

SUPREME COURT MATTER
TIME BOUND

OFFICE OF THE SUPERINTENDENT OF POLICE
HEADQUARTERS – PUDUCHERRY

No.07/SP(HQ)/OW/2023-68

Dated: 10.05.2023

I.D. NOTE

Sub: Standing Order on 'Procedure for issuance of Notices or Orders U/s 41A, 91, 160 & 175 CrPC – Furnished – Reg.

Ref: O.M. No.3290/Home/P3/2023/SC, dated 03.05.2023 of Home Department, Puducherry.

Kind attention is invited to the Office Memorandum cited, whereat it has been requested to issue a Standing Order by the Police Department as directed by the Hon'ble Supreme Court of India in Misc. Appln. No.2034/2022 in MA 1849 in SLP (Cri) No.5191/2021 regarding 'Procedure for issuance of Notices or Orders U/s 41 A, 91, 160 & 175 Cr.P.C.' by the Police Officers for summoning of witnesses or suspects during the course of investigation or during the inquest U/s 174 Cr.P.C.

2. In this regard, the Police Department has issued the Standing Order and a copy of the same is enclosed for complying with the directions of the Hon'ble Supreme Court of India.

Subham Sundar Ghosh
(SUBHAM GHOSH) 10/5/23
SUPDT. OF POLICE (HQ)
PUDUCHERRY

Encl: As stated above.

To

The Under Secretary to Govt.,
Home Department,
Puducherry.

**OFFICE OF THE DIRECTOR GENERAL OF POLICE
PUDUCHERRY**

Dated: 10.05.2023

STANDING ORDER No. 01/2023

**PROCEDURE FOR ISSUANCE OF NOTICES OR ORDERS
BY POLICE OFFICERS**

I. INTRODUCTION

Investigating Officers are required to comply with the legal requirements of Sections 41 A, 91, 160 and 175 of the Code of Criminal Procedure (Cr.P.C.), 1973 with regard to summoning of witnesses or suspects during the course of investigation or in connection with an inquest held u/s 174 Cr.P.C. These sections empower Investigating Officers to examine orally any person, believed to be acquainted with the facts and the circumstances of the case(s).

Section 41 A of Cr.P.C. stipulates issuance of notice for appearance before a Police Officer in all cases where the arrest of person is not required. The Hon'ble High Court of Delhi in '*Amandeep Singh Johar Vs. State of NCT of Delhi*' dated 07.02.2018 has categorically laid down the procedure, the Police Officers are obliged to follow. These procedures are also parts in Section 41 A of Cr.P.C also. A Model format for notice under section 41A Cr.P.C and directions of the Hon'ble High Court of Delhi are enumerated in this S.O. and also enclosed at **Annexure – A.**

Section 91 of Cr.P.C stipulates issuance of summons to produce document or other things before a Police Officer and as per directions of the Hon'ble High Court of Delhi, a model format for notice under this section is enclosed at **Annexure – B.**

According to Sections 160 and 175 of Cr.P.C, an officer making an investigation or enquiry shall invariably issue an order in writing to any person summoned to attend such investigation or enquiry and shall endorse on the copy of the order retained by the person so summoned, the date and time of his arrival and the date and time of his departure from the place, where he is summoned. The Model Forms regarding the instant sections as per the directions of Hon'ble Delhi High Court are also enclosed with this Standing Order at **Annexure – C & D** respectively.

II. RELEVANT STATUTORY PROVISIONS

Prior to examining the judgment in case titled '*Amandeep Singh Johar Vs. Govt. of NCT of Delhi & Ors.*', passed by the Hon'ble High Court of Delhi, it would be useful to set out the statutory provisions which relate to requirement of appearance before a Police Officer of any person. For ready reference, the extract of provisions of Sections 41 A, 91, 160 and 175 of Cr.P.C are reproduced as below: -

Section 41 A of Cr.P.C (Notice of appearance before police officer)

1. The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.
2. Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.
3. Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.
4. Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.

