

Role of Investigating Officer (IO) in Criminal Proceeding: Bangladesh Perspective

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Abstract

Investigating officers (IO) play a prodigious role in the criminal justice system, because an investigation report is a very important document in most of the criminal cases, but sometimes it becomes a major obstacle in acquiring justice. Investigating office's reluctance to appear in the court, false report given by IO or corruption may hinder victim's access to justice. Investigating officers also face different challenges in case of an investigation and making a report which affects victims' rights under the criminal justice framework. This paper cited primary bases as well as legislations, rules and regulations; and secondary bases comprising books, journals, law reports, periodicals and other resources from the internet. Consequently, an endeavour has been made to reconnoitre role of IO in the present procedure and practice of criminal investigation in Bangladesh. Specially, the challenges in the practice of investigation in Bangladesh are assessed. A mass of suggestions is also offered with the assumption that the reforms in the criminal justice system should be initiated first at the investigation stage. This article also attempts to disclose the role of IO under criminal proceedings and different obstacles as they face in Bangladesh, which may affect victims in criminal proceedings.

Keywords: Investigation, Criminal Proceeding, Police Report, Role of Investigating officer, Justice.

1. Introduction:

Criminal Justice System denotes to judicial procedure or process of adjudging criminal issues of which hinge on vast knowledge in the Criminal matter and its practice. Straightforwardly it may be said Criminal Justice in alarmed with the sentence of the wrong other than civil wrong which in Criminal Proceeding is known as crime. The main goal of the Criminal Proceeding is to penalize offender. Criminal Justice carried only for rendering punishment of the accused of the contention apparent against him subject to the proof that the offense or crime has been committed by him or not. In Bangladesh I.O. (investigating officer) play the vital role in criminal justice for making the investigation of a case.

In addition to conserving law and order by pleasing themselves in prevention of crime and enforcement of laws in some trifling offences, detection and investigation of crime, arrest of accused and gathering of evidence are elusive duties of the members of the law enforcing agencies in Bangladesh. In absence of separate investigating agency, members of the police force who are rather busy in a numerous of issues, in general tend to investigate the criminal offences in a casual manner. In many cases the investigating officers are alleged to be inefficient, negligent and biased in discharging their duties. Though distinct judicial magistracy started its journey about ten years ago,¹ delayed, defective and biased investigation of crimes is one of the major uncertain - blocks that haunt our crippling criminal justice system. Supplementary, colonial rules, bribery, excessively support on confession of the accused instead of evidence concerned with way of investigation, alleged ill-mannered attitude to public etc. are often apparent to be main reasons for absence of confidence in the police force.

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2. Concept of Investigation and Investigation of Crime:

2.1. Filing of criminal case:

A criminal case is set in indication by filing a First Information Report (FIR) regarding commission of

¹In Bangladesh separate judicial magistracy started its journey on 1 November 2007 following pro-active intervention of the Supreme Court of Bangladesh in compliance of constitutional obligation of separation of judiciary from the executive organs of the state as enshrined in Article 22 of the Constitution. Also see, Ministry of Finance v Masdar Hossain 52 DLR (AD) 82. For a brief historical overview, see, Hussain M. F. Bari, "Separation of judiciary: How long will it take?" The Daily Star, 4 August 2004, available at <http://archive.thedailystar.net/law/2004/08/04/vision.htm>

cognizable offence¹ to the officer-in-charge of a police station. This is usually well-known as GR case or (P.S.) police case. An FIR may be filed by any person, for it is intended just to set the apparatus of law in action. Additionally, a complaint may be set up before a competent judicial Magistrate. A police officer may investigate any cognizable offence without the direction of the Magistrate. An officer-in-charge is legally bound to reduce information of cognizable offence into a FIR and to investigation onto the case. If he does not investigate the case as such, some causes must be recorded and with such causes he should notify the informant that he would not investigate into the case.²

