An Insight Observation
of
Investigation of Criminal Cases

By

Honourable Chief Justice
Supreme Court of Bangladesh
13 Aug 2015

Table of Contents

Objective and purpose of raising a regimented Police Force in British Period

1. To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment.

2. To recognise always that the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect.

3. To recognise always that to secure and maintain the respect and approval of the public means also the securing of the willing co-operation of the public in the task of securing observance of laws.

4. To recognise always that the extent to which the co-operation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objectives.

5. To seek and preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws, by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing, by ready exercise of courtesy and friendly good humour, and by ready offering of individual sacrifice in protecting and preserving life.

6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent necessary to secure observance of law or to restore order, and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.

7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.

8. To recognise always the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of avenging individuals or the State, and of authoritatively judging guilt and punishing the guilty.

and not the visible evidence of police action in dealing with them.

Basic Requirements of a Police Officer

1. Initiative: Officers must have the zeal to fight crime. Law enforcement personnel need to remain aware of issues that might create unrest in a society and give rise to crime rates, and act accordingly.

2. Sense of Ethics: Law enforcement personnel must strive to behave ethically—to do the right thing. They must commit to proper principles and values as guides to their actions and adhere to the Constitution and pertinent statutory laws.

3. Respect and Knowledge of Laws: Police officers must know and adhere to relevant legislations.

4. Communication Skills: Law personnel should have verbal and nonverbal communication abilities. Officers' ability to effectively relate face-to-face with community members, victims and accused persons holds great importance.

5. Civility: Characteristics of civility include tolerance, kindness, consideration, and understanding. In policing, the proper use of civility is crucial to overall success.

6. Service Mentality: People choose their careers for a variety of reasons. When they select policing, it is critical for long-term success that they want to help people. The internal desire to make the community better by protecting and serving should drive a police officer.

7. Humility: Police officers exercise a prominent role in society and wield immense authority and power. Hence, modesty and respect for others, as well as a lack of arrogance and bravado about oneself is an essential quality in a police officer.

8. Controlled Temper: The father of modern policing, Sir Robert Peel, identified this character trait as necessary for police officers. This involves self-control or self-discipline and requires an abundance of competence, confidence, and emotional maturity.

9. Thirst for New Knowledge: The desire for new knowledge is critical for true long-term success. Like other disciplines, policing continues to evolve and requires practitioners to stay

abreast of the expanding knowledge base. So the eagerness to learn new procedures is pivotal for the success of a police officer.

10. Ability to take correct decisions within a short time: Due to the nature of Policing work, it is essential that a police officer is capable of taking the right decision in a short span of time. This decision making includes taking decisions for police officer/staff subordinate to him.

11. Ability to train new officers: A police officer shall be able to impart his knowledge to his fellow or junior officers so that they can carry the legacy of policing. However, to be able to train others, a police officer must learn the basics of policing himself.

12. Motivational Skill: Since police is a regimented force, a police officer must be motivational to his fellow colleagues and subordinates.

Recommendations

1. Clarity of thinking, which is to be distinguished from simplicity;

2. Quick decision making not only for himself but also for all those working under him right down the line;

3. The art of relaxed concentration to size up problems that arise from time to time;

4. The ability to develop individuals within the organisation, so that eventually he himself becomes dispensable;

5. The ability to motivate police personnel towards common goals, realising that they are not always rational, though they are intelligent;

6. The ability to take a cosmic view in order to make far-reaching decision.

7. Ability to promptly obey and execute all orders and warrants lawfully issued to him by any competent authority;

8. Ability to collect and communicate intelligence affecting the public peace;

9. Ability to prevent the commission of offences and public nuisances;

10. Ability to detect and bring offenders to justice and to apprehend all persons the police officer is legally authorised to apprehend, and there is sufficient ground for such apprehension.