Section 91 of Cr.P.C (Summons to produce document or other thing)

1. Whenever any Court or any officer incharge of a police station considers that the production of any document or other thing is necessary or desirable for the purpose of any investigation, inquiry, trial or other proceeding under this Code by or before, such Court or officer,- such Court may issue a summon, or such officer a written order to the person in whose possession or power such document or thing is believed to be requiring him to attend and produce it, or to produce it at the time and place stated in the summons or order.
2. Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.
3. Nothing in this section shall be deemed-
 - (a) to affect sections 123 and 124 of the Indian Evidence Act, 1872. (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891) or
 - (b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

Section 160 of Cr.P.C (Police officer's power to require attendance of Witnesses)

1. Any police officer, making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or

otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or above the age of sixty- five years or woman or a mentally or physically disabled person shall be required to attend at any place other than the place in which such male person or woman resides.

2. The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

Section 175 of Cr.P.C (Power to summon persons)

1. A police officer proceeding under section 174, may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.
2. If the facts do not disclose a cognizable offence to which section 170 of Cr.P.C applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

III. PROCEDURE FOR ISSUANCE OF NOTICES/ORDERS

Upon consideration of the Judgment in case titled '*Amandeep Singh Johar Vs. Govt, of NCT of Delhi*', passed by the Hon'ble High Court of Delhi, it is directed that as far as Section 41A is concerned, the following procedure shall be strictly followed:

- (i) Police officers mandatorily issue notices under Section 41 A of Cr.P.C. (in the prescribed format) formally to be served in the manner and in accordance with the terms of the provisions contained in Chapter-VI of the Criminal Procedure Code. Model form of notice under Section 41A Cr.P.C. and its acknowledgement is enclosed at **Annexure – A.**
- (ii) The concerned suspect or accused person are bound by law to comply with the terms of the notice under section 41 A Cr.P.C. and make him/herself available at the requisite time and place.
- (iii) If the accused be unable to present himself at the given time for any valid and justifiable reason, the accused should in writing immediately intimate the investigating officer and seek an alternative time within a reasonable period, which should ideally not exceed a period of four working days from the date on which he was required to attend unless he is unable to show justifiable cause for such non-attendance.

- (iv) Unless it is detrimental to the investigation, the police officer may permit such rescheduling, however, only for justifiable causes to be recorded in the Case Diary. If the IO believe that such extension is being sought to cause delay to the investigation or the suspect or accused person is being evasive by seeking time, (subject to intimation to the CI/SDPO concerned), deny such request and mandatorily require the said person to attend.
- (v) A suspect or accused on formally receiving a notice under section 41A Cr.P.C. and appearing before the concerned officer for investigation or interrogation at the police station, may request the concerned IO for an acknowledgement.
- (vi) In the event, the suspect or accused is directed to appear at a place other than the police station (as envisaged under Section 41 A(1) Cr.P.C), the suspect will be at liberty to get the acknowledgement receipt attested by an independent witness if available at the spot, in addition to getting the same attested by the concerned investigating officer himself.
- (vii) ***The Notice should necessarily contain the following details:***
 - a. ***Serial Number***
 - b. ***Case Number***
 - c. ***Date and time of appearance***
 - d. ***Consequences in the event of failure to comply***
 - e. ***Acknowledgment***
- (viii) ***The Investigating Officer shall follow the following procedure:-***
 - a. ***The original is served on the accused or suspect.***
 - b. ***A carbon copy (on white paper) is retained by the IO in his or her case diary, which can be shown to the concerned Magistrate as and when required;***
 - c. ***Acknowledgement signature may be obtained on the copy of Notice.***
 - d. ***If the Noticee fails to comply such notice or unwilling to identify himself, the concerned IO may seek assistance of the concerned Court to take action against the noticee for the offence mentioned in the notice.***

IV. AREA OF RESPONSIBILITY

1. While issuing such notices, the concerned investigating Officer must ensure his or her presence on the given date and time and if due to any unforeseen circumstances or official exigencies, he is required to be away, the 2nd SHO will take the needful action in respect of the noticee. However, in a rare situation of serious exigency of an operational nature, where none of the above officers is present while recording the presence of the noticee, the Duty Officer will issue necessary acknowledgement and also record a GD entry to this effect. The Duty Officer will also collect a copy of self-attested ID proof from the noticee and inform the IO accordingly. A copy of GD entry and ID proof shall be handed over to the Investigating Officer upon his or her arrival.