2.2. Investigation:

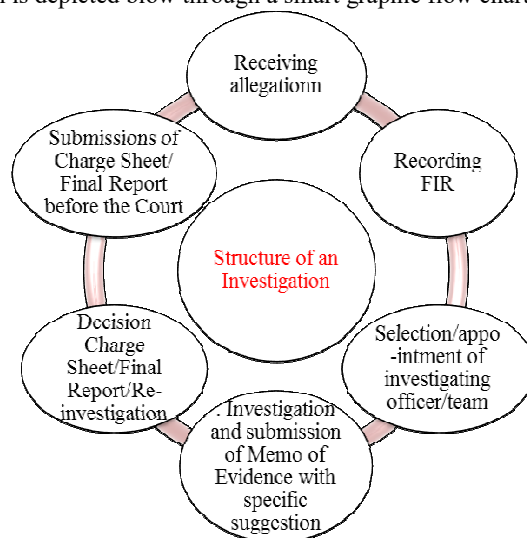
The word investigation means to scrutinise and to look at cautiously, ascertain the reasons create a legal inquiry. As per provision of the Code of Criminal Procedure, “investigation includes all the proceedings under the Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by Magistrate.”³ However, a step taken by a police officer or a person authorized by a Magistrate towards collection of evidence in regard to an offence falls within the ambit of investigation.⁴ An investigation follows the commission of such an offence and does not precede it.⁵ There is clear distinction between investigation and inquiry. Inquiry may be conducted by any person while investigation is always done by the members of the law enforcing agency.

2.3. Investigation officer:

In general, a police officer not lower the rank of Sub Inspector (SI) is the investigation officer of a cognizable offence. Police has the statutory right to investigate into a cognizable offence whether a report is ready to that effect or not and if reported, regardless of the authority of the reporter.⁶ It may perhaps be well-known that members of the Detective Branch (DB), Criminal Investigation Department (CID) and Rapid Action Battalion (RAB) are also delegated with the investigating power. Likewise, members of the Metropolitan Police are involved in criminal investigation in corresponding metropolitan area. Similarly, newly formed Police Bureau of Investigation (PBI) is also delegated with the investigation of crimes.

2.4. Structure of an Investigation:

The sequence of investigation is depicted below through a smart graphic flow chart:



In the case of *Mosharraf Hossain v State*, the Supreme Court of Bangladesh precised the following steps which are included in the criminal investigation:⁷

- a) Proceeding to the spot;

¹Cognisable offence is one in which police may arrest the accused without warrant: Code of Criminal Procedure (V of 1898), s. 4(1)(f).

²*Yasmin Sultana v Bangladesh* 54 DLR 269

³The Code of Criminal Procedure (V of 1898), sec. 4(1)

⁴ *Sajedul Hossain Chowdhury v State* 7 BLC 635

⁵*Ghulam Abbas v State* 20 DLR (WP) 48

⁶*Md. Hayat v Chief Settlement Officer* 23 DLR (Lah.) 34

⁷*Mosharraf Hossain v State* 30 DLR (SC) 112

- b) Ascertainment of facts and circumstances of the case;
- c) Discovery and arrest of suspected offender/s;
- d) Collection of evidence relating to commission of the offence alleged which may require examination of various persons including the accused and the reduction of their statements into writing if the officer thinks fit,
- e) The search of places or seizure of things considered necessary for the investigation and to be produced at the trial. Formation of opinion as to whether on the materials collected there is a case to place the accused before a court for trial and if so, taking necessary steps for the same by filing of a police report under section 173 of the Code of Criminal Procedure, 1898.

2.5. Duty of police officer to investigate a criminal case:

A police officer on being directed to make fresh investigation into their same incidence shall submit a charge sheet on receipt of sufficient materials in respect of pending criminal case. Investigation on the spot If the officer in charge of a police station decided that an investigation is necessary, after dispatching a first information report, he shall himself proceed to the spot or depute a subordinate to hold an enquiry, who shall not be below the rank of assistant sub inspector. in a case where the complainant is not of a serious nature, and is made against a person known, does away with the legal necessity for a local investigation. But it is very seldom that advantage should take of this section in rural areas, it is permissible only. Investigation out of jurisdiction by Circle SP and any officer of police cannot investigate any case. Police officer has to avoid harassment to public.

For the proper implementation of police of Bangladesh every police personal has to maintain the regulation of Bengal, now days our careless behavior of police and for avoiding the proper role and ethics moralities every person of police should take the regulation as holy religious book.