Essential features of a Charge-Sheet/Final Report

Headley Case

1. The name of the court shall be indicated.
2. The charge-sheet number should be given serially.
3. Sections and Acts shall be clearly mentioned.
4. In case of a final report in the form of charge-sheet, untraced, mistake of fact, etc shall be clearly indicated.
5. Names of the investigating officer shall be furnished clearly.
6. Details of properties / things seized shall be properly accounted and sent in the prescribed list.
7. Particulars of accused persons shall be furnished and a separate sheet must be used for each accused.
8. Status of the accused such as bail matters, absconding or not and similar points shall be mentioned
9. Particulars of the accused persons not charged shall also be furnished.
10. List of witnesses to be examined shall be furnished.
11. If the case is a false one, the Investigating Officers may seek permission of the Court to take action under sections 182/211 of the Penal Code.
12. Result of the Forensic test shall be furnished.
13. Facts of the Charge with brief accounts of the motive, preparation, subsequent/previous conduct, the modus operandi adopted in the property offences shall be presented in clear legal terms.
14. Finally, the Charge-sheet or a final report shall be sent to the Court which shall include the following documents:
    1. List of documents upon which the prosecution relies.
    2. Memo of evidence.
    3. All statements recorded under section 161 of the CrPC.
    4. All documentary evidence

(5) Any other documents or papers relevant for the prosecution case.

The Usual Shortcomings of a Charge-Sheet filed in Bangladesh

The aforementioned features of a Charge-sheet or a final report have been described in different relevant laws. Therefore, it appears that the guidelines have been provided to a proper Charge-sheet. However, unfortunately, in Bangladesh, once the investigation is over and the investigating officer is filing a Police Report, so many lapses are seen which eventually affects the merit of the case itself.

Usually, a Charge-sheet filed by the police after investigation often has the following lapses resulting in gross miscarriage of justice:

1. Misquotation of the sections of the offence the Police Officer has been investigating.
2. Illegible handwriting.
3. Wrong address of the accused persons.
4. Wrong addresses of the witnesses to be examined.
5. Omission of vital witnesses from the Charge-sheet. For example, there are cases where the Police Officer has omitted to include the Medical Officer as a witness in a case under sections 326/307.
6. Incomplete seizure list.
7. Not specifying the particular charge against the particular accused person which makes it very difficult while considering bail and framing of charges and to compare the allegations between the ejahar and the Charge-sheet.

Case Study of a Case of India

Brief Background of the Case

National Investigation Agency (NIA) of India registered a case under section 121A of IPC, Section 18 of Unlawful Activities (Prevention) Act and Section 6(2) SAARC Convention (Suppression of Terrorism) Act against 1) David Coleman Headley @ Daood Gilani (US Citizen), 2) Tahawwur Hussain Rana (Canadian citizen) and others.

Summary of Allegations

Accused persons David Coleman Headley @ Daood Gilani, a US Citizen, resident of Chicago, Illinois and Tahawwur Hussain Rana, a Canadian citizen of Pakistan origin

primarily residing in Chicago, USA entered into a criminal conspiracy with members of Lashkar-E-Taiba (LeT) and Harkat-ul Jihadi Islami (HUJI), both terrorist organizations based in Pakistan, which have been declared as Terrorist Organizations by the Government of India under the Unlawful Activities (Prevention) Act, 1967 (as amended in Act 35 / 2008), to commit terrorist acts in New Delhi and other places in India.

Investigation Status

During the course of investigation the roles of senior functionaries of the banned terrorist outfits LeT and HUJI, namely (1) Hafiz Muhammad Saeed @ Tayyaji, (2) Zaki-ur-Rehman Lakhvi, (3) Sajjid Majid @ Wasi, (4) Illyas Kashmiri and (5) Abdur Rehman Hashim Syed @ Major Abdurrehman @ Pasha with active connivance and assistance from officers of ISI, namely, (6) Major Iqbal @ Major Ali, (7) Major Sameer Ali @ Major Samir, all residents of Pakistan, have emerged. Hence the Special Court, NIA, Patiala House, New Delhi has issued Non-Bailable Warrants against all the 9 accused persons. Accused David Coleman Headley @ Daood Gilani and Tahawwur Hussain Rana were arrested by law enforcement agencies in USA in their case. Consequent upon the request of NIA, the Interpol, Central Bureau of Investigation (CBI), New Delhi issued Red Notices (RNs) against the remaining 7 absconding accused persons, noted above.

NIA sent Extradition Requests to USA for extradition of accused persons David Coleman Headley @ Daood Gilani and Tahawwur Hussain Rana, which are still pending for execution by the authorities of USA. A letter Rogatory (letter of request for assistance in investigation) has been furnished to the Islamic Republic of Pakistan, and reply is awaited from them.

After completion of investigation, charge sheet has been filed in the Court of Special Judge, NIA, Patiala House, New Delhi against all 09 accused persons under sections 120 B, read with 121, 121A, 302, 468 and 471 Indian Penal Code and sections 16,18 & 20 of Unlawful Activities (Prevention) Act.