2. The Investigating Officers are responsible for exercising full care and precautions with regard to the personal safety of persons summoned by them. They should guard against the possibility of such witness or suspect attempting to commit suicide or causing any bodily harm to himself.
3. When a woman has to be questioned or interrogated and a notice under section 160 of Cr.P.C. needs to be served, the IO must keep in mind that a woman cannot be summoned to the police station. However, the notice can mention the details and time where the woman will be questioned, which should ordinarily be where the woman resides, preferably in the presence of other family members or woman police personnel.
4. As per section 160 Cr.P.C, no male person under the age of fifteen years or above the age of sixty-five years or woman or a mentally or physically disabled person is required to attend at any place other than the place in which such person resides. As per Juvenile Justice Act, male person under the age of eighteen years be questioned where he resides and preferably in the presence of other family members, guardians, fit persons or Juvenile Welfare Officers.
5. Failure on the part of IO to comply with the mandate of provisions of Cr.P.C. and the above procedure shall render him liable for appropriate disciplinary proceedings under the applicable rules.
6. Wide publicity should be given for educating the public during the meetings of 'Community Liaison Groups', 'Fishermen Watch Groups' and 'Residents Welfare Associations', etc.
7. The above information should be displayed at prominent places in Police Stations and Out-Posts in order to inform the public of their rights and recourses available to them.
8. Training programmes be specially formulated for police officers and men in order to sensitize them towards effective compliance of Sections 41 A, 91, 160 and 175 of the Criminal Procedure Code.

// By order //

Subham Suman Ghosh
(SUBHAM GHOSH) 10/5/23
Superintendent of Police (HQ)
Puducherry

Encl.: Annexures – A to D

Distribution :

All concerned

Copy to :

The Spl. Officer to DGP/Secy. to ADGP and Readers to IGP & all SSPs.

Serial No. _____

Police Station. _____

To

[Name of Accused/Noticee]_____
[Last Known Address]_____
[Phone No./Email ID (if any)]**NOTICE UNDER SECTION 41(A) Cr.PC**

In exercise of the powers conferred under sub-section (1) of section 41A of Cr.P.C., I hereby inform you that during the investigation of FIR/Case No. _____ u/s _____, dated _____ registered at Police Station _____ it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you in relation to the present investigation. Hence you are directed to appear before me at _____ AM/PM on _____ at _____ Police Station.

You are directed to comply with all and/or the following directions:-

- (a) You will not commit any offence in future.
- (b) You will not tamper with the evidences in the case in any manner whatsoever.
- (c) You will not make any threat, inducement, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the police officer.
- (d) You will appear before the Court as and when required/directed.
- (e) You will join the investigation of the case as and when required and will cooperate in the investigation.
- (f) You will disclose all the facts truthfully without concealing any part relevant for the purpose of investigation to reach to the tight conclusion of the case.
- (g) You will produce all relevant documents/material required for the purpose of investigation.
- (h) You will render your full co-operation/assistance in apprehension of the accomplice.
- (i) You will not allow in any manner destruction of any evidence relevant for the purpose of investigation/trial of the case.
- (j) Any other conditions, which may be imposed by the Investigating Officer/SHO as per the facts of the case.

Failure to attend/comply with the terms of this Notice can render you liable for arrest under Section 41A(3) and (4) of Cr.PC.

[Signature] _____

[Name and Designation] _____

[affix seal] _____

ACKNOWLEDGEMENT

Sr.No. _____

In compliance with the above mentioned notice dated _____ issued under Section 41A Cr.PC, the Noticee has appeared on _____ from _____ to _____. The Noticee's presence has been recorded in the register maintained by the Police Station.

This acknowledgement is being issued in compliance with Section 41A Cr.PC. The documents produced by the noticee have duly been seized vide seizure memo/ production memo (copy enclosed).

The noticee undertakes to continue to comply with any further notice that she/he may receive during the course of the present investigation.

[Signature of Accused/Noticee]

[Signature of IO]

Sr. No. _____

Police Station. _____

To

[Name of Accused/Noticee]_____
[Last Known Address]_____
[Phone No./Email ID (if any)]**NOTICE UNDER SECTION 91(A) Cr.PC**

Whereas it has been made to appear to me that the production of documents/articles mentioned below are necessary or desirable for the purpose of investigation in case FIR No _____ u/s _____, dated _____ registered at Police Station _____.