3. Investigation Report of Investigating Officer Or Police Report:

Investigation Report or Police report is the preliminary pillar of the criminal prosecution procedure. It is a record of the charge and of the facts and actions upon which the Court decides whether to take cognisance or not. After the investigation is absorbed, the investigating officer is essential to submit either the charge-sheet or the final Report.¹ Words “final report” or “charge-sheet” are hidden in section 173 of the Code. In this section the police can submit a police report either for trial or release of the accused persons.² The investigating officer essentially enjoys the unfettered right on an investigation within the edge of law, to submit either a charge-sheet or a final report in a certain case, without any intervention from the court.³ It needs being ready in the prescribed form in accord with PRB. Names of the informant, accused persons, suspects, nature of the accusation and names of the persons who appear to be acquainted with the facts and circumstances of the case should be mentioned in the report. Result of the investigation is informed to the informant in BP Form.⁴

3.1. Classification of Police Report : Police report classified into two heads namely:-

- a) Charge Sheet and;
- b) Final Report

3.1.1. Charge-sheet:

Charge-sheet is a proper allegation against the accused to the court concerned for proceeding against the accused. It is given in to by following the laws and regulations as laid down in Code and PRB. It is set in BP Form. A charge-sheet filed before the court shall contain the matters as laid down in Code. The police can file supplementary charge-sheet even after acceptance of the previous charge-sheet.

3.1.2. Final report:

Final report is likewise ready in special form.⁵ An IO (investigating officer) shall give a clear report of the case and of the ingredients collected by him with the causes for not referring up any person for trial.⁶ Informant should be guilty about the outcome of the investigation through BP Form. A police report in which an accused is recommended not to be prosecuted is ordinarily known as final report. Final Report may be of five types, namely:-

- a) **Final Report True (FRT):** Final Report True is submitted when the crime or incidence is true; though, there is no evidence existing to connect the accused.

¹Code of Criminal Procedure (V of 1898), s. 173

² Abdus Salam Master v State 16 DLR (AD) 58; Md. Zillur Rahim v Nazmul Karim 28 DLR 1.

³ Khorshed Alam v State 27 DLR 111.

⁴ Police Regulations of Bengal 1943, BP Form 40, 40A.

⁵ Police Regulations of Bengal 1943, BP Form 42.

⁶Criminal Rules and Orders (Practice and Procedure of Subordinate Courts) 2009, Rule 76(1); Code of Criminal Procedure (V of 1898), s. 173(1)(b); Police Regulations of Bengal 1943, Regulation 278

- b) **Final Report as False (FRF):** Such report is submitted when the description of the case is set up completely false. In such a case, the investigating officer is to seek permission from the court to put on trial the informant under section 211 of the Penal Code 1860.
- c) **Final Report as Mistake of Fact (FRMF):** This is submitted where informant filed unlike form of the case than what was truly happened.
- d) **Final Report as Mistake of Law (FRML):** This is given when a case is set up in totally wrong sections of laws.
- e) **Final Report Non Cognizance (FRNC):** Final Report Non Cognizance reports are filed when the investigating officer after investigation discovers that only non-cognizable offence was happened. Finding the permission of concerned Judicial Magistrate is required for filing a prosecution report in such a case.

4. The Role Of Investigation Officer in criminal Proceeding :

The IO (investigating officer) is a corporeal witness because he investigates the proceeding, records the statement of the witnesses, goes to the spot for the impartial findings, makes the case diary, receives the documents during investigation and after gathering the relevant evidence in support of the prosecution or beside the prosecution he submits his report for or against the prosecution. If he gives in to report in the form of charge-sheet or in the method of final report then it is for the Court to consider the same and pass orders as provided under law. But the role of the investigating officer is actual relevant and material. He gets the first form of the witnesses from which later on the court is capable to judge the genuineness of the evidence, as to whether the witnesses are telling, the veracity or not. In the same way, on the source of the impartial findings the court also judges the statements of the witnesses. In the nonappearance of the examination of the investigating officer, partiality may be initiated to the accused as well as the prosecution.¹

