF INDIAN POLICE IN INVESTIGATION OF CRIME

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Abstract

The police agency touches every aspect of our life including traffic, passport verification, crime investigation and security (during festivals, Fashion Shows, VIP visits, cricket etc. events). In this capacity police endeavors to 'maintain law & order' and 'by preventing criminal activity', police plays very significant role in providing security and dignity to the citizens⁸¹.

It's said, "a criminal may be very smart but he always leaves behind a clue". In the criminal cases the prosecutor has to prove the case beyond reasonable doubt & police investigation plays important role in the conviction of the wrongdoer. Improper investigation by the police officer in the criminal case may leads to escape from conviction or even leads to wrongful conviction. This article discussed the challenges faced by the police officers while investigating the crime & suggestions thereon.

Keywords- police, investigation, crime

Introduction

In India State government is empowered to enact legislation relation to Police under entry one⁸² & two⁸³ of the Sate List (List II) of VIth Schedule of the constitution of India. In case of the criminal investigation the police agency applies the Indian penal Code 1860, Criminal Procedural Code 1973, Indian Evidence Act 1872, the Police Act 1861.

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⁸¹ Ajay Mehra and Rene Levy, *Police, State and Society: Perspective from India and France*, Dorling Kindersley (India Pvt. Ltd. (2011).

⁸² 'Public Order' Entry One of List II of the VII Schedule of the Constitution of India.

⁸³ 'Police including village and railway police'-Entry two of the List II of VIth Schedule.

Investigation of Crime

The powers and duties of a police officer making an investigation are laid down in sections 157 to 173 of Cr.P.C.

In *H.N. Rishbud v. State of Delh*⁸⁴ the Hon'ble S.C. held, the investigation generally consists of the following steps:

- i. Proceeding to the spot;
- ii. Ascertainment of the facts & circumstances of the case;
- iii. Discover and arrest the suspected offender;
- iv. Collection of evidence relating to the commission of the offence which may consist of
 - (a) the examination of various persons (including the accused) and the, reduction of their statements into writing, if the officer thinks fit,
 - (b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial; and
- v. Formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial, and if so, taking necessary steps for the same by filing of a charge-sheet under section 173 of Cr.P.C. before the competent court.

Improper Investigation will always benefit the accused as it is prosecutor who has to prove the case beyond reasonable doubt. Benefit arising from faulty investigation ought to go to accused and not to prosecution.⁸⁵ Hence it is necessary to conduct investigation impartially, as per the law & within reasonable time.

Challenge of Police Officers during Crime Investigation

1) Budgetary constraints

The constraint of budget is one of the factors that can affect many areas of the police organizations, leading up to situations that inevitably harm police effectiveness, such as: lack of skills, caused by insufficient training; lack of appropriate or insufficiency of equipment, and lack of logistic support, which deteriorates their operational capacity and affects the police officer's motivation; as well as low pay,

⁸⁴ AIR 1955 S.C. 196.

⁸⁵ Kailash Gour v. State of Assam, (2012) 2 SCC 34.

which in the same way leads to lack of motivation of personnel, and as a reflection makes the police service less attractive for recruitment of personnel.⁸⁶

Due to insufficient funds, the police officers have to bear the cost of investigation from their own pocket & they recover the same from the public in the form of '*Bhatta*', this is one of the reasons of the corruption in the police system.

2) Lack of public cooperation

It is because the lack of confidence on police system. Many times eye witnesses reluctant to give the statement to the police officers.

3) Forensic science

The figure prints, foot prints etc. at the scene of crime may be contaminated or destroyed if delay is there to conduct inspection of the scene of crime. Police dogs may be found useless as the smell of the suspects is not likely to last long on physical clues.

The degree of change depends upon the time the upkeep and the use or the misuse of the particular object. In course of time, the object may lose all practical identity *vis a vis* a particular time.⁸⁷

While collecting & packing the material for examination to the expert, proper care should be taken because, an expert analyses what is sent to him. If the object on which the figure prints are essentials damaged, then the investigation fails. It can be avoided by taking the close-up photographs.

4) Political interference

Investigation in the cases where the high profile people, VIP's as well political parties are involved cannot succeed. In *Prakash Singh & Ors. v. U.O.I. & Ors*⁸⁸, the S.C. given direction to State Governments that, "Constitute a State Security Commission (SSC) to: (i) Ensure that the State government does not exercise unwarranted influence or pressure on the police (ii) Lay down broad policy guideline and (iii) Evaluate the performance of the State police."