Therefore, you are directed to produce the required documents/articles before the undersigned at Place : _____ Time : _____ AM/PM on Date : _____

Details of documents

1. _____
2. _____
3. _____
4. _____

Failure to attend/comply with the terms of this Notice can render you liable for legal action u/s 175 IPC.

Signature] _____

[Name and Designation] _____

[affix seal] _____

ACKNOWLEDGEMENT

Sr.No. _____

In compliance with the above mentioned notice dated _____ issued under Section 91 Cr.PC, the Noticee has appeared on _____ from _____ to _____. The Noticee's presence has been recorded in the register maintained by the Police Station.

This acknowledgement is being issued in compliance with Section 91 Cr.PC. The documents produced upon the issuance of this notice have been duly seized vide seizure memo/production memo (copy enclosed)

The Noticee undertakes to continue to comply with any further notice that she/he may receive during the course of present investigation.

[Signature of Accused/Noticee]

[Signature of IO]

Sr No. _____

Police Station. _____

To

[Name of Accused/Notictee]_____
[Last Known Address]_____
[Phone No./Email ID (if any)]**NOTICE UNDER SECTION 160 CR.P.C.**

In exercise of powers conferred under sub-section (1) of Section 160 of Cr.P.C, I hereby inform you that during investigation of FIR/Case No. _____ u/s _____ dated _____ registered at Police Station _____, it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you in relation to the present investigation. Hence you are directed to appear before me at _____ AM/PM on _____ at _____ Police Station.

You are directed to comply with all and/or the following directions:-

- (a) You will appear before the Court as and when required/directed.
- (b) You will join the investigation of the case as and when required and will cooperate in the investigation.
- (c) You will disclose all the facts truthfully without concealing any part relevant for the purpose of investigation to reach to the right conclusion of entire case.
- (d) You will produce all relevant documents/material required for the purpose of investigation.
- (e) You will render your full co-operation/assistance in apprehension of the accomplice.
- (f) You will not allow in any manner destruction of any evidence relevant for the purpose of investigation/trial of the case.
- (g) Any other conditions, which may be imposed by the Investigating Officer/SHO as per the facts of the case.

Failure to attend/comply with the terms of this Notice can render you liable for legal action u/s 174 IPC.

[Signature] _____

[Name and Designation] _____

[affix seal] _____

ACKNOWLEDGEMENT

Sr.No _____

In compliance with the above mentioned notice dated _____ issued _____ under Section 160 Cr.P.C., the Notictee has appeared on _____ from _____ to _____. The Notictee's presence has been recorded in the register maintained by the Police Station.

This acknowledgement is being issued in compliance with Section 160 Cr.P.C. The documents produced by the notictee have duly been seized vide seizure memo/production memo (copy enclosed).

- The Notictee undertakes to continue to comply with any further notice that she/he may receive during the course of the present investigation.

[Signature of Accused/Notictee]

[Signature of IO]

Sr. No. _____

Police Station. _____

To

[Name of Accused/Noticee]_____
[Last Known Address]_____
[Phone No./Email ID (if any)]**NOTICE UNDER SECTION 175 CR.PC**

Whereas the presence of aforesaid person is necessary for the purpose of enquiry into the offence reported to have been committed in case FIR No _____ u/s _____, dated _____ registered at Police Station _____. Therefore the said person is hereby directed to appear before the undersigned at Place : _____ Time: _____ AM/PM on Date : _____ to give such information relating to the said alleged offence as he may possess.

Failure to attend/comply with the terms of this Notice can render you liable for legal action u/s 174 IPC.

[Signature] _____
[Name and Designation] _____
[affix seal] _____

ACKNOWLEDGEMENT

Sr. No. _____

In compliance with the above mentioned notice dated _____ issued under Section 175 Cr.PC, the Noticee has appeared on _____ from _____ to _____. The Noticee's presence has been recorded in the register maintained by the Police Station.

This acknowledgement is being issued in compliance with Section 175 Cr.P.C.

The Noticee undertakes to continue to comply with any further notice that she/he may receive during the course of present investigation.

[Signature of Accused]/Noticee]

[Signature of IO]