

CHAPTER - XXXVIII

INVESTIGATION

“Whatever thing in whatever form appears (reported), to discover its true nature is called the knowledge of reality.” (Thirukural)

1600. “Investigation” includes all the proceedings under “the Code of Criminal Procedure, 1973” for the collection of evidence conducted by a Police officer or by any person (other than a Magistrate) who is authorized by a Magistrate. (Section 2(h) of the Criminal Procedure Code).

1601. The officer-in-charge of a Police Station can start investigation either on information or otherwise (section 157 Cr.P.C.). The investigation consists of the following steps starting from the registration of the case:-

- (i). Registration of the case as reported by the complainant u/s 154 Cr.P.C.,
- (ii). Proceeding to the spot and observing the scene of crime,
- (iii). Ascertainment of all the facts and circumstances relating to the case reported,
- (iv). Discovery and arrest of the suspected offender(s),
- (v). Collection of evidence in the form of oral statements of witnesses (sections 161/162 Cr.P.C.), in the form of documents and seizure of material objects, articles and movable properties concerned in the reported crime,
- (vi). Conduct of searches of places and seizure of properties, etc.,
- (vii). Forwarding exhibits and getting reports or opinion from the scientific experts (section 293 Cr.P.C)
- (viii). Formation of the opinion as to whether on the materials collected, there is a case to place the accused before a magistrate for trial and if so, taking necessary steps for filing a charge sheet, and
- (ix). Submission of a Final Report to the court (section 173 Cr.P.C.) in the form of a CHARGE SHEET along with a list of documents and a Memo of Evidence against the accused person(s) or in the form of a REFERRED CHARGE SHEET or a report referring the case as UN, MF, ML, Civil nature and Action dropped, as the case may be, on the basis of the evidence collected during the course of the investigation.

1602. The documentation for the Police investigation shall include the following papers namely :-

- (a). First Information Report (section 154 Cr.P.C.), - (I F.1)
- (b). Crime details form, - (I F.2)
- (c). Arrest / court surrender memo, - (I F.3)
- (d). Property seizure memo and - (I F.4)
- (e). Final Report Form (section 173 Cr.P.C.) - (I F.5)

POLICE OFFICER'S POWER TO INVESTIGATE COGNIZABLE CASES

1603. Any officer-in-charge of a Police Station may, without the order of a magistrate, investigate any cognizable case which a court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of the Criminal Procedure Code. 1973.

1604. Chapter XIII (Jurisdiction of the criminal courts in Inquiries and trials). (Section 156 of Cr.P.C.)

Note

The courts have no control in such cases over the investigation or over the action of the Police in holding such investigation

1605. Where the offence takes place during night time, the investigation officer should bring out in his investigation the existence of light at the time of the incident. For this, he should clearly bring out the position of Electricity post / lights (public place or private place) in the rough sketch of the scene of occurrence or the scene of crime to be drawn on the crime details form. While recording the statements of witnesses of the occurrence or the observation mahazar witnesses, the facts relating to the availability of light at the spot should be highlighted.

1606. **REFUSAL OF INVESTIGATION**

(1). The following principles are laid down to guide the exercise of their discretion by Station House Officers in the matter of refusing investigation under section 157 (1) (b) of the Criminal Procedure Code.

(2). The investigation may be properly refused in the following cases:-

- (a). **Triviality:-** Trivial offences, such as are contemplated in section 95 of the Indian Penal Code.

“ Nothing is an offence by reason that it causes or that is intended to cause, or that it is known to be likely to cause any harm, if that harm is so slight that no person or ordinary sense and temper would complain of such harm”.

- (b). **Civil Nature:-** Cases clearly of civil nature or in which complainant is obviously endeavouring to set the criminal law in motion to support a civil right.
- (c). **Petty thefts:-** Cases of petty theft of property less than Rs. 10/- in value, provided that the accused person is not an old offender, nor a professional criminal, and that the property does not consist of sheep or goats.
- (d). **Injured person not wishing an inquiry:-** Unimportant cases in which the person, injured does not wish inquiry, unless (i) the crime is suspected to be the work of a professional or habitual offender or (ii) a rowdy element or (iii) the investigation appears desirable in the interests of the Public.
- (e). **Undetectable simple cases:-** Simple cases of house-breaking or house-trespass and petty thefts of unidentifiable property, is none of which cases is there any clue to work upon or any practical chance of detection, provided that there is nothing to indicate that the offence has been committed by a professional criminal.
- (d) **Exaggerated assaults:-** Assault in cases which have been obviously exaggerated by the addition of the other charges such as theft.

REPORT TO BE SENT IN CASE OF REFUSAL OF INVESTIGATION:

1607. When an investigation is refused, at once a First Information Report only need be submitted to the court with copies usually sent to others, specifically indicating in the FIR format under column 13 – “ACTION TAKEN” that “the above report reveals commission of offences under section, but falling under the categories of triviality or civil nature or petty theft or injured person not wishing to have an inquiry or undetectable simple case or exaggerated assault coupled with theft, was registered in crime number and investigation ‘REFUSED’. It is also stated that further report will not be submitted, under section 157 (1) (a) (b) and (2) of the Code of Criminal Procedure.

“When information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer-in-charge of a Police Station need not proceed in person or depute a subordinate officer to make an investigation on the spot ;”

“ If it appears to the officer-in-charge of a Police Station that there is no sufficient ground for enquiring on an investigation, he shall not investigate the case;”

“ The officer-in-charge of the Police Station shall state in his report his reasons for not fully complying with the requirements, “the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, that fact that he will not investigate the case or cause it to be investigated.”

Note

- (i). The Station House Officer, after registering a case of trivial nature under appropriate sections of the law and the connected circumstances and refusing investigation of that case, shall give a copy of the FIR to the informant or the complainant and obtain an acknowledgement in the counterfoil copy of the FIR.

- (ii). The SHO will not send any further report of such cases including the final report under section 173 Cr.P.C.

REFUSAL OF LOCAL INVESTIGATION

1608. The power to abstain from local investigation under section 157 (1) (a) of the Criminal Procedure Code is primarily intended to be exercised in cases which are complete on the information brought to the station, requiring no further enquiry.

INVESTIGATION TO BE IMPARTIAL

1609. Investigating officers are warned against prematurely committing themselves to any view of the facts for, or against a person. The aim of the investigating officer should be to find out the truth and to achieve this purpose, it is necessary to preserve an open mind throughout the Inquiry.

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