

No. D2-175597/2017/PHQ

Police Headquarters, Kerala
Thiruvananthapuram-695010

Dated: 09/11/2017

Circular No. 29/2017

Sub: Preliminary Enquiry – Registration Report – reg.

A Constitution Bench of the Hon'ble Supreme Court in Lalita Kumari Vs. Govt. of U.P [W.P. (Crl) No. 68/2008] held that registration of First Information Report is mandatory under Section 154 of the Code of Criminal Procedure, if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible in such a situation. If the information received does not disclose a cognizable offence but indicates the necessity for an enquiry, a Preliminary Enquiry may be conducted only to ascertain whether any cognizable offence is disclosed or not.

02. The Hon'ble Supreme Court issued the following guidelines regarding the registration of FIR:

- (i) Registration of FIR is mandatory under Section 154 of the CrPC, if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible in such a situation.*
- (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an enquiry, a preliminary enquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.*
- (iii) If the enquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary enquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.*
- (iv) The Police Officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.*
- (v) The scope of preliminary enquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.*

(vi) ***As to what type and in which cases preliminary enquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary enquiry may be made are as under:***

- a) Matrimonial disputes / family disputes***
- b) Commercial offences***
- c) Medical negligence cases***
- d) Corruption cases***
- e) Cases where there is abnormal delay / lack in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.***

[The aforesaid are only illustrations and not exhaustive of all conditions which may warrant Preliminary Enquiry].

(vii) *While ensuring and protecting the rights of the accused and the complainant, a Preliminary Enquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.*

03. Later the Hon'ble Supreme Court has made the following changes:

(vii) *While ensuring and protecting the rights of the accused and the complainant, a Preliminary Enquiry should be made time bound and in any case it should not exceed fifteen days, generally, and in exceptional cases, by giving adequate reasons, six weeks time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry.*

(viii) *Since the General Diary / Station Diary / Daily Diary is the record of all information received in a Police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an enquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary enquiry must also be reflected, as mentioned above.*

04. Sometimes in the petitions or in the information received, there will be allegations which may be more than one. There is no bar in registering more than one PEs on such petitions, allegations wise. But that shall be decided by the Enquiry Officer in consultation with his Supervisory Officer.

05. Once it is decided a PE is to be registered, a **Registration Report (Annexure-I)** has to be drawn. The format of the Registration Report is enclosed. This shall be prepared by the Enquiry Officer and submitted to the Unit Head.

04. After the registration of the PE, a Plan of Action should be drawn up by the Enquiry Officer in consultation with the Unit Head. He should put time limit for each of points as contained in the Plan of Action. After the completion of the PE, a **Final Report** is to be prepared in a format (**Annexure-II**) and submitted to the Unit Head for further necessary action.

05. The Unit Head shall decide/forward such report to the Range IsGP/Zonal ADsGP/ PHQ as the case may be. In case of CB CID cases, the report to be sent to CB CID HQ (wherever it is required) and the competent officer will pass orders after perusing the Final Report. It may also be remembered that an Enquiry may reveal commission of cognizable offences warranting registration of FIR or omissions/commissions warranting departmental action etc.

06. The Preliminary Enquiries relating to allegations of bribery and corruption should be limited to the scrutiny of records and interrogation of bare minimum persons which may be necessary to judge whether there is any substance in the allegations which are being enquired into and whether the case is worth pursuing further or not.

07. The required documents/records should be collected under a proper receipt memo. The statements of witnesses during the Preliminary enquiries should be recorded in the same manner as recorded during the investigation of regular cases. However, issuance of notices under Sec. 91 CrPC and 160 CrPC shall not be resorted to during PE.

08. Quick disposal of a PE is very important. Converting a PE, to a Crime Case is crucial. If such case ends in conviction, the Enquiry Officer must be rewarded and also the Law Officer.

Loknath Behera IPS
Director General of Police &
State Police Chief, Kerala.

Distribution:

All Officers in List 'B' for information and necessary action.

Copy to:

All Officers in PHQ.
PIC, PHQ / Circular Register / Website.