

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-1008 of 2020

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For orders on office objection
 2. For hearing of main case
-

04.09.2020

Ms. Noreen, advocate for the Petitioner.
Mr. Sibtain Mehmood, Additional Advocate General Sindh.
Mr. Jawad Dero, Additional Advocate General Sindh.
DSP Jan Muhammad of Central Prison, Karachi.
DSP Kamal Bukhari, of Central Prison, Karachi.
Abdul Basit Khan, Assistant Superintendent, Central Prison and
Correctional Facility, Karachi.
Inspector Shakir Hussain, SHO, P.S P.I.B Colony, Karachi.
DSP Zubair Ahmed, New Town, Karachi.
Inspector Manzoor Ahmed, SHO New Town, Karachi.

1. This case was adjourned for today from yesterday, as Mr. Jan Muhammad, DSP, Central Prison, Karachi has appeared and placed on record certain documents with respect to proof of exit of missing person Saeedullah son of Muhammad Amin from the Central Prison, Karachi on **27.01.2020**. The Petitioner claims that the detenu has not been released by the Central Prison authorities. The instant petition was filed on **04.2.2020** and relevant para-4 of the petition is reproduced below:-

4. That on 27.01.2020 the petitioner along with his family members went to Central Jail, Karachi and were waiting for the above said Saeed Ullah for his release and whole day waited outside the Central Jail, after that on 28.01.2020 the Jail Administration disclosed to the petitioner that they have already released the son of petitioner but the real fact is that the son of the petitioner has not come out from Jail.

2. In the comments filed yesterday (3.9.2020), it was categorically stated that there were no CCTV Cameras in Central Prison on **27.01.2020** and that CCTV cameras were installed in Central Prison on **05.5.2020**. We quote from the comments as under:-

P R A Y E R S

- (a) No Comments
- (b) No Comments
- (c) It is submitted that facility of CCTV & Surveillance System was not available at Central Prison Karachi on 27.01.2020 when accused Saeedullah Son of Muhammad Ameen was set free/ released from this prison. The possession of CCTV Cameras Surveillance System has been taken over on 05.5.2020. The photo copies of relevant letter/document along with acceptance certificate are enclosed as Annexure (C, D & E), therefore, this office has no record of footage of CCTV Cameras regarding release of above named UTP. The Honourable Court is prayed that respondent No.10 may kindly be exempted in the instant petition.

Following are the annexures C, D and E.:-

- i. Letter dated 29.4.2020 regarding handing over of Karachi and Hyderabad Prison CCTV Security and surveillance project.
- ii. Letter dated 05.5.2020 regarding acceptance certificate-supply, installation & commissioning of CCTV & Surveillance system by NRTC at central prison Karachi.
- iii. Letter dated 06.5.2020 regarding handing over of Karachi and Hyderabad Prison CCTV Security and surveillance project.

3. The comments filed with the documents were not confidence inspiring and Mr. Jan Muhammad, DSP who claimed to be posted at Central Prison, Karachi in January, 2020, gave evasive replies to our queries about security of central prison. The above comments were also in contradiction to the comments dated **26.8.2020** filed by DSP, INV, Gulshan-e-Iqbal, East Karachi in another case bearing **C.P No.D-6767 of 2019**. Being relevant, last few lines from the comments in said constitution petition are reproduced below:-

“
..... In this regard a letter Vide No.SP/INV-1/EZ/LEGAL/1929/2020 Dated 16.06.2020 was sent to Interior Ministry reply of which is still awaited. A letter issued to Superintendent Central Prison Karachi for provision of CCTV footage in reply vide letter dNo.26258 Dated 25.8.2020 **that**

the facility of preservation of CCTV Cameras recording for 02 months whereas the prisoner released on 18.10.2019 and the same is not available in the CCTV Cameras at present.”

Therefore, we have adjourned this case for today only to examine the file of C.P No.D-6767/2019 in which the Senior Superintendent of Police himself has conceded that CCTV footage was retained for two months. The above comments were filed in the case in which the allegation was that the prison authorities have not released a prisoner on **18.10.2019**. Mr. Jan Muhammad, DSP, Central Prison, Karachi refused to confirm the availability of CCTV cameras in Central Prison before **05.5.2020**, as can be appreciated from the order passed by us yesterday and reproduced below:

This case is being adjourned to **04.09.2020** because in presence of learned Additional Advocate General Sindh DSP Jan Muhammad of Central Prison, Karachi has stated before this Court that there have been no CCTV cameras installed in Central Prison Karachi before May, 2020, at main gate for entry and exit of the prisoners, who were being brought in or released. *Prima facie*, this is an attempt to preempt an action against the Superintendent, Central Prison, Karachi in Constitution Petition No.6767/2019 in which the allegation against jail authorities are identical. In the said case, the Central Jail authorities did not release the detinue and his wife has instantly made a complaint to the New Town Police Station and she has also filed the aforesaid constitution petition before this Court. We would like to examine the file of aforesaid petition again before taking up this case and if the statement submitted by DSP Jan Muhammad of Central Prison, Karachi is found wrong he will also face the consequences. He submits that he has joined his duties at Central Prison, Karachi in January 2020. This police officer was asked to make a statement on oath before the Court about his knowledge regarding non-availability of the CCTV cameras at Central Prison Karachi before May, 2020, at main gate for entry and exit of the prisoners, however, he is avoiding to confirm that there have been CCTV cameras affixed before his joining or not. To come up on **04.09.2020**.