While an accused or suspect is arrested, the criminal investigating officer may cross-examine the individual to disclose more facts about the specific case, He may also dialogue with witnesses and other persons who possess knowledge about the underlying suspect or crime scene. Subsequently the investigating officer obtains a search warrant; the legal professional may discover an accused or suspect's home, their business, or property. The exploration process will habitually disclose new pieces of evidence, such as money, weapons or stolen items that finally confirm the suspect's role in the crime. . While a police officer selects any person as a suspect he usually selects him with a view to see that he is not rendered vulnerable and amenable to the influences of accused and or his friends, associates and relatives who obviously in order to earn easy acquittal would not fail to administer threat, promise or inducement to back out from the case.²

The Investigating officer who write and issue reports based on the evidence collected will regularly appear in courts as skilled witnesses. These individuals will keep expertise in a definite field. The opinions of a professional witness are viewed as important testimony in a court hearing. The IO (Investigating Officer) has to place his case factual before the Court as it is. In the situations, a very substantial rather tremendously substantial duty lies upon the Investigating Officer in selecting a method of investigation and submitted impartial report about the commission of crime and discovered materials evidence through investigation.

5. Importance of Police report in the Criminal Proceedings of Bangladesh

The police report is a backbone in a criminal case. In a criminal case, the primary allegation of a crime establishes with the evidence through the police report. Generally after submission of the investigation report by the investigating officer a criminal case is ready for trial in Bangladesh. Investigating officers are usually the first responding officers to the scene of an incident; it is of paramount importance to accurately and descriptively record short-lived evidence. These could comprise doors, stains, sounds, even the actions, statements and conduct of witnesses, suspects and victims.

To highlighting on the importance of a well-written and well-informed police report, it is very relevant to refer order of the Appellate Division in criminal petition for leave to appeal No.410 Of 2015. The High Court Division granted bail to the concerned accused person and State had preferred the leave to appeal challenging the interim bail order on the ground that the case in question was highly sensitive and involved public safety. As a result, releasing the accused on interim bail would be frustrating the purpose of the prosecution case creating obstacle for fair investigation. Upon Hearing, Appellate Division has stayed the interim order of bail till disposal of the rule. While taking the decision to stay the interim bail, the Appellate Division looked into the specific allegation brought against the concerned accused. It appeared from a police forwarding report.³ A well-documented and well explained investigation report matters greatly in taking decision regarding a criminal case.

¹ Available at <https://articlesonlaw.wordpress.com/2015/01/11/non-examination-of-investigation-officer-itsconsequences/access> 24 May 2017

² State Of Gujarat v. Mansurbhai Motibhai Damor ; (1996) 3 GLR 620

³ The State v. Ruhul Kabir 56 DLR(AD),345

Therefore, a well –informed police report is essential not only for the merit of the case, it also helps the Court greatly to take just and fair decision. Furthermore to using apparatus, an investigating officer conducting an investigation operation may also don covers and follow suspects to document their conversations and location. Nevertheless of their means to conduct the investigation, a criminal investigator will habitually trace phone calls and perform comprehensive background checks on the individual in question.

6. Effects of a poorly written investigation report by IO:

The most important shortcomings of such an undetermined investigation report are that it makes very problematic for the court to take decision concerning the accused person. The court faces the following issues as effects of indefinite investigation report.

6.1. Getting bail in non-bailable offence:

In non-bailable offence, it is the discretion of the court to grant or deny bail. It is a conjoint condition that the offence has to be described precisely and separately. Therefore, if a police report i.e. charge-sheet is filed where the contention is uncertain and vague, the court cannot identify the offence, contentions or charge carried against an individual person which has an effect on the court decision on bail matters. For instance if it is written that the accused no. 1 -6 have committed the offence under section 323/326/307/34 of the Penal Code, 1860 , accordingly charges are brought against them , the court cannot decide which accused have committed the offence under section 326/307 , how he has committed such offence, which weapon or instrument was used by which accused, whether there is confirmation between the FIR and the facts discovered in the investigation, and as a result, the accused persons get the benefit of a poorly drafted charge-sheet. The court, in absence of specified allegation, accounts of the offence, role played by the accused has to decide a bail matter in favour of the accused.

6.2. During the framing of charge stage:

In the framing of charge, in non-appearance of a detailed charge-sheet, charge cannot be appropriately and accurately framed. Most of the time accused is discharged for the case.

6.3. During Trial Stage:

In trial stage, if the charge-sheet not identified appropriately, the evidence given by witness cannot corroborated with their earlier statements which make the prosecution case weak.