Features of the Charge-Sheet filed by the National Investigating Agency, India

1. **Computer Typed:** The Charge-sheet has been computer typed.
2. **Size of Paper:** The NIA has used legal/A 4 size paper for the charge-sheet. The charge-sheet filed by the NIA has followed numbering system.

3. **Information included in the Charge-sheet:** Instead of using columns to state the details of the investigation, the NIA has described the following information one after another instead of filling in columns (Annexure 1):

    1. Name of the investigating agency
    2. FIR No and date
    3. Charge-sheet No
    4. Date
    5. Sections of law
    6. Type of Final Report (Charge-sheet/ Final Report)
    7. In case of Final Report describing why (False/Mistake of fact/Mistake of law/Non-cognizable/ civil nature)
    8. Name of the investigating officer
    9. Name of the complainant
    10. Details of properties/ articles/ documents recovered/ seized during the investigation
    11. Particulars of accused persons
    12. Particulars of the witnesses/ list of documents/emails
    13. If FIR is false, indicate action to be taken or proposed to be taken
    14. Result of laboratory analysis
    15. Brief facts of the case
    16. Facts disclosed during the investigation
    17. Enclosed permission of the competent authority
    18. Request to take cognizance of the offences following the charge-sheet
    19. Information to the Court that the investigation is still continuing.
    20. Seeking permission of the Court to continue the investigation.

4. **Information of the Accused persons:** The Charge-sheet filed by the NIA has described the information of the persons charge-sheeted and also not charge-sheeted very thoroughly and also in the numbered form instead of columns. These information include:

    1. Name
    2. Aliases
    3. Father's name

4. Date of birth and age

5. Gender

6. Nationality

7. National ID/passport particulars if applicable.

8. Religion

9. Occupation

10. Address (both present and permanent)

11. Whether the address is verified

12. Provisional Criminal No.

13. Regular Criminal No.

14. Date of arrest

15. Date of release on bail if applicable

16. Date of forwarding to the court

17. Under Acts and Sections of the Charge-sheet

18. Details of bailers and sureties

19. Previous conviction if applicable along with the case number.

20. Status of the accused (if in judicial custody or similar custody)

4. **Information regarding the witness:** The particulars of the witnesses / documents/ emails have been listed and enclosed in Annexures instead of filling in the columns.

5. **Laboratory result:** The result of the laboratory analysis is also listed and enclosed in Annexure.

6. **Brief facts of the case in the Charge-sheet:** The facts have been described in numbered paragraphs and in an orderly manner which is very easy to read. In the brief facts of case, the events leading to the investigation has been described in order of occurrence. In the brief facts of the case, the NIA has described the following:

- **Details of the FIR:** Date of registration of the FIR, the sections under which the FIR is lodged, names of the accused and brief description of the offence which in this case was hatching a criminal conspiracy of conducting reconnaissance of important places in India for future attacks by terrorist organisations LeT and HUJI. (See 16.1)
- **Allegations leading to the inception of the case:** Description of the allegations on which the instant case started. In this case the allegation was that

the accused persons have entered into criminal conspiracy starting in 2006 with members of Lashkar-E-Taiba (LeT) and Harkat-ul Jihadi Islami (HUJI) based in Pakistan and banned by the Indian Government to commit terrorist acts in different places in India. (See 16.2)

- **Alleged Activities:** Description of activities leading to criminal conspiracy. (See 16.3)
- **Previous Crimes:** Recording the previous crimes committed by the accused. In this case the investigation had brought on record that the accused David Headley and others had aided and abetted terror attacks in Mumbai in which 166 persons were killed. (See 16.5)
- **Status of warrant and arrest:** Description of where the accused persons are held into custody and where the warrant of arrest were issued against the accused persons. (See 16.6, 16.7)
- **Collection of evidence:** Description of the jurisdiction and places from where the evidence was collected. (See 16.8)

7. Facts disclosed during the investigation: During the investigation of the case, the following information has been described and disclosed:

1. Description of the terrorist organisation: Description of the terrorist organisations that the accused persons have been affiliated with have been stated for better understanding of the terrorist activities led by those organisations. (See 17.1-17.8)

2. Record of previous criminal history: The previous detailed records of offence, arrests, custody of the accused persons have been described. (See 17.10)

