

20/04/17

OFFICE OF THE DISTRICT & SESSIONS JUDGE (HQs): DELHI

CIRCULAR

It has been noticed that few Ld. Judicial Officers posted on criminal side are calling the higher police officers to the courts without any justifiable reasons. Kind attention of the said Ld. Judicial Officers is again drawn to the judgment of Hon'ble High Court of Delhi in CrI. Misc. No. 1949/2017 titled **State v. Azad Ahmad & Ors.**, which was circulated to all the Judicial Officers as per directions of the Hon'ble High Court of Delhi. Relevant portions of the said judgment are quoted herein below:

19. The DCP had clearly stated that he could not be present in Court on 20.04.2017 as he was busy in preparations of the upcoming Municipal Elections in Delhi. The ASJ before making scathing remarks on the conduct of the DCP and ordering an enquiry against him and the ACP, Civil Lines, did not even bother to seek an explanation or give them an opportunity to represent themselves which is clearly against the principles of natural justice.

20. The DCP being not available for justifiable reason, before the ASJ on 20.04.2017 seems to have hurt the ASJ's ego who was under the belief that high ranking executive officials are somehow inferior to members of the Judiciary and bound by all their directions. The ASJ to satisfy his own sadistic pleasures seems to have forgotten that Judges are to remain humble and not be guided by their ego or prejudices.

21. Time and again the Apex Court has deprecated the practice of Courts summoning senior Police and Government officials by observing that Judges should have modesty and humility. They should realise that summoning a senior official, except in some very rare and exceptional situation, and that too for compelling reasons, is counter-productive and may also involve heavy expenses and valuable time of the official concerned.

22. The Hon'ble Supreme Court in Testa Setalvad v. State of Gujarat, (2004) 10 SCC 88 had deprecated the practice of Courts in making remarks about the incompetence or character of either the parties, their counsels or other Government officials. The Hon'ble Supreme Court held as under:

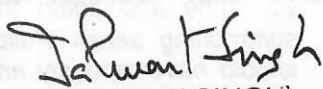
"9. Observations should not be made by courts against persons and authorities, unless they are essential or necessary for decision of the case. Rare should be the occasion and necessities alone should call for its resort. Courts are temples of justice and such respect they also deserve because they do not identify themselves with the causes before them or those litigating for such causes. The parties before them and the counsel are considered to be devotees and pandits who perform the rituals respectively seeking protection of justice; parties directly and counsel on their behalf. There is no need or justification for any unwarranted besmirching of either the parties or their causes, as a matter of routine.

10. Courts are not expected to play to the gallery or for any applause from anyone or even need to take up cudgels as well against anyone, either to please their own or anyone's fantasies. Uncalled-for observations on the professional competence or conduct of a counsel, or any person or authority or harsh or disparaging remarks are not to be made, unless absolutely required or warranted for deciding the case."

23. Therefore, I find that the order of the ASJ in ordering an enquiry against the ACP, Civil Lines and DCP to be highly arbitrary and unbecoming of a Judge who is supposed to maintain judicial propriety at all times and is not to be guided by his ego or personal prejudices against someone or a particular group or class of people/officers."

In a joint meeting of all the Ld. Judicial Officers posted at Tis Hazari Courts on criminal side with the police officers on 18.04.2018, it was resolved that a practice of summoning of senior police officers be avoided, except in very rare and exceptional situations, and that too for compelling reasons.

In view of the above, all the Ld. Judicial Officers posted on criminal side are hereby again requested to ensure compliance of the directions contained in the judgment of Hon'ble High Court of Delhi in CrI. Misc. No. 1949/2017 titled **State v. Azad Ahmad & Ors.**

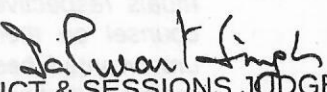

(TALWANT SINGH)
DISTRICT & SESSIONS JUDGE (HQs)
DELHI

No. 67838-67883 /Misc./Gaz./2018

Dated 27/10/18

Copy forwarded for information and necessary action to:

1. All the Ld. Addl. Sessions Judges, Central District, THC, Delhi.
2. The CMM / ACMM / MM, Central District, THC, Delhi.
3. Reader / PS to undersigned.
4. Website Committee, Tis Hazari Courts, Delhi


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