7. Aggrieved parties Perception about the Contribution of investigating officers Regarding the Violation of Their Rights in the Criminal Proceedings

Thirty-two aggrieved litigants were interviewed on their perceptions and experiences of going to police stations, going to before investigating officer, going to court, being in court during trial. The litigants represented a variety of backgrounds, rural, poor, middle class and upper-middle class as well as a cross section of experience with violence i.e. Murder, domestic violence, dowry , robbery , dacoit and theft etc. From the interviews with the litigants, it was apparent that they were very frustrated with the long cumbersome legal process. Many were averse to pursue their cases as they were intimidated and endangered by their opponents. Some litigants were extremely apprehensive of the court, law and police. They were afraid of the legal process and felt that they had no access to the justice. They also uttered that they faced different difficulties to come out from their home and to make a complaint against rich people, powerful and political personality.

One poor litigant, named Risha Akter (19) said, ‘The court is not for the powerless people like me, police, lawyers, Investigating officer, everyone desires money only, they don’t try to understand my sufferings.’¹ Among 32 aggrieved parties, 25 litigants harassed by the IO in different ways. For a large number of victims, shortage of time, insufficiency of life security deprived of justice. Another litigant, named Kalim Ullah said, ‘the investigation office demand of Tk. 50000 thousand from him, to give speedy and proper police report in his case, he was unable to fulfil the demand of the investigating office. Consequently IO submitted the police report as a Final report and court accepted it, all the accused discharged from his allegation. I am deprived of justice because of IO’s corruption.’²

The corruption of Police, investigating officer, and political pressure to law enforcing Agency, affects victim’s rights in the criminal Administration of justice in Bangladesh. Most of the investigating officer thinks that the majority victims are habituated to Litigant. In the criminal proceedings, the Police Report given by the

¹ Interview with a rape victim, named Risha Akter (19), Case no-325/2016, Nari O Shishu Nirjaton Damon Tribunal, Chittagong

² Interview with a Extortion victim, named Kalim Ullah (28), Case no-201/2016, Chief Metropolitan Magistrate -, Chittagong

investigating officer (IO) is a part of parcel and also strong evidence of the incidence. Sometimes, investigating officer (IO) given false and Final Report in favour of the accused. Police and criminals have a tendency to influence Police Report to fabricate those in their favour to cover up their misdeeds.¹ According to a rape victim,² Police Report of an IO in case of criminal case means monetary corruption of an Investigating officer. She also said that her case was true, but IO gave report that there was no rape occurred.. There are many occurrences in Bangladesh where the perpetrators guilt could not be proved due to false Police Report. Most of the reports given by the investigating officer are defective. Therefore victims are being deprived of getting justice. Sometimes investigating officers are rude to their victims. Victims were asked about the behaviours of the investigating officer. Their responses are given below:

Table 1 Behaviour of Investigating officer faced by victims

Nature	Percentage
Good	20%
Disrespectful	35%
Oppressed	45%

Table 1 shows that 20% victims faced good behaviour, 35% disrespectful, and 45% oppressed or despicable behaviour from IO. Therefore only 20% women victims were happy and rest of the 80% victims were unhappy with the behaviour of IO. Victims were asked about the role of IO in case of giving Police Report. 25 victims answered according to the following table:

Table 2 Role of IO in case of giving investigation report

Role of the Investigating Officer	Percentage
Given timely and appropriately	25%
Not given timely and appropriately	20%
Demanded bribes and taken it	45%
Demanded bribes and given biased report for not getting it	10%

According to table 2, 25% victims said that IO gave Police report timely and appropriately, 20% victims said that IO did not give Police report timely and appropriately, 45% victims confessed that IO demanded and took bribe from them, only 10% victims said that IO demanded bribe from them and gave Final Report for not getting it.

8. Problems faced by the IO during investigation : The following problems faced by the Investigating officer during investigation namely:-

8.1. Different Kinds of Pressure:

In criminal proceedings, it is the duty of an investigating officer to give appropriate investigation report. Most of the IO said that they felt countless pressures for not giving appropriate investigation report in a criminal proceeding. 80% Investigating officer faced political pressure, pressures of influential people, threat of opposite party, informant and accused offer of bribe for giving false or strong report, load of work etc. But only 20% said that they had no pressure in investigation.