3. Roles played by the co-conspirator: Disclosing who the NIA has found as co-conspirator during the investigation and what role the co-conspirator played. In this case the NIA has found Tahawwur Rana as co-conspirator had provided logistic, financial and other assistance to David Headley and others for the fulfillment of criminal conspiracy to organise terrorist attacks in India. (See 17.11)

4. Establishing involvement of the co-conspirator: Description as to how involvements of the co-conspirators have been established and what role those co- accused have played. (See 17.12-17.19)

5. Roles played in planning and executing terrorist attack: Description as to how the accused persons have provided material, tactical, ideological and financial support in planning and executing the terrorist attacks leading to death, injuries of persons, and destructions of properties and so on. (See 17.20)

6. Specific details of criminal activities: Detailed and specific account of activities by the accused persons in pursuance of the criminal conspiracy. (See 17.21-17.41)

6. Record of travelling history: Detailed description of the travelling history of the accused persons in pursuance of criminal conspiracy.

7. Specific description of surveillance footage: Detailed description of surveillance video footages in pursuance of the criminal conspiracy. (See 17.42)

8. Description of email history: Description of the email history of the accused relevant to the criminal conspiracy.

9. Establishing travelling events: Disclosing the travelling history of the accused persons to establish the chain of events leading to the criminal conspiracy.

10. Description of specific roles/activities/involvement: Describing specific details of the roles, activities, involvement of the accused, disclosure of the chain of events and ultimately establishing the involvement of the accused persons in pursuance of the criminal conspiracy.

11. Role of accused David Headley and charges brought against him: David Headley (A-1) @Daood Gilani S/o Syed Saleem Gilani, R/o. 563, Rosalie Street, Philadelphia, 19120 USA and also 7, Canal road, Old Ferozpur road, Lahore, Pakistan as a member of terrorist organizations LeT and HUJI, entered into a criminal conspiracy in or around beginning of 2005 along with the other co-conspirators based in Pakistan for waging war against Government of India, with the intent to threaten the unity, integrity, security and sovereignty of India, with intent to strike terror in the people in India, by causing death of and injuries to persons, loss of, damage to and destruction of property. That in pursuance of the said criminal conspiracy as

directed by the other co-conspirators Headley (A-1) changed his name from Daood Gilani to David Coleman Headley, wilfully filed wrong information at the Indian Consulate in Chicago for obtaining visa for India, established and started the office of Immigrant law Centre in Mumbai to provide base and cover for the activities of LeT and HUJI in organising future terrorist attacks in India, tactically befriended several Indians during his stay in Mumbai for carrying out reconnaissance of potential targets in India, conducted reconnaissance of all those places which were attacked during 26/11 attack and provided the video footages and photographs to the co-conspirators based in Pakistan especially Sajid Majid (A-5) and Major Iqbal (A-7), conducted reconnaissance for the potential landing sites for the attackers of 26/11 Mumbai attack and plotted the details of the landing sites in Mumbai which resulted in killing of 166 persons, injury to 238 persons and colossal damage to property in the 26/11 Mumbai attack. The said accused person along with the co-conspirators i.e. A-2, A-6, A-8 and A-9 conspired knowingly the commission of a terrorist act, made preparatory act for commission of a terrorist act by planning to attack the Chabad Houses in different cities in India for causing death, injuries to people, loss of, damage to and destruction of property in India, thus, has committed offences u/s 120B r/w 121, 121A, 302, 468 and 471 IPC and sections 16, 18 and 20 of UA(P) Act and substantive offences u/s 121, 121A, 302, 468 and 471 IPC and sections 16, 18 and 20 of UA (P) Act, 1967 as amended by Act 35 of 2008. (See 17.94,17.95)

