

**COMPILATION OF IMPORTANT CASE LAWS ON THE POINT OF  
DEFECTIVE INVESTIGATION**

01. Defect in the investigation by itself cannot be a ground for acquittal. Investigation is not the solitary area for judicial scrutiny in a criminal trial. Where there has been negligence on the part of the investigating agency or omissions, etc, which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence de hors such lapses carefully to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the objects of finding out the truth. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the Investigating Officer and whether due to such lapse any benefit should be given to the accused. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded.

**C. Muniappan and Others vs State of Tamil Nadu  
(2010) 9 SCC 567: (2010) 3 SCC (Cri) 1402**

**Chandrakant Luxman v State of Maharashtra  
(1974) 3 SCC 626: 1974 SCC (Cri) 116:**

**State of Karnataka v. K. Yarappa Reddy  
(1999) 8 SCC 715: 2000 SCC (Cri) 61**

**Allarakhya K. Mansuri v. State of Gujarat  
(2002) 3 SCC 57: 2002 SCC (Cri) 519**

02. Defect in investigation cannot be ground for discharge or acquittal of accused.

**State of Tamil Nadu by Inspector of Police v. N. Suresh  
Ranjan and Others  
(2014) 11 SCC 709: (2014) 3 SCC (Cri) 529**

03. In cases of defective investigation, the Court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the Investigating Officer, if the investigation is designedly defective.

The loopholes in the investigation were left to help the accused at the cost of the poor prosecutrix, a labourer. To acquit solely on that ground would be adding insult to injury.

**Karnel Singh vs State of M.P.**

**AIR 1995 SC 2472: (1995) 5 SCC 518: 1995 SCC (Cri) 977:  
1995 CrI. L.J 4173**

04. It is equally true that the Investigating Officer, PW-8, committed grave irregularity in omitting to send the burnt clothes and other incriminating material for chemical examination to lend corroboration to the evidence. Mere fact that the Investigating Officer committed irregularity or illegality during the course of the investigation would not and does not cast doubt on the prosecution case nor trustworthy and reliable evidence can be set aside to record acquittal on that account.

**State of Rajasthan vs Kishore**

**1996 SCC (Cri) 646: (1996) 8 SCC 217: 1996 CrI. L.J 2003:  
JT (1996) 2 SC 595**

05. An error, illegality or defect in investigation cannot have any impact unless miscarriage of justice is brought about or serious prejudice is caused to the accused.

**Union of India vs. Prakash P. Hinduja and Another**

**AIR 2003 SC 2612: 2003(6) SCC 195: 2003 SCC (Cri)1314**

06. If the prosecution case is established by the evidence adduced, any failure or omission on the part of the Investigating Officer cannot render the case of the prosecution doubtful.

**Amar Singh vs. Balwinder Singh and Others**

**AIR 2003 SC 1164: 2003(2) SCC 518: 2003 SCC(Cri) 641**

**Sambhu alias Bijoy Das and Another vs. State of Assam**

**AIR 2010 SC 3300: 2010 (10) SCC 374:**

**2010 (3) SCC (Cri) 1301**

07. If direct evidence is credible, failure, defect or negligence in investigation cannot adversely affect the prosecution case, though the court should be circumspect in evaluating the evidence.

**Ram Bihari Yadav vs. State of Bihar and Others**

**AIR 1998 SC 1850: 1998(4) SCC 517: 1998 SCC (Cri) 1085**

**Paras Yadav and Others vs. State of Bihar**

**AIR 1999 SC 644: 1999 (2) SCC 126: 1999 SCC (Cri) 104**

**Dhanraj Singh vs. State of Punjab**

**AIR 2004 SC 1920**

**Ram Bali vs. State of U.P.**

**AIR 2004 SC 2329: 2004 (10) SCC 598: 2004 SCC (Cri) 2045**

08. If investigation is illegal or suspicious, the rest of the evidence must be scrutinized, independent of the impact of the faulty investigation; otherwise criminal trial will descend to the Investigating Officer ruling the roost. Yet, if the court is convinced that the evidence of eye witnesses is true, it is free to act upon such evidence though the role of the Investigating Officer in the case is suspicious.

**Abu Thakir and Others Vrs. State of Tamilnadu represented by Inspector of Police, T.N.**

**AIR 2010 SC 2119: 2010 (5) SCC 91:**

**2010 (2) SCC (Cri) 1258**

09. An accused cannot be acquitted on the sole ground of defective investigation; to do so would be playing into the hands of the Investigating Officer whose investigation was defective by design.

