

J.N. Street, Puducherry.

OFFICE OF THE
SUPDT. OF POLICE (EAST)
No. 55 (L&O) (C.O.P.)/16
Dated: 18/11/16

GOVERNMENT OF PUDUCHERRY
DIRECTORATE OF PROSECUTION
LAW DEPARTMENT

No.4618/11/2016/LD

Puducherry, dt.: 17/11/2016.


CIRCULAR

Sub : DOP - Law Department – Mandates of the law laid down in Lalita Kumari – IV and V – Reg.

Ref : Common Order in Crl.O.P. Nos. 19197, 19198, 19343 and 19359 to 19363 of 2016, pronounced on 12th October 2016, by the Hon'ble High Court of Judicature at Madras.

As directed by the Hon'ble High Court of Judicature at Madras, in reference cited above, the mandates of the law laid down in Lalita Kumari – IV and V are hereby enclosed (Enclosure-I) in order to circulate and to be followed by all the Police Stations within the jurisdiction of Union Territory of Puducherry.

2. It is to be noted that, clause (vii) of the mandates of the law laid down in Lalita Kumari – IV has been modified vide Crl.M.P No. 5029 of 2014 in W.P (Crl.) No. 68 of 2008, and the same is also enclosed herewith (Enclosure-II).



17.11.16
(V. RUTHARAKUMARAN)
DEPUTY DIRECTOR OF PROSECUTION

Encl:- As stated above.

To

1. The Senior Superintendent of Police (L&O), Puducherry
2. The Senior Superintendent of Police (Karaikal)
3. The Superintendent of Police (North), Puducherry
- ✓ 4. The Superintendent of Police (East), Puducherry
5. The Superintendent of Police (West), Puducherry
6. The Superintendent of Police (South), Puducherry
7. The Superintendent of Police (North), Karaikal
8. The Superintendent of Police (South), Karaikal
9. The Superintendent of Police (Mahe)
10. The Superintendent of Police (Yanam)

All SAs/ICs - nullupet
Jm/g


2.12.16
SUPDT. OF POLICE (EAST)
PUDUCHERRY

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO. 68 OF 2008

Lalita Kumari

.... Petitioner(s)

Versus

Govt. of U.P. & Ors.

.... Respondent(s)

WITH

S.L.P. (Crl.) No. 5986 of 2006

S.L.P. (Crl.) No. 5200 of 2009

CRIMINAL APPEAL No. 1410 OF 2011

CRIMINAL APPEAL No. 1267 OF 2007

AND

CONTEMPT PETITION (C) NO. D26722 OF 2008

IN

WRIT PETITION (CRIMINAL) NO. 68 OF 2008

J U D G M E N T

Conclusion/Directions:

111) In view of the aforesaid discussion, we hold:

- (i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
- (iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry 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 inquiry 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 inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry 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/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without 91 Page 92 satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry 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.

(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 inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

CRL.M.P. NO.5029 OF 2014

IN

WRIT PETITION (CRL.) NO.68 OF 2008

Lalita Kumari

.... Petitioner(s)

Versus

Govt. of U.P. & Others

.... Respondent(s)

ORDER

Heard Mr. Sidharth Luthra, learned Additional Solicitor General.

After hearing him and in the light of the grievance expressed in the present criminal miscellaneous petition filed in the writ petition, we modify clause (vii) of paragraph 111 of our judgment dated 12th November, 2013, in the following manner:

"(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry 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."

To this extent, clause (vii) of paragraph 111 of the judgment is modified. Criminal miscellaneous petition is, accordingly, disposed of.

.....CJI