12. Role of Tahawwur Hussain Rana and charges brought against him: Tahawwur Hussain Rana (A-2) s/o Rana Wali Muhammad, R/o. 6018, N. Campbell Ave, Chicago IL 60659, USA as member of LeT and HUJI entered into a criminal conspiracy in or around beginning of 2005 along with the other co-conspirators based in Pakistan for waging war against Government of India, with the intent to threaten the unity, integrity, security and sovereignty of India, with intent to strike terror in the people in India, by causing death of and injuries to persons, loss of, damage to and destruction of property, provided tactical, material and financial support in furtherance of the said criminal conspiracy-such as assisted Headley (A-1) in obtaining visa for India, established the Immigrant Law Centre in Mumbai which was a front organisation to cover their activities, visited India in November 2008 in

furtherance of the said criminal conspiracy, which resulted in killing of 166 persons, injury to 238 persons and colossal damage to property in the 26/11 Mumbai attack. The said accused person along with the co-conspirators i.e. A-1, A-6, A-8 and A-9 conspired knowingly the commission of a terrorist act, made preparatory act for commission of a terrorist act by planning to attack the Chabad Houses in different cities in India for causing death, injuries to people, loss of, damage to and destruction of property in India, thus has committed offences u/s 120B r/w 121, 121A, 302, 468 and 471 IPC and sections 16, 18 and 20 of UA(P) Act and substantive offences u/s 121, 121A, 302 IPC and section 16, 18 and 20 of UA (P) Act, 1967 as amended by Act 35 of 2008. (See 17.96)

13. Role of Hafiz Saeed and charges brought against him:

Hafiz Saeed (A-3) R/o House No. 116E, Mohalla Johar, Lahore, Tehsil, Lahore City, Lahore District, Pakistan, the head of proscribed terrorist organization LeT entered into a criminal

conspiracy in or around beginning of 2005 along with the other co-conspirators based in Pakistan for waging war against Government of India, with the intent to threaten the unity, integrity, security and sovereignty of India, with intent to strike terror in the people in India, by causing death of and injuries to persons, loss of, damage to and destruction of property and actually committing such acts which resulted in killing of 166 persons, injury to 238 persons and colossal damage to property in the 26/11 Mumbai attack, thus, has committed offences u/s 120B r/w 121, 121A, 302, 468 and 471 IPC and sections 16, 18 and 20 of UA(P) Act and substantive offences u/s 121, 121A and 302 IPC and section 16, 18 and 20 of UA(P) Act 1967 as amended by Act 35 of 2008.(See 17.97)

8. After stating the involvement of the accused persons in pursuance of the offence, it is described that the activities already disclosed in the Charge-sheet have successfully established the allegations brought against the accused persons. (See 17.93)

9. Offences committed by each accused have been described precisely, one by one and after such description, it has been stated under which sections and legislations charges were brought. (See 17.95-17.103)

10. Finally, the charge-sheet details the facts found and disclosed during the investigation. Similar to the previous points, the NIA has described the investigation in numbered

paragraphs in chronological order based on the events of occurrence and findings during the investigation phase.

Defective features in the Charge-Sheet filed by Dhaka Metropolitan Police

GR Case No. 47/15

The Dhaka Metropolitan Police filed the above Charge-Sheet under sections 15(1)(A)(3)/25-D of the Special Powers Act along with sections 3/6 of the Explosive Substances Act as amended in 2002.

(Annexure 2)

Brief Fact of the Case: There are 24 accused persons in the charge-sheet against whom charges have been brought. The allegations brought against them include throwing petrol bomb inside a passenger bus which set the bus on fire. The driver, helper and most of the passengers jumped out of the bus. However, four passengers could not escape and they have been injured due to burning. Also, as a result of the fire set by the accused, property worth 8,00,000 taka was destroyed. After investigation, the Investigating Officer filed the charge-sheet under the aforementioned sections.

While the charge-sheet filed by the DMP, Bangladesh (See Annexure 2) and charge-sheet filed by the National Investigating Agency, India (See Annexure 1) have similar information, the following are some stark differences between the two charge sheets:

1. Our charge sheet does not include the names and particulars of the accused as elaborately as the charge-sheet of the NIA, India.
2. The facts of the case are not precisely described as it was described in the Headley case, India.

3. Regarding the facts, information disclosed during the investigation, role of the accused, it appears that the Investigating Officer made omnibus statements without specifying in detail. The recitals are reproduced thus: **আমার তদন্তকালে সাক্ষ্য প্রমাণে পারিপার্শ্বিকতায়, ডাক্তারি রিপোর্ট, রাসায়নিক পরীক্ষা রিপোর্ট পর্যালোচনায় প্রমাণিত হয় যে অত্র মামলার এজাহার নামীয় ও তদন্তে প্রাপ্ত আসামী ১ হতে ১৬ নম্বর আসামীর আর্থিক সহায়তায় সভা সমাবেশ ও ইলেক্ট্রনিক মিডিয়ায় উস্কানিমূলক বক্তব্য, প্রকাশ্যে ও গোপন নির্দেশ হুকুমে ৩০/০১/২০১৫ ইং তারিখ রাত অনুমান ২০. ৪৫ ঘটিকার সময় ১৭ থেকে ২৫ নং আসামীসহ**

