



OFFICE OF THE
PROSECUTOR GENERAL, PUNJAB

PGP/PA No. 240/2014 - 4050
Dated Lahore, the 7 November, 2014

To

1. All District Public Prosecutors,
in Punjab
2. All Public Prosecutors,
Special Courts in Punjab

SUBJECT:- RESULT OF SCRUTINY UNDER SECTION 9(7) OF PCPS ACT, 2006

Please refer to the subject noted above.

As per Section 9(7) of the Punjab Criminal Prosecution Service (Constitution, Functions and Powers), Act 2006, the Prosecutor may submit to the Court the result of his scrutiny in writing and in this regard, the then Prosecutor General also issued directions on 02.09.2013 which are not being implemented in letter and spirit. Therefore, all District Public Prosecutors are directed to ensure the implementation of mandate of law. The result of scrutiny under section 9(7) of the Act 2006 shall compulsorily be submitted in the court of competent jurisdiction in the following cases:

- a. Where the police has forwarded a report to stand trial (Challan) u/s 173 Criminal Procedure Code (Cr.P.C) and a prosecutor does not find sufficient evidence against all or any of the accused (sent for trial or not sent for trial by the police) and there is no realistic prospect of conviction in the court of law after applying evidential test and public interest as delineated in Prosecutorial Decision Making Guidelines. The Prosecutor shall record reasons thereof;

- b. Where police has submitted a report of cancellation but the prosecutor finds sufficient evidence on record for a realistic prospect of conviction of an accused in the court of law;
- c. In all cases triable by ATC/Drug Courts/Anti-Corruption Courts or other Special Courts/ Court of Session/ Magistrate u/s 30 Cr.P.C;
- d. Case is publically sensitive and has ability to stir public reaction (e.g. Fraud case involving large segment of the society, simple hurt case but where accused involved is a public figure, case involving religious sentiments though not a Sessions or ATC trial cases like public rioting or public policy matters like electricity theft cases)
- e. If more than one accused persons have the same role in a case, result in respect of them can be jointly written.
- f. At the end of result of scrutiny, the prosecutor shall conclude in writing as under :
 - (i) Prosecution case is fit for trial against all or any of the accused against specified charges and the Court shall be requested to issue process for commencement of the trial.; or
 - (ii) Prosecution case is not fit for trial against all or any of the accused and the Court shall be requested *not* not to issue process for commencement of trial against them.

2. Before writing the result of scrutiny, prosecutor shall ensure the following steps:

- i. On receipt of the report, the Prosecutor shall scrutinize the report as per section 9(5) of the PCPS, Act 2006.
- ii. If the police report to stand trial is based on defective investigation, investigation conducted in violation of law or instructions issued by the Prosecutor General or not completed in the time provided under law without reasonable cause, the Prosecutor should first proceed against such violations as laid down in section 13(9)(d), PCPS Act, 2006 by

generating a reference to the District Public Prosecutor, where the case has failed due to the defective investigation and the Prosecutor has decided not to prosecute the accused due to the defective investigation.

- iii. While giving prosecutorial advice to police (raising objections on challan), prosecutor must observe that he should not direct police to remove non-rectifiable defects. However, the Prosecutor shall maintain separate record of such defects.
- iv. Where the police report indicates outstanding forensic or medical or other reports, he should take appropriate steps to ensure their timely delivery.
- v. Prosecutor should formulate an opinion regarding selection of charges. In case his selection of charges is different from police, he should inform the police about the same and get this defect removed.
- vi. After scrutinizing the report and removal of defects or where Investigation Officer is not removing the defects, the Prosecutor shall proceed as per para 1.
- vii. The result of scrutiny shall be submitted in the Court of competent jurisdiction as enshrined in section 9(5) read with section 9(7) of the Act 2006 and not to get the case transferred to the Court of competent jurisdiction
- viii. The prosecutor shall send the police report to the court of competent jurisdiction forwarding it as per and with result of scrutiny, and make copies of the relevant documents for the prosecution file and inform the police qua the decision.
- ix. An explanation of the evidential/public interest tests and a sample case review under section 9(7), PCPS Act, 2006 are enclosed.

3. All DPPs and Incharge/Coordinator of Prosecutors posted in Special Courts shall ensure the implementation of the above mentioned instructions in letter and spirit in the Districts and Special Courts respectively. In case of failure, DPP or Incharge shall report to the Public Prosecution Department otherwise the DPP or Incharge shall be held responsible in case any violation is found which was not reported to the Department by the DPP or the Incharge as the case may be.

Ishah
7/11

(SYED IHTISHAM QADIR)
PROSECUTOR GENERAL, PUNJAB

C.C:-

1. The Secretary, Public Prosecution Department.
2. The Director General (Inspection), PPD.
3. The Director, Centre for Professional Development Department, PPD.