4. Despite the fact that we have not directed the DSP, Central Prison to do anything further in this regard, today he has filed additional comments again under the signature of Senior Superintendent, Central Prison, Karachi. In additional comments, the documents filed yesterday

have been annexed again, and two new documents have been added as annexures “I” and “J”. These are a “quotation for hard drive” dated **03.5.2017** and a “**bill No.5162**” dated **16.5.2017**. The relevant portion of additional comments is reproduced below:-

<p>c)</p>	<p>To direct the Respondent No.10 to show the CCTV footage of the Central Jail, Karachi dated 27.01.2020.</p>	<p>It is submitted that in the prevailing law and order situation in the province, the Government of Sindh formulated a plan to install a state of the art Surveillance and CCTV Cameras system in collaboration with one of the most prestigious organization National Radio Telecommunication Corporation (NRTC). An agreement was signed with them in June 2018. The work was in progress since then. Resultantly the possession of 215 CCTV Cameras and Surveillance System was handed over to this prison on 05.5.2020. (Photo copies of relevant letter documents along with acceptance certificate are enclosed at Annexure F G & H). Earlier, three (03) years ago in May, 2017, a local arrangement was made on temporary basis by installing 32 Cameras at the prison by M/s International Office Supplier Karachi with 04 Tera Byte Hard Drive Channel NVR which could only store up to 14 days of data (with resolution 1024x768). (photo copies of Quotation and invoice are attached as Annexure I and J) In view of above it is further submitted that as the accused was released on 27.01.2020 and the Constitution Petition was filed well after the lapse of 08 months, the data could not be stored which fact bonafidely missed mentioning in the comments earlier submitted before the Honourable Court due to rush of work at a prison which requires a lot of minute attention as it is inhabiting huge population of inmates most of whom are hardcore, affiliated with several sectarian and banned organizations. </p>
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The authenticity of these two documents (annexure “I” & “J”) is not free of doubt. It has surprised us that there has been a separate quotation for “**hard drive**” for CCTV Cameras and it has been separately billed.

The security system provided by a company is not supposed to send the quotation of one component of the system to be installed and even bill it separately. It has to be and is always a complete package which includes the number of CCTV cameras and other allied items to make it a complete unit. Be that as it may, in additional comments the jail authorities have conceded that CCTV cameras were available even prior to **05.5.2020**. However, by adding these documents which are prima-facie doubtful and manipulated, an attempt has been made to explain that in the previous CCTV cameras, arrangement to retain footage was only for 14 days. The comment that the instant petition was filed after eight (08) months is also contrary to record. This petition was filed on **04.2.2020** within one month from **21.01.2020**. Again this “mistake” was badly needed to create a defense in both the cases of failure to explain why the under trial prisoners in C.P No.D-6767/2019 and the instant petition were not released. Unfortunately, even this manipulated defense in the case at hand is very weak in view of the statement filed by S.H.O, New Town today. We will discuss it in the later part of this order. We think an inquiry about the system of CCTV ever since it was introduced/ installed in central prison and its capacity has to be made independently.

5. The case at hand is the second petition within one week or so in which the allegation is that the Central Prison has not released the prisoner even after the writ for release of a prisoner was issued by competent Court. The instant petition was filed on **04.2.2020** within seven days of the incident of not releasing the prisoner on **27.01.2020** and on **10.02.2020** a complaint was also lodged in writing in the office of I.G Sindh. And office of I.G Sindh immediately ordered for action/inquiry. SHO, New Town Police Station, District East is present and has confirmed that on **12.02.2020** he received a complaint through

office of I.G Sindh at the police station, New Town in which the Petitioner alleged that jail authorities have not released his son. With his reply, SHO has annexed a copy of complaint to I.G Sindh and received by him on **12.02.2020**. Therefore, irrespective of duration of recording CCTV cameras, it cannot be denied that non-releasing of the prisoner by jail authorities on **27.01.2020** had come to the notice of **I.G Sindh** and even to the SHO, New Town within 15 days from **27.01.2020**. Nor can it be believed that said complaint was not brought to the knowledge of the authorities of Central Prison, Karachi by the police. However, no efforts were made to urgently obtain/ retain CCTV footage from inside the Central Prison, Karachi or from any surrounding buildings that have the facility of CCTV. The documents produced by SHO, P.S New Town revealing knowledge of pendency of instant petition (C.P. No.1008/2020) since February, 2020 and showing the immediate response taken by the I.G Sindh on the complaint of the Petitioner dated **10.2.2020** confirm that the SHO, P.S New Town and the relevant police officers ignored the quick response of the I.G Sindh. Furthermore, they failed to act in accordance with the SOP issued by the Inspector General of Police Sindh bearing No.24906-70/AIGP/OPS-III/2013 **dated 02nd October, 2013** for recovery of missing person(s) as soon as it came to their knowledge that a “person is missing”, as they were officially obligated to. Relevant part of SOP is reproduced below:-