অজ্ঞাতনামা ১ জন যাত্রাবাড়ী হইতে পেট্রোল বোমা নিয়া যাত্রীর বেশে গ্রেট তুরাগ পরিবহনের গাড়ীতে উঠিয়া গাড়ীটি অত্র থিলগাঁও থানাধীন থিলগাঁও ফ্লাই ওভারের পশ্চিম উত্তর ঢালে বিশ্ব রোডে পৌঁছা মাত্র নেতাদের পূর্ব নির্দেশিত মতে বর্ণিত ১৭ হইতে ২২ নং আসামী স্থানীয় নেতাদের আগমন দেখিয়া গাড়ীর ভিতরে পেট্রোল বোমা মারিয়া দ্রুত গাড়ী হইতে নামিয়া একত্রে হইয়া উক্ত বাস লক্ষ্য করিয়া ককটেল বোমা বিস্ফোরণ ঘটায় যাহার ফলে ককটেল বিস্ফোরণে গাড়ীর ক্ষতি সাধন হয় ও পেট্রোল বোমার আগুনে পুড়িয়া কয়েকজন যাত্রী সাধারণ ও মারাত্মক জখম প্রাপ্ত হয়। উক্ত আসামীরা পরস্পর যোগসাজশে একই উদ্দেশ্যে পূর্ব পরিকল্পিত ভাবে বেআইনি জনতাবদ্ধে নিরীহ বাস যাত্রীদের হত্যার উদ্দেশ্যে গাড়ীতে পেট্রোল বোমা মারিয়া গাড়ীর যাত্রীদের অগ্নিদগ্ধ মারাত্মক জখম করে, ককটেল বোমা বিস্ফোরণ ঘটায়। তাহারা রাষ্ট্রের কার্যক্ষমতা দুর্বল করার বা কার্যকারিতা ব্যাহত করার জন্য যানবাহন/ গাড়ীতে অগ্নিসংযোগ করিয়া ষড়যন্ত্র , প্রত্যক্ষ ও পরোক্ষ হুকুমে সহায়তা করিয়া সংশ্লিষ্ট ধারার অপরাধ করায় সংশ্লিষ্ট ধারাসমূহে তাহাদের বিরুদ্ধে অভিযোগপত্র দাখিল করা হইল।From this it appears that-

1. The facts and information found during the investigation stage have not been specifically and precisely described in this case as it had been described in the case of India.
2. The roles of the accused in the occurrence have not been described individually.
3. The charges have not been brought against the accused persons individually and there is no specific description of the offences committed by the accused persons in pursuance of the allegation which led to bringing the charges against them.
4. A lump allegation has been brought against all the accused making it very difficult to specify which accused played what role during the occurrence.

As seen from the description of the charge-sheet, there is no specific allegation against each accused and the individual roles of the accused persons have not been described. Therefore, where there is no specific allegation and description of the roles played by the individual accused persons, the Court cannot exercise its discretion to not grant bail as the allegations brought against the accused persons are vague. As opposed to it, in case of a well-documented charge-sheet, the Court can take well-founded decisions as we have described below.

Consequence of a poorly written charge-sheet

The major drawback of such an unspecified charge-sheet is that it makes it very difficult for the Court to take decision regarding the accused persons. The Court faces the following issues as a consequence of an unspecified charge-sheet:

1. In a non-bailable offence, it is the discretion of the Court to grant or deny bail. It is a common requirement that the offence has to be described specifically and individually. Therefore, if a charge-sheet is filed where the allegations are unspecified and vague, the Court cannot specify the offence, allegations or charges brought against an individual person which has an impact on the Court's decision on bail matters. For example, if it is written that the accused no 1 -15 have committed the offence under sections 324/326/325/307/379/380/114 of the Penal Code, accordingly charges are brought against them, the Court cannot decide which accused have committed the offence under sections 326/307, how he has committed such offence, which weapon was used by which accused, whether there is corroboration between the FIR and the facts disclosed 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, description of the offence, role played by the accused has to decide a bail matter in favour of an accused.
2. During the framing of charge stage, in absence of a specified charge-sheet, charges cannot be properly and accurately framed.
3. During the trial stage, if the charge-sheet is not filed properly, the evidence given by the witnesses cannot be corroborated with their earlier statements which make the prosecution case weak.

