



Dated Lahore, the 12th December, 2019

To,

1. All the District Public Prosecutors,
Punjab.
2. All the Incharges Special Courts

Subject: GUIDELINES FOR PROSECUTORIAL DECISION MAKING WHEN
THE CASE IS NOT FIT FOR TRIAL DUE TO DEFICIENT
EVIDENCE OR OTHER REASONS

In suppression of earlier letter No.PGP/PSO/PA/103/2017-54-5493, dated 11.09.2019 of this office, all the Prosecutor dealing with cases triable by Anti-Terrorism Courts and Sessions Courts are directed to adhere to following guidelines while taking prosecutorial decisions in cases which are not fit for trial due to deficient evidence or other reasons;

1. During scrutiny of Reports U/S 173 Cr. P.C, if the prosecutor considers the evidence insufficient or there are no reasonable grounds to proceed further, he may send back the said report to the police for reconsideration or for further investigation and may advise the police to send interim report to the court in the meantime till completion of investigation and Prosecutor shall request the court not to commence the trial on said report as per section 9(6) of Punjab Criminal Prosecution Service (Constitution, Functions and powers) Act, 2006 hereinafter called PCPS Act, 2006.

2. If the concerned Prosecutor is of considered opinion that there is no probability of conviction on the basis of evidence available on record or there is no reasonable grounds to proceed further against any or all accused, he may request the court through his assessment report U/S 9 (7) of PCPS Act, 2006 on the prescribed Form PPD-1 that charge(s) may not be framed

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under section 265-D of the code of criminal procedure, 1898 against any or all accused as the case may be and recommend discharge accordingly, as consideration of such assessment report is mandatory u/s 9(7) of PCPS Act, 2006.

3. If there is no realistic prospect of conviction due to deficient evidence or there are no reason able grounds to proceed further or the case of prosecution is weakened due to an event that occurred during the trial, the Prosecutor shall resort to withdrawal from prosecution U/S 494 Cr. P.C after obtaining prior approval of authorities as mandated u/s 10(3) (e) of PCPS Act, 2006. The Prosecutor in this regard shall follow the Prosecutor General's policy letter No. PGP/PSO/PA/103/201-3480 dated 25.09.2017 (Annex-A) to ensure that courts' time is not wasted on cases where there is no probability of conviction.

4. In appropriate cases where the prosecutor considers not to withdraw from prosecution but it is expedient to take prosecutorial decision, he/she shall request the government to exercise the powers conferred U/S 10(3)(f) of PCPS Act, 2006 for stay of prosecution and shall seek time from the courts for completion of process.


RANA MUHAMMAD ARIF KAMAL NOON
PROSECUTOR GENERAL PUNJAB

C.C.

1. Secretary, Public Prosecution Department.
2. P.S. to Minister Public Prosecution Department, Gov. of the Punjab.
3. Office file.



(Amex-A)

No. PGP/PSO/PA/103/2017

OFFICE OF THE
PROSECUTOR GENERAL PUNJAB

Dated Lahore, the 25th September, 2017

To,

All Prosecutors,
Punjab.

Subject:- PROCEDURE FOR WITHDRAWAL OF CASES


In every case in which the 'Evidential Test' fails, the Prosecutor shall also determine separately whether there is any probability of conviction or not against the accused on one or more charges. Where the Prosecutor comes to the conclusion that there is no probability of conviction of the accused on one or more charges, he shall immediately forward a request for withdrawal of case to the District Public Prosecutor with regard to the said charges.

2. On receipt of an application for withdrawal, a Committee of three Prosecutors will examine the case and may recommend the District Public Prosecutor regarding withdrawal of the case. If District Public Prosecutor agrees with the opinion of the Committee, he shall grant the approval for withdrawal of the case, if it falls within his competence. If the case does not fall within the competence of the District Public Prosecutor, he shall forward the case to the Prosecutor General, Punjab for decision or transmission to the Government as the case may be.

3. In case of Anti-terrorism offences, the Incharge Prosecutor of ATC shall place the case before a Committee of three Anti-Terrorism Court Prosecutors and recommendation of the Committee shall be forwarded to the Government through the Prosecutor General, Punjab.

4. Prosecutors must comply with this guidance with immediate effect.

5. This Guidance does not preclude a prosecutor from filing a withdrawal application in other cases in accordance with law in which the evidential test fails or has ceased to remain satisfied.


PROSECUTOR GENERAL PUNJAB

No. & Date Even:

1. The Advisor to the Chief Minister, Punjab.
2. The Registrar, Lahore High Court, Lahore.
3. The Secretary, Public Prosecution Department.
4. Office file.


20.9.17