**Dhanraj Singh alias Shera and Others vs. State of Punjab**

**AIR 2004 SC 1920: 2004 (3) SCC 654: 2004 SCC (Cri) 851**

10. Mere defective investigation cannot vitiate the trial.

**Paramjit Singh alias Mithu Singh vs. State of Punjab Through Secretary (Home)**

**AIR 2008 SC 441: 2007 (13) SCC 530:**

**2009 (1) SCC (Cri) 299**

11. The Investigating Officer took the eye witnesses to the police station cannot be a reason for disbelieving them.

**Dhananjaya Reddy vs. State of Karnataka**

**AIR 2001 SC 1512: 2001 (4) SCC 9: 2001 SCC (Cri) 652**

12. The delay on the part of the Investigating Officer in questioning witnesses does not necessarily make the prosecution version suspect. If the Investigating Officer is not questioned on this aspect, disbelieving a prosecution witness on that score is improper. If the Investigating Officer furnishes an explanation which is unsatisfactory, Court can consider it to be one of the factors which affects the credibility of the witness who was questioned belatedly.

**State of U.P. vs. Satish**

**AIR 2005 SC 1000: 2005 AIR SCW 905: 2005 (3) SCC 114:**

**2005 CrI. L.J. 1428**

13. It requires courage in the face of adversity for a simple man to come forward and proclaim the truth unmindful of the consequences. Delay in questioning a young boy who saw a ghastly murder being committed has to be taken into account and the Court must be reasonable and should see whether the boy could have been questioned at the dead of night. In the absence of any possibility of delay affecting his statement or of any apprehension of the witness being influenced by any other person or police, his evidence could not be thrown out, more particularly, if he had faced cross examination in an efficient manner. The usual apathy to record statements quickly can also be another factor.

**Mallappa Siddappa Alakanur and Others vs. State of Karnataka**

**AIR 2009 SC 2959: 2009 (14) SCC 748:**

**2010 (2) SCC (Cri) 236**

14. Delay in questioning important witnesses may not necessarily lead to create doubt regarding the veracity of the prosecution case. Unless the Investigating Officer was specifically cross-examined on this aspect, defence cannot derive any advantage. In the case of delay in questioning, it is not a principle of universal application that the prosecution version

becomes suspect. It would depend on several factor. If during cross-examination, the Investigating Officer had offered an explanation which is plausible, there would be no reason for any suspicion.

**Abu Thakir and Others Vrs. State of Tamilnadu represented by Inspector of Police, Madurai**  
**AIR 2009 SC 2797: 2010 (5) SCC 91:**  
**2010 (2) SCC (Cri) 1258**

15. Where there was delay in recording CD statements of three witnesses and the Investigating Officer's explanation was that he was also in charge of maintaining law and order in the area that got vitiated after two murders in succession leading to a lot of commotion and communal strife, there would be no reason to reject the explanation as the delay was on account of reasons beyond the control of the Investigating Officer (Ibid). It cannot be said evidence of a witness should be thrown out due to the delay in recording his statement by the Investigating Officer. The language of Section 162 Criminal Procedure Code shows that the law contemplated a situation where there might be witnesses who dispose in court whose previous statements were not recorded at all.

**Siddhartha Vasisht alias Manu Sharma vs. State (NCT of Delhi)**  
**AIR 2010 SC 2352: 2010 AIR SCW 4302: 2010(6) SCC 1:**  
**2010 (2) SCC (Cri) 1385**

16. No independent witnesses were associated with recovery (discovery) under Section 27, Evidence Act is not sufficient to create doubt regarding truth of the prosecution version.

**Sanjay alias Kaka vs. State (NCT of Delhi)**  
**AIR 2001 SC 979: 2001 AIR SCW 767: 2001 CrI. L.J. 1231:**  
**2001 (3) SCC 190: 2001 SCC (Cri) 449**

17. Rejection of the prosecution on the basis of a site plan is illegal.

**State of Rajasthan vs. Bhawani**  
**AIR 2003 SC 4230: 2003 AIR SCW 3953: 2003(7)SCC 291:**  
**2003 SCC (Cri) 1628**

18. If ocular evidence is reliable, defect in investigation such as not forwarding the seized gun to FSL would not matter.

**Amar Singh vs. Balwinder Singh and Others**

**AIR 2003 SC 1164: 2003 AIR SCW 717:**

**2003 CrI. L.J. 1282:**

**2003 (2) SCC 518: 2003 SCC (Cri) 641**

19. Doubtful nature of recovery of the fatal gun cannot render the ocular evidence unreliable.

**Munna vs. State of M.P.**

**AIR 2003 SC 3346: 2003 AIR SCW 4355:**

**2003 CrI.L.J. 4440: 2003 (10) SCC 599: 2004 SCC (Cri) 944**

20. The fact that the Investigating Officer did not mention the street light in the site plan is not a ground to disbelieve the eye witnesses where the injured eye witnesses who were well acquainted with the assailants deposed that they could see them because there was light coming from a nearby street light.