⁸⁶ http://www.unafei.or.jp/english/pdf/RS_No60/No60_20RC_Group1.pdf. (Accessed on 6th Feb 2015).

⁸⁷ B.R. Sharma, *Forensic Science in Criminal Investigation and Trials*, Central Law Agency, Allahabad, (1974).

⁸⁸ (2006) 8 SCC 1.

But all this directions remained on paper still there is direct or indirect interference of political parties in the police investigation.

5) Transfer of police officer during investigation

It causes delay in the investigation as the new officer has to understand the case & to start the investigation.

6) Role of the media during investigation

No doubt it is the duty of the media to keep update to the public but the media should take the precautions that what to disclose to the public & when? It has been cleared from the 26/11 Mumbai terrorist attack incident that media was showing the entire incident live on television. It made the task of the terrorist very easy so that they could guide how to attack?

During the investigation, media should take precaution that not to reveal the police investigation progress.

7) Duty of the police officers is overburdened with maintaining order & investigation

'Maintaining the order' by 'preventing the crime' and 'investigation' are two different responsibilities of the police officers. In the latter responsibility more work of intellectual is required. The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people.⁸⁹

8) Witness turns hostile

It is said: 'Even God does not know how human mind works. With the passage of time, several witnesses may turn hostile to police. They may be influenced, coerced, unduly remunerated by culprit or his party. The same is the case with the victim too. The victim may feel sympathy or even may attempt to reach a compromise with the culprit.'⁹⁰

⁸⁹ *Supra* note 8.

⁹⁰ James Vadackumchery, *Crime Law and Police Science*, Concept publishing Company (2003), p. 67.

Suggestions

1. Government responsibility to provide sufficient funds

It is the duty of the government to provide financial support taking into consideration the needs of the police for investigation, equipments, travel & others essential requirements.

2. Exclusive cadre for investigation

There should be separate cadre needs to be established in police system which exclusively look into the investigation matters apart from the public order.

3. Trust building

It is necessary to create trust in the witnesses & victims so that they will not turn hostile. It can be done by proper counseling & showing the progress in the investigation. Transparency of police system is important in order to win the confidence of the citizens.

4. Removal of political interference

It is necessary to follow the Japanese police system which is based on political neutrality and democratic control, as it is built in such a way as to ensure absence of arbitrary and political interference. The National Police Safety Commission & the National Police Agency is under the jurisdiction of the Cabinet Office, the Prime Minister is not empowered to exercise direct command or control. This guarantees the Commission's independence and ensures its political neutrality.

5. Police & Media

There should be friendly relations between police & media. Police should take help of the media in investigating the crime. Media should cooperate by not disclosing the confidential information to the public.

6. Collection of evidence

It is necessary to collect the finger prints at the incident of the crime first because once the object on which the figure prints are visible damaged then it becomes difficult for the expert to give the analysis report.

In many times police officers does not use the Investigation officer's evidence collection kit. It is the duty of the investigating

officer to invariably examine whether or not all the following items are available in the kit.

- 1) Photographic kit- camera
- 2) Finger print kit- powder, brushes, figure prints card, transfer papers etc.
- 3) Measuring kit- steel tape measures, pedometer to measure long distances etc.
- 4) Other articles- magnifying glass, flash light, storage materials (boxes, bottles of various sizes) tissue paper, tools (knife, screw driver, dividers), electronic torch etc.

7. First Information Report

Though first information is report under sec. 154 of Cr.P.C. is not substantive piece of evidence⁹¹. It can be used in the cross examination under section 145 of Evidence act.⁹² So it is necessary that an elaborate account of everything to mention every minute detail in the F.I.R. Details could not be given as the informant was in the state of mental agony. However, all the necessary information such as the names of assailants, the motive and how the incident had taken place has been stated in the F.I.R.⁹³.



⁹¹ Jagesh B. Rao v. Government of the Union Territory of Goa, Daman and Diu, 1976 Cr.L.J. 132.

⁹² Sec 145 of Evidence Act- A witness may be cross-examined as to previous statements made by him in writing or reduced into writing

⁹³ *P. Narayana Vs. State of A.P.* , AIR 1975 SC 1252