Importance and effects of a well-documented Police Report: A Practical Example

To emphasis on the importance of a well-written and well-informed Charge-sheet, it is very relevant to refer to the order of the Appellate Division in ***Criminal Petition for Leave to Appeal No. 410 of 2015***. The brief facts leading to the petition for leave to appeal include that Md. Ruhul Kabir @ Rizvi @ Rizvi Ahmed was accused of crimes under Sections 143/436/326/307/109 of the Penal Code along with Sections 15 (1) (Ka)(3)/25-D of the Special Powers Act, 1974 and Sections 3/6 of the Explosive Substances Act, 1908. He preferred Criminal Miscellaneous Petition No. 23258 of 2015 and after hearing, the High Court Division granted bail to the concerned accused person by order dated 07.07.2015.

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 frustrate the purpose of the prosecution case creating obstacle for a fair investigation. Upon hearing, the 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 allegations brought against the concerned accused. It appeared from a Police forwarding report showing him arrested in the case, filed on 30/01/2015, that there was specific allegation against his, his role and involvement in the occurrence and the detailed description of the occurrence including the names of the victims. The material point of the forwarding is as follows:

উক্ত আসামী অত্র মামলার ৭ নম্বর আসামী। উক্ত আসামীর হুকুমে ও আর্থিক সহায়তায় গত ৩০/০১/২০১৫ ইং তাং রাত অনুমান ২০. ৪৫ ঘটিকায় সময় অত্র খিলগাঁও থানাধীন খিলগাঁও বিশ্বরোড ফ্লাই ওভারের পশ্চিম দক্ষিণ পার্শ্বে ঢালে রাস্তায় বাদীর গ্রেট তুরাগ পরিবহনের একটি যাত্রীবাহী বাস যাহার নং -গাজীপুর -জ - ০১২০৩৭৯ গাড়ীতে অত্র মামলার এজাহার নামীয় অপরাপর আসামীসহ অজ্ঞাতনামা ২০/২৫ জন বোম ও পেট্রল বোম নিক্ষেপ করিয়া গাড়ীতে থাকা যাত্রী (১) বেলায়েত , (২) মোঃ জামাল উদ্দিন , (৩) মোঃ রাজু , (৪) মোস্তাফিজুর গণ আগুনে পুড়িয়া মারাত্মক জখম হয়। আগুনে পুড়িয়া গাড়ীটিসহ গাড়ীতে থাকা ড্রাইভার, হেল্পারদের ব্যাক্তিগত মালামাল পুড়িয়া যায় যাহার ক্ষতির পরিমাণ ৮,০০,০০০ টাকা। উক্ত আসামী বি এন পি এর একজন মুখপাত্র। তাহার বিভিন্ন মিডিয়ায় উগ্রতা মূলক বিবৃতির কারণে অত্র মামলাসহ দেশের বিভিন্ন এলাকায় একের পর এক নাশকতা, গাড়ীতে অগ্নি সংযোগ ও আগুনে পুড়াইয়া নিরীহ জনসাধারণকে হত্যার মত ঘটনা সংঘটিত হইয়াছে।

As already discussed, a well-specified and well-documented charge-sheet always helps the Court to apply its discretion on bail matters, this particular Police forwarding, detailing the allegation, involvement and the role played by the individual accused and the result of such involvement leading to criminal activities have helped the Court to take a well-founded decision.

A well-documented and well-explained charge-sheet matters greatly in taking decisions regarding bail matters. In the Charge-sheet filed by the DMP, the allegations have been vague regarding most of the accused as already mentioned above. So, it is very difficult for the Court to deny bail to these accused persons whose roles in the offence are not specified and

vague, although the case is filed under non-bailable sections. As opposed to it, from the above decision of the Appellate Division, it is seen that since the allegations and the role played by the accused person had been specified, the Court could stay the interim bail on well-founded grounds. Therefore, a well-informed charge-sheet is essential not only for the merit of the case, it also helps the Court greatly to take just and fair decisions.

List of enclosures

1. Annexure 1

The Charge-sheet filed by the National Investigation Agency, India

2. Annexure 2

The Charge-sheet filed by the Dhaka Metropolitan Police, Bangladesh