

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
RAJYA SABHA

STARRED QUESTION NO.*91

TO BE ANSWERED ON THE 11TH DECEMBER, 2013/AGRAHAYANA 20, 1935 (SAKA)

MECHANISM TO PREVENT IMPLICATIONS IN FALSE AND FABRICATED CASES

*91. SHRI SABIR ALI:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether two innocent Muslim youths were acquitted by a Trial Court in Delhi on 26 September, 2013 of the charges of terrorism and the Court held it to be a fabricated case;

(b) the mechanism to prevent implications in false and fabricated cases and to punish those who slap fabricated charges on innocent people;

(c) how many such persons have been acquitted by different courts in the country during the last three years and the current year so far; and

(d) the details of requests/demands made by various sections of people in this regard during the above period and the action taken thereon?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI MULLAPPALLY RAMACHANDRAN)

(a) to (d): A Statement is laid on the Table of the House.

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STATEMENT IN REPLY TO PARTS (a) TO (d) OF RAJYA SABHA
STARRED QUESTION No. 91 FOR 11.12.2013.

(a): On 26.09.2013, two accused persons namely Javed Ahmed Tantrey and Ashiq Ali Bhatt @ Faisal were acquitted by the Hon'ble Court of Additional Session Judge, Tis Hazari Courts, Delhi in case FIR No. 46 dated 07.08.2009 u/s 121/121-A/122/123/120 B IPC 3/4/5 E.S. Act 18/20/23 Unlawful Activities (P) Act and 25 Arms Act PS Spl Cell.

(b): Investigation related to serious offence is done by an Investigation officer under the supervision of the police in-charge of the police Station as per section 168 of the Criminal Procedure Code (CR.P.C) 1973. Further, a diary of the investigation proceedings is maintained u/s for 172 of the CR.P.C which is also available to the Court to review. Investigation related to a serious offence is also reviewed by an officer senior to the officer-in-charge of police if it mandated in the respective Police Regulations of States/UTs to ensure that there is adequate evidence against the accused that are identified during investigation and to prevent false and fabricated cases. If evidence available is insufficient then the arrested accused can be released u/s 169 of the Cr. P.C, A charge sheet is filed u/s 173 of Cr.P.C. if there is adequate evidence against the accused and if not a final report is filed either due to mistake of fact(s) or due to mistake of law as mentioned in the Section 79 of the Indian Penal Code. Once a charge-sheet is filed, Police has no role to play and it is up to the Magistrate to follow due procedures prescribed under the Cr. P.C. The magistrate of the first class would need to take cognizance u/s 190 of the Cr. P.C. At this stage the Magistrate would have to be satisfied that there is sufficient

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evidence to take cognizance before the commencement of proceedings under chapter XVI of the Cr. P.C. It is only then that cognizance is taken and charge(s) are framed against the accused u/s 211 of the Cr. P.C. If the case is tribal before the Court of Session then the Charge(s) are framed u/s 225 of the Cr. P.C. It may be stated here that even at this stage, the judge would need to apply his judicial mind as the sufficiency of the evidence. Section 227 and 245 of the Cr. P.C. provides for the discharge of the accused if the judge considers that sufficient ground do not exist for proceeding further. The Cr. P.C., hence, at every stage before the start of the trial provides for a mechanism for the evaluation of evidence on record and set a person to liberty if there is insufficient evidence. Therefore, no additional mechanism is required outside the existing judicial process.

(c): No such information is maintained centrally.

(d) 'Police' and 'Public Order' are State subjects under the seventh Schedule to the Constitution of India and therefore, the State Governments are primarily responsible for prevention, detection, registration and investigation of crime and for prosecuting the criminals through the machinery of their law enforcement agencies as also for protecting the life and property of the citizens. The Union Government, however, attaches the highest importance to the matter of prevention of crime and therefore, continues to urge the State Governments/UT Administrations to give more focused attention towards improving the administration of criminal justice system and taking such measures as are necessary for prevention and control of crime. In this regard, an advisory on Prevention, Registration, Investigation and Prosecution of Crime was issued on 16th July, 2010.