STANDARD OPERATING PROCEDURE (S.O.P)
FOR INVESTIGATION OF THE CASES OF MISSING PERSONS

The Honorable Supreme Court of Pakistan and the High Court of Sindh have taken serious cognizance over the Missing Person's cases and it is imperative to assign priority towards investigation of such cases to achieve the desired results. The following Standard Operating Procedure (SOP) is hereby issued, for strict compliance in letter & spirit.

REGISTRATION OF FIR

On receipt of information about the crime, area SHO shall immediately respond to the situation, and contact the aggrieved family. He shall immediately lodge the FIR of the incident. In case

of non-availability of the complainant, he (DSP) shall lodge the FIR on behalf of State, without wasting any time. The FIR shall contain details of all available information pertaining to the incident.

.....

Beside above SOP, according to the brief provided to DSPs handling missing person cases, the following steps have to be taken one by one:-

- i. Prepare memo of inspection
- ii. Recorded 161 statement of 1. XXXX 2. XXXX 3. XXXX
- iii. CCTV Cameras installed near place of offence
- iv. CCTV recoding Obtain or Not
- v. CDR Obtain or Not
- vi. Detail of Passport
- vii. Detail of CNIC
- viii. Status of Bank Accounts
- ix. Status of Credit Cards
- x. Travel History from FIA
- xi. Letters to All Prison of Pakistan reply received or Not
- xii. Letters to All LEAs reply received or Not
- xiii. Letters to Major Hospitals
- xiv. Identify dead body from CPLC
- xv. Dead body details from Edhi / Chipa
- xvi. Vehicle record from Excise & Taxation Record
- xvii. Driving License Made or Nor
- xviii. DNA Test Examine or Not
- xix. Commission details
- xx. Publication in Print and Electronic Media
- xxi. More details if any

6. To date nothing has been done to follow the SOP in the instant petition or on the complaint dated **10.2.2020** to I.G Sindh by the Petitioner. Like the case of Petitioner in C.P No.6767/2020, this is also a case of blatant violation of **Articles 4, 9 and 14** of the Constitution. It goes without saying that it is the constitutional obligation of all the law enforcing agencies and in particular the police department to ensure protection of law to all and every citizen of Pakistan. Apparently these are clear-cut cases of “depriving life or liberty” of the missing persons (**Article 9** of the Constitution) by the jail authorities and at the same time they have not been given “the protection of law” (**Article 4** of the Constitution) by the Sindh Police. This blatant violation of fundamental right of the missing persons cannot be allowed to be perpetuated at the

hands of Prison and Police authorities. Nor the Court can let these unprecedented highhandedness of the two state functionaries go unaccounted for. Therefore, we are constrained to direct I.G Prisons Sindh that while following the direction contained in the order dated **26.8.2020** passed in C.P No.D-6767/2019, he should include the documents submitted by jail authorities in the present petition as relevant material against the Senior Superintendent, Central Prison, Karachi. The I.G Prison may also initiate proceedings against Mr. Jan Muhammad, DSP, Central Prison, Karachi, in light of these orders.

7. This order may be sent to I.G Sindh, who is required to examine the documents produced by the SHO, New Town police station including a letter from I.G office dated **10.2.2020** for taking disciplinary action against all the police officers who have failed to respond to the directions of the I.G Sindh on the complaint of the Petitioner as well as whoever is responsible for not following the SOP in the instant petition. After identifying such officers in the police department each one of them should be subjected to disciplinary action according to the Service Rules as their failure to perform their duties pursuant to the orders and directions of I.G Sindh has resulted in the loss of life and liberty of the Petitioner's son. Both the Sindh Police and the Central Prison authorities have failed to protect fundamental rights guaranteed under **Articles 4, 9 and 14** of the Constitution of Islamic Republic of Pakistan to the Petitioner and his son. The report of the actions taken by I.G Sindh and I.G Prisons respectively against the concerned officers in terms of this order should also be placed before this Court for perusal in Chamber before the next date of hearing.

8. Since the SHO, P.S PIB Colony has no concern with the instant case, therefore, notice sent to him is withdrawn and the office is

directed to make correction in the title of the instant petition at the place of Respondent No.9 and write “SHO, P.S New Town” instead of “SHO P.S PIB Colony” with red ink. To come up on **15.10.2020**.

JUDGE

JUDGE

Ayaz Gul