8.2. Duration of investigation:

The Code of Criminal Procedure, 1898 does not prescribed for any specific time limit within which investigation is to be concluded. On the other hand, there is a statutory suggestion in section 167(1) of Code that investigation is to be completed within 24 (twenty four) hours. Police Regulations also state that even most difficult criminal investigation should not take more than 15 (fifteen) days if the investigation goes at a stretch.³ According PRB, investigating officer will complete investigation without break of continuity.⁴ For the shortage of time, it is quite difficult to give accurate investigation report.

8.3. Delay in collecting expert report:

Criminal investigation is the procedure of defining the proceedings that happened before, in and after a crime was committed. Several law enforcement officials are involved in the investigation including the investigating officers, forensic experts and laboratory analysts. There is also delay in collecting medical certificates and other expert reports which ultimately effects the submitting investigation report within prescribed time.

¹ Jahan, Asma Akhter. 2005. Women Violence in Bangladesh and Legal Framework: Role of Law Implementing Institutions, Dhaka, FOUSIA, p. 66.

² Interview with a rape victim, named Zinia Khatun, Case no-36/2017, Nari O Shishu Nirjaton Damon Tribunal, Chittagong

³ Police Regulation of Bengal 1943, Regulation 261

⁴ Police Regulation of Bengal 1943, Regulation 261(a)

8.4. Others problems:

The following problems also faced by an investigation officer namely-

- a. Lack of proper training facilities for the investigation in different investigating officer.
- b. Lack of adequate logistics support for investigating officer.
- c. Inadequate promotional opportunities for the investigating officers.
- d. Overburdened investigation duty.
- e. Time limit for the investigation period.
- f. Inadequate co-ordination between witnesses and prosecutors.

9. Loopholes in criminal investigation by Investigating Officer:

Investigation of crime is quite regularly overloaded with the following main challenges in Bangladesh:

- a) It is repeatedly apparent that the investigating officers are exposed to influence by the accused sides and thus make undue delay in starting the investigation. Accordingly, various evidences and articles missing in the meantime. They also have a trend to to make delay in questioning and thus recording speeches of the witnesses. Similarly, they consciously omit to record the relevant testimonials of the witnesses impleading the accused.
- b) In Bangladesh crimes are enormously increasing at a shocking rate. On the other hand, official documented crime is an ordinary tip of ice berg as many of the crimes go unrecorded. However the rate of offence relating to violence against women has arisen consistently, such incidents largely remain unreported or substantially underreported.¹
- c) In actual fact, investigating officers are not in the practice of recording the statements in black and white while examining the witnesses, but afterwards make a summary of what the witnesses said at the time of examination. They are assumed to prepare the record of those statements at their 'free time'.² Consequently, countless vital points are found to be missing in their recorded statements. Many investigating officers seem to be unconscious to the importance of statements made under section 161 of Code.
- d) Occasionally sketch map and index of the place of incidence are prepared without clear description. In fact, the provisions of Police Regulation of Bengal 1943, Regulation 273 is hardly followed. It may put the trial court at bay to gauge the real facts and circumstances of the occurrence.³
- e) Occasionally, almat are seized in the police station long after the incidence which is produced by the informant. It is the duty of the police officer to seize almat at the place of occurrence or hospital instantly after the occurrence. Late seizure at some other place other than the related place of incidence surely bids doubt. Supplementary, cases connecting murder, grievous hurt or sexual violence logically require some almat like blood -stain wearing clothes/articles etc. to be seized. In case of non- seizure of such vigorous articles, the investigating officer should assign clarification with regard to why such almat was not seized.
- f) The main goal in a criminal investigation is to discover evidence to bring the criminal to impartiality. There is also delay in gathering medical certificates and other expert reports which eventually adjourn the proceeding.
- g) In various illustrations, investigating officers do not send a case diary along with remand prayer. As a result, accused is sent to the jail custody pending hearing of the remand prayer for some other date. In this way accused becomes acquainted with hardened criminals in jail custody and makes deliberate attempt to dodge the investigating officer even he is in remand in a subsequent date. Further, there is wide speculation that the many officers often resort to third degree method with a view to divulging the facts and accusation involving the accused.⁴
- h) Keeping the suspect for long in police custody before being forwarded to the Magistrate for recording his confession under section 164 of Code obviously destroys the veracity of such confession. In this regard directions as laid down by the apex court have to be carefully followed. A good investigating officer is one who is capable to sort out the person who desires to confess the occurrence.⁵
- i) Occasionally the investigating officer gives in to the final report on the plea of alibi of the accused.