**Pritvi (Minor) vs. Mam Raj and Others**

**AIR 2004 SC 2729: 2004 AIR SCW 1194:**

**2004 (13) SCC 944:**

**2005 SCC (Cri) 198**

21. There is no legal requirement that pellets removed from the body of the deceased during autopsy should be sent to the Ballistic expert to determine whether the pellets were fired from the exhibited gun or not. On the contrary, such recovery clearly confirms the case that the deceased died of gunshot injuries. Failure to send the pellets to an expert does not render the prosecution case unacceptable.

**State of H.P. vs. Mast Ram**

**AIR 2004 SC 5056: (2004) 8 SCC 660:**

**(2010) 1 SCC (Cri) 1165: 2004 CrI. L.J. 4973**

22. Non-mention of the diameter of blood stains on the seized clothes in the seizure memo is of no consequence.

**Gura Singh and Another vs. State of Rajasthan**

**AIR 2001 SC 330: 2000 AIR SCW 4439: 2001 CrI. L.J. 487:**

**2001 (2) SCC 205: 2001 SCC (Cri) 323**

23. Cogent evidence of eye witnesses cannot be rejected on account of the failure of the Investigating Officer to send blood stained cloth (wrapped around the wound) for chemical examination.

**Nirmal Singh and Another vs. State of Bihar**

**AIR 2005 SC 1265: 2004 AIR SCW 6717:**

**2005 CrI. L.J. 672: 2005 (9) SCC 725: 2005 SCC (Cri) 1461**

24. In a case of killing by shooting, where the Investigating Officer failed to collect bloodstained soil and empty shells from the scene, since the eye-witnesses deposed to the firing of shots resulting in death, which was corroborated by medical evidence, the default of the Investigating Officer did not cause prejudice to the accused.

**Maqbool vs. State of A.P.**

**AIR 2011 SC 184: 2010 (8) SCC 359:**

**2010 (3) SCC (Cri) 867: 2011 CrI. L.J. 655**

25. Absence of recovery of pellets from the scene or from the body of the injured persons or of pistol or cartridge does not detract from the prosecution case. It does not in every case prejudice the accused or affect the credibility of the prosecution case.

**State of Rajasthan vs. Arjun Singh**

**AIR 2011 SC 3380: (2011) 9 SCC 115:**

**2011 (3) SCC (Cri) 647**

**Dandu Jaggaraju vs. State of A.P.**

**AIR 2011 SC 3387**

**Raj Kishore Jha vs. State of Bihar**

**AIR 2003 SC 4664**

26. Where eye witnesses who knew the accused persons prior to the occurrence deposed that they saw the accused from close quarters with the aid of a torch (though on a moonless night) and there was no reason to otherwise doubt the truth of their testimony, the fact that the torch light was not seized by the Investigating Officer would not mean that their evidence is not credible.

**Hari Singh vs. State of U.P.**  
**AIR 2011 SC 360: (2010) 13 SCC 756:**  
**(2011) 2 SCC (Cri) 411**

27. Failure to forward the allegedly bloodstained shirt worn by an eye witness to FSL is a deficiency which, however, does not necessarily lead to the conclusion that the prosecution case is unworthy of credit. In such a case, the court is required to be more circumspect in evaluating the evidence.

**Sheo Shankar Singh vs. State of Jharkhand**  
**AIR 2011 SC 1403: (2011) 3 SCC 654: 2011 2 SCC (Cri) 25:**  
**2011 CrI. L.J. 2139**

28. In a case of murder, the injured while in hospital, made a statement on the basis of which FIR was recorded. After the death of the injured, her husband reported the fact to the police and a second FIR for an offence under Section 302 IPC was registered. It was held that the SHO committed a mistake in recording a second FIR, but that would not weaken the prosecution case, especially since no prejudice had been caused to the accused by a registration of a second FIR.

**Chirra Shivraj vs. State of A.P.**  
**AIR 2011 SC 604: 2010 (12) SCALE 487:**  
**(2010) 14 SCC 444: 2011 3 SCC (Cri) 757**

**T.T. Antony vs. State of Kerala and Others**  
**AIR 2001 SC 2637: 2001 AIR SCW 2571:**  
**2001 CrI. L.J. 3329: 2001 (6) SCC 181: 2001 SCC (Cri) 1048**

29. If a Police Officer in charge of a police station, having reason to suspect the commission of a cognizable offence, (Section 157 CrI. Pr. Code) proceeds to the spot without preparing and sending a report to the magistrate concerned, that does not mean that his proceeding to the spot was not for investigation. It is not necessary that a formal registration of a case should have been made before proceeding to the spot, in order to bring inquest proceedings within the ambit of investigation. It is enough that he has some information to afford him reason to suspect the commission of a cognizable offence. Any step taken by him, pursuant to such information, towards detection of the said

offence, would be part of such investigation, even though the formal registration of the FIR takes place only thereafter. That an FIR loses its authority if it is lodged after the inquest report is recorded is not a general proposition of universal application. The object of inquest is only to ascertain whether a person has died under unnatural circumstances and if so, what the cause of death is.

