

P L D 2009 Lahore 218

Before Syed Shabbar Raza Rizvi, J

NOOR HUSSAIN---Petitioner

Versus

CHIEF PROSECUTOR GENERAL, PUNJAB and 5 others---Respondents

Writ Petitions Nos.4697 and 12508 of 2008, decided on 28th October, 2008.

Criminal Procedure Code (V of 1898)---

---S. 173---Constitution of Pakistan (1973), Art.199---Constitutional petition---Question was that whether after opinion of the Prosecutor General, submission of challan could be kept pending for seeking an opinion from DSP Legal and whether the same was required---Accused in initial investigation had been found innocent---Subsequently investigation was entrusted to SSP (Investigation)---Recommendation made by Deputy Prosecutor-General that accused be challaned and supplementary challan be submitted before the court, had been approved by the Prosecutor-General, Punjab, however, respondent police officer had moved an application for legal opinion from DSP Legal---Validity--Opinion of Investigating Officer would not make any accused person guilty or innocent as his job is only to collect some material and to place it before the competent court, which can declare an accused guilty or innocent, yet people waste time and delay legal proceedings to get favourable opinion of Investigating Officer---Prosecutor-General was incharge of prosecution in Punjab Province and he was duly supported by Deputy Prosecutor-General---Seeking opinion from DSP Legal in circumstances was either mala fide or based on total ignorance of law of the concerned police officer---DPO concerned was consequently directed to ensure that challan or supplementary challan be submitted in the court in the light of the final investigation conducted by SSP (Investigation) and approved by the Prosecutor-General---Constitutional petition was allowed accordingly.

PLD 2005 Lah. 470 ref.

Syed Farooq Hassan Naqvi for Petitioner.

Ch. Irshad Ullah Chatha for Petitioner (in W. P. No.12508 of 2008).

Muhammad Nawaz Bajwa, A.A.-G. with Inspector Ilyas.