¹T.S. Jahan, "Special Criminal Legislation for Violence against Women and Children: A Critical Examination", Bangladesh Journal of Law, Bangladesh Institute of Law and International Affairs, Special Issue, 2007, p. 201.

² Hossain, Md. Zakir "Investigation and Trial of Criminal Cases: Challenges and Remedies", Judicial Administration Training Institute Journal, Volume XIII, 2014, p. 60.

³Sarafat v Crown 4 DLR 204; Md. Israfil v State 9 DLR 92

⁴Malik, Shahdeen "Arrest and Remand: Judicial Interpretation and Police Practice", Bangladesh Journal of Law, Bangladesh Institute of Law and International Affairs (BILIA), Dhaka, Special Issue, 2007, pp. 259--292.

⁵Saira Rahman Khan, "The Use and Abuse of the Laws of Confession in Bangladesh", Bangladesh Journal of Law, Bangladesh Institute of Law and International Affairs (BILIA), Special Issue, 2007, pp. 79-106.

- Though, section 169 of Code has not authorized the police officer to judge the trustworthiness of the witnesses and to decide the plea of alibi.
- j) Informant and investigating officer being the same officer is also fatal to the prosecution case if the reason is not plausibly explained.¹
 - k) It is also serious to a fruitful investigation that the investigating officers know the vital elements of the particular crime(s) they are investigating, then they do not know what evidence to look for to support each of those crime's vital elements.
 - l) It is broadly alleged that the investigating officer frequently resorts to the 'third degree method' as investigation technique.² There is also tendency to compel the accused to make confessional statement stating his involvement to the alleged occurrence. In doing so, the investigating officers are at times oblivious to human rights and fundamental freedoms of the accused.
 - m) No real consultation of prosecutor and witnesses:
 - n) There is no pre-trial meeting between the investigating officer and the public prosecutor, and most the investigating officers have no knowledge on law of evidence.
 - o) Our criminal justice system is rather often unconscious to the apprehensions of the victims of crime. Recuperative justice standard requires that their needs are addressed sincerely and empathetically by the justice sector agencies. It is imperative that criminal justice professionals working with crime victims have a complete and thorough understanding of the devastating effects of crime on its victims.³
 - p) Police are reasonably handicapped in doing operative investigation for lack of modern devices such as cameras, audio-visual investigation equipment.
 - q) In fact, testimonials of the witnesses, First Information Report, seizure lists and Police Report are written in illegible forms and shapes by the commercial scribes.
 - r) Erroneous citations of title and sections of offence in the police report may make confusion.
 - s) Lack of efficient and devoted officers' misfortune our investigating agency. There is shortage of forensic and cyber experts in Police force. The investigation of crime is a highly technical specialized art requiring a lot of patience, expertise, training and clarity about legal position of the specific offences and subject-matter of investigation and socio-economic factors. It clearly requires specialization and professionalism of a type not yet fully perceived by our agencies.⁴

10. Recommendation:

The following measures are suggested to deal with the stumbling blocks in criminal investigation:

- a) The concerned Judicial Magistrate should continue professional observation over the investigating roles of the investigating officers.
- b) Judicial Magistrate should call for the case-diary from time to time to analyze the picture of the progress or otherwise of the investigation, if necessary.
- c) Regal enactments containing Police Act, PRB, Code of Criminal Procedure and Evidence Act need evaluation so far as provisions connecting to investigation of crime, evidence and trial are concerned.
- d) It is predictable that the investigating officers' record the forms of the witnesses without delay by their own hands or by particular computer compose.
- e) Sound recording of the speech of the witnesses in some compacted disc form etc. should be introduced. This sound recording will accordingly form part of the police report.⁵
- f) Recommendation for affixing the signatures of the witnesses in the verified statements may be under consideration. In view of that, pertinent provisions of laws may be amended.
- g) Way out should be had to scientific study of crimes and connection of the offenders by resorting to techniques of forensic science, rather than too much belief on careless recording of oral testimony by the investigators.
- h) In the event of investigation of heinous crimes, investigating officer may place the star prosecution witnesses before the concerned Magistrate to have their speeches recorded.
- i) Litigants or Victims' rights should be great in the agenda of criminal justice reforms. Informant/victim

