

मुख्यालय पुलिस महानिदेशक, उत्तर प्रदेश,

1- बी०एन०लहरी मार्ग, लखनऊ-226001

संख्या: डीजी-दस-वि०प्र०-रिट-517/2013

दिनांक: लखनऊ: दिसम्बर 30, 2013

सेवा में,

समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,
उत्तर प्रदेश।

विषय: मा० उच्चतम न्यायालय नई दिल्ली की पूर्ण वैधानिक पीठ द्वारा रिट याचिका (किमिनल) संख्या-68/2008 ललिता कुमारी बनाम उत्तर प्रदेश राज्य व अन्य के परिप्रेक्ष्य में दिनांक 12.11.2013 को पारित आदेश का अक्षरशः अनुपालन सुनिश्चित कराये जाने के सम्बन्ध में।

कृपया इस पत्र के साथ संलग्न उपर्युक्त संदर्भित रिट याचिका के परिप्रेक्ष्य में मा० उच्चतम न्यायालय की पाँच न्यायाधीशों की पूर्ण संवैधानिक पीठ द्वारा पारित आदेश दिनांक 12-11-2013 का अवलोकन करने का कष्ट करें।

2- मा० उच्चतम न्यायालय द्वारा प्रथम सूचना रिपोर्ट अंकित किये जाने के सम्बन्ध में विस्तृत रूप से निम्न दिशा-निर्देश पारित किये हैं जिनका अक्षरशः पालन किया जाना अनिवार्य है:-

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 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.

3- इस क्रम में उल्लेखनीय है कि मा0 उच्चतम न्यायालय ने अनिवार्य रूप से अभियोग पंजीकृत करने के निर्देश के कारण उसके दुरुपयोग को रोकने हेतु निम्नलिखित राय भी व्यक्त की है:-

- (i) While registration of FIR is mandatory, arrest of the accused immediately on registration of FIR is not at all mandatory. In fact, registration of FIR and arrest of an accused person are two entirely different concepts under the law, and there are several safeguards available against arrest.
- (ii) It is also relevant to note that in *Joginder Kumar vs. State of U.P. & Ors.* (1994) 4 SCC 260, this Court has held that arrest cannot be made by police in a routine manner. Some important observations are reproduced as under:-

“20...No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of

the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the Station without permission would do.”

- (iii) The registration of FIR under Section 154 of the Code and arrest of an accused person under Section 41 are two entirely different things. It is not correct to say that just because FIR is registered, the accused person can be arrested immediately. It is the imaginary fear that “merely because FIR has been registered, it would require arrest of the accused and thereby leading to loss of his reputation”

4- अतः आप सभी को निर्देशित किया जाता है कि मा0 उच्चतम न्यायालय के दिशा-निर्देशों की जानकारी अपराध गोष्ठी तथा कार्यशाला का आयोजन करके अपने अधीनस्थों को देना सुनिश्चित करें और इसका नियमित अनुश्रवण भी कराये ।

संलग्नक-उपरोक्तानुसार।

(देव राज नागर)
पुलिस महानिदेशक,
उत्तर प्रदेश।

पुलिस महानिदेशक, प्रशिक्षण, प्रशिक्षण निदेशालय, 30प्र0 लखनऊ को संलग्नक सहित इस अनुरोध के साथ प्रेषित कि समस्त प्रशिक्षण संस्थानों को मा0 उच्चतम न्यायालय नई दिल्ली के उपर्युक्त संदर्भित निर्णय/आदेश की जानकारी देने हेतु सम्बन्धित को निर्देशित करने का कष्ट करें (संलग्नक-उपरोक्तानुसार)।

प्रतिलिपि निम्नलिखित को कृपया सूचनार्थ एवं आवश्यक कार्यवाही हेतु:-

1. पुलिस महानिदेशक, राजकीय रेलवे पुलिस, 30प्र0, लखनऊ।
2. समस्त जोनल पुलिस महानिरीक्षक, 30प्र0।
3. समस्त परिक्षेत्रीय पुलिस उपमहानिरीक्षक, 30प्र0।

only ALL SSP / DG Tsg.

3/11/14

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3/11