**Sambhu alias Bijoy Das and Another vs. State of Assam**

**AIR 2010 SC 3300**

**State of U.P. vs. Bhagwant Kishore Joshi**

**AIR 1964 SC 221: 1964 (1) CrL. L.J. 104: (1964) 3 SCR 71**

**Maha Singh vs. State (Delhi Administration)**

**AIR 1976 SC 449: (1976) 1 SCC 644: 1976 SCC (Cri) 135:**

**1976 CrL. L.J. 346**

30. While considering the delay in FIR reaching the jurisdictional Magistrate, Court has to bear in mind the credit worthiness of the ocular evidence adduced by the prosecution and see if such ocular evidence is worthy of acceptance; the element of delay in registering FIR or sending FIR to the magistrate by itself, would not in any manner weaken the prosecution case.

**Balram Singh and Another vs. State of Punjab**

**AIR 2003 SC 2213: (2003) 11 SCC 286: 2004 SCC (Cri) 149**

31. Where the FIR contained only a brief statement of events, the delay in sending the FIR to court could not have been to concoct a false case against the accused. If the FIR had been cooked up after the inquest and autopsy were over, many more matters or details could have been incorporated in the FIR. The delay, in these circumstances, cannot, by itself, throw out the prosecution case in its entirety; such delay cannot be the sole reason for discarding the prosecution version as being fabricated, if reliable evidence has been produced against the accused. Delay in sending FIR to court may provide basis for suspicion that the FIR was recorded much later, to set up a distorted version. The purpose of Section 157 CrL. Pr. Code is to ensure fair trial without there being any occasion for falsification or introduction of facts belatedly.

**Sahdeo vs. State of UP**

**AIR 2004 SC 3508: (2004) 10 SCC 682:**

**2004 SCC (Cri) 1873: 2004 CrL. L.J. 2876**

**Sunilkumar vs. State of Rajasthan**

**AIR 2005 SC 1096: 2005 CrI. L.J. 1402: (2005) 9 SCC 283:  
2005 SCC (Cri) 1230**

**Sarwan Singh vs. State of Punjab**

**AIR 1976 SC 2304: 1976 CrI. L.J. 1787: (1976) 4 SCC 369:  
1976 SCC (Cri) 646**

**Ishwar Singh vs. State of UP**

**AIR 1976 SC 2423: 1976 CrI. L.J. 1883: 1976 (4) SCC 355:  
1976 SCC (Cri) 629**

**Rabindra Mahto vs. State of Jharkhand**

**AIR 2006 SC 887: 2006 (10) SCC 432:**

**2006 (3) SCC (Cri) 592: 2006 CrI. L.J. 957**

32. In a case where there was delay of four days in sending FIR to Court, factors such as immediate holding of inquest, removal of dead body to police premises, obtaining authorization by DMO to conduct autopsy during the same night etc were held to suggest spontaneity of FIR sufficient to reject plea of anti-timing of FIR.

**Paramjit Singh vs. State of Punjab**

**AIR 2008 SC 441: 2007 (13) SCC 530: 2009 1 SCC (Cri) 299**

33. Delay in sending the FIR to court would not dislodge the other evidence.

**Sarvesh Narain Shukla vs. Dasroga Singh**

**AIR 2008 SC 320: 2007 (13) SCC 360:**

**2009 (1) SCC (Cri) 188**

34. The failure by the Investigating Officer to collect evidence during the investigation may entitle the court to hold the investigation to be perfunctory or tainted affecting the entire trial. But in case of failure of the police to produce the evidence collected during the investigation, the Court can draw an inference in accordance with Section 114, illustration (g) of the Evidence Act. But when there is sufficient evidence that one vegetable knife was used by one person, the failure of the Investigating Officer to seize that knife is not fatal for prosecution.

**Chand Khan v State of U.P.**

**AIR 1995 SC 2140: (1995) 6 SCC 448: 1995 SCC (Cri) 915:  
1995 Cr.LJ 3675**

35. Prosecution case regarding murder of deceased and injuries to his son is proved by dying declaration of deceased, statement of eyewitnesses and injured witnesses. The question raised by appellant that no blood stained earth was recovered from the place of crime is not relevant.

**Gulzari Lal v. State of Haryana**

**AIR 2016 Supreme Court 795: (2016) 4 SCC 583:**

**(2016) 2 SCC (Cri) 325: 2016 CrI. L.J. 1349**