¹F. B. Hussain Mohammad An appraisal of criminal investigation in Bangladesh: procedure and practice *Journal of the Asiatic Society of Bangladesh* (Hum.), Vol. 60(2), 2015, p. 155

²Shahdeen Malik, Op. cit., p. 288

³Al Faruque Abdullah- et al., "Victim Protection in Bangladesh: A critical appraisal of legal and institutional framework", *Bangladesh Journal of Law, Bangladesh Institute of Law and International Affairs (BILIA)*, Volume 13, Nos. 1&2, 2013, pp. 33-- 48. See, Hussain M. F. Bari, "Plight of Victims of Crimes", *The Daily Star*, 6 May 2014, available at:http://www.thedailystar.net/print_post/plights-of-the-victims-of-crimes-22877; Last accessed 1 November 2015.

⁴H. Shomaji, Ehsanul, Final Report on Proposed Amendments for The Code of Criminal Procedure 1898, unpublished paper, Dhaka, p. 8

⁵ Ibid

- should be informed about their rights and duties.
- j) Thoughtful media display of the accused requires to be reviewed in the sense that there is a subtle difference between media activism and media trial.
 - k) Operative pre- trial discussion of public prosecutor and prosecution witnesses is a must so that witnesses are well- overseen as to what precisely they will depose during trial.
 - l) Systematic Police- Magistracy discussion as intended in Criminal Rules & Orders is a must.¹
 - m) General discussion should be introduced regarding the credibility of creation of an independent investigating agency.
 - n) Permanent and well- equipped prosecution office will help develop the professionalism and quality of criminal justice in the long run.
 - o) The expansion of set-up of criminal courts with the inventive investigation of modern technology is essential for proper administration of criminal justice.
 - p) The felonious investigating officers should be reprimanded while efficient officers should be rewarded.
 - q) The investigators, prosecutors and judges should be well experienced with modern practice, procedure and techniques of the investigation. Therefore, they need to be trained- up and educated at home and abroad.

11. Conclusion:

The double role of the police for crime discovery vis-a-vis looking after of common law and order is not yet separated in Bangladesh. The members of the police force automatically do criminal investigation in accumulation to their day to day roles of upholding law and order, which often result in poor investigation. In lack of a distinct investigating agency coupled with other contests deceptive in their working circumstances and procedure, our investigating officers is at times dreadfully sheathing behind professionalism in wrapping up investigation. Many investigators save themselves from monotonous task of collection of tiny and minute clues. Investigating officers seriously lean towards oral evidence, instead of concentrating on scientific and circumstantial evidence.² The main purpose of investigation is to identify the accused persons who have committed the offence. In this way the investigating officer has to gather evidence to be used through trial. Similarly, a defective investigation leads to breakdown of justice when there is defective evidence. It is worth citing that investigation is the basic bedrock upon which criminal trial is founded. There is no contradicting that unexplained crimes, ineffective prosecutions, with impunity offenders and even unlawful sentences are revealing of perennial fallacy that our criminal justice system suffers from .it is clear that inasmuch as it is the duty of the court to enforce the attendance of the witnesses, there is no bar to take coercive steps to secure Investigation Officers and other witnesses. On comprehensive consideration of the entire rulings, it is well-known that the matter of examination of Investigation officer is differing to case to case as to set of facts of such case. That also, non-examination of Investigating Officer is not serious when no serious flaws and omissions had been pointed out in respect of the evidence of important witnesses. A fortiori, inasmuch as the investigating officer investigates the matters, records the statement of the witnesses, goes to the spot for the objective findings, makes the case diary, receives the papers during investigation and after gathering the relevant material in support of the prosecution or against the prosecution he submits his report for or against the prosecution., he is material witness to the case of the prosecution. . I am of well-founded assessment that developments in the criminal justice system should be introduced first at the investigation stage.

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