Date: 23.4.24

163 / CP- Mumbai & Jt CP ( LO) / implement the law for transparency 154(3) and GR 17.6.2016 and others / Email petition folder and file

To,

Commissioner of Police

Greater Mumbai

D. N. Rd., Opp. Crawford Market

Mumbai - 400001

Through JT CO ( L& O)

Request that appropriate circular / orders be issued for better implementation of law and larger public interest.

**Sub:**

1. **‘*disposal of application u/s 154(3) through written orders’.***

*(Ref: Virtual meeting dated 01/02/2022 in the said matter)*

1. *To maintain complaint register s per GR 17.6.2016 and implement the conditions in the GR.*
2. *Regulation 9(2) Delay in discharge of duty act to provide the details and name of three above officers to whom complaints can be filed against DCP, Addl CP Jt.CP CP, DGP.*
3. *Name of authority to whom the application for sanction to prosecute can be made against the above IPS officers*
4. *Name of the authority who has authority to appoint and dismiss these above IPC officers from service.*
5. *Each and Every document / evidence and statements recorded/ correspondence shall be signed along with date and time.*

Respected Sir,

Two issues which require immediate action

*Whether the CRPC states a time period to dispose of application u/s 154(3)? and*

*Whether there is a need for a written order u/s 154(3) if an independent remedy u/s 156(3) is available?*

The Hon’ble SC’s guidelines through the Lalita Kumari judgement prescribes seven - days’ time for preliminary inquiry (only in exceptional matters listed by the Hon’ble SC) for deciding ‘cognisability’, this can be interpolated to S.154 (3) and seven days could be made available to the DCP/Competent Officer for disposing an application u/s 154(3). This answers the first query.

1. Lalita Kumari guidelines provides a time - table to set the criminal law in motion and S.154(3) is an integral part of this timeline and is not considered optional for the aggrieved party. The Hon’ble SC and HC’s throughout India have held that to apply u/s 482 CrPC or under Article 226 of the Constitution of India in matters related to cognisance of criminal offences, all remedies have to be exhausted which includes remedy u/s 154(3) of CrPC. This answers the second query.
2. The grounds for mandatory requirement of a written order (speaking order) u/s 154(3) by the DCP/Competent officer, explaining the dire need for the following directions to be issued by the Hon’ble CP to give meaning to S.154(3) of CrPC :
   1. *to direct Zonal DCP's/Competent Officers to dispose of applications u/s 154(3) filed for no registration of FIR, before them, through a* ***speaking order (written order)*** *as per the merits of the case within 7 days from the filing of the date of the said applications.; and*
   2. *to direct Zonal DCP's/Competent Officers to dispose of applications u/s 154(3) filed before them through a* ***speaking order (written order)*** *as per the merits of the case, if the IO's closure report is challenged through an applications u/s 154(3) within 7 days from the filing of the date of the said applications; and*
   3. *to hold the Zonal DCP's/Competent Officers responsible for frittering and fettering of jurisdiction and investigation powers conferred through S.154(3) of the CrPC; and*
   4. *to hold the Zonal DCP's/Competent Officers responsible for omission to follow the Lalita Kumari guidelines as directed through the DGP circular dated 19/12/2013; and*
   5. *to direct that a preliminary inquiry is permissible only for category of cases specified in the Lalita Kumari guidelines.*
   6. *to direct maintenance of record of complaints not converted into a FIR u/s 154(1) in Police Stations; and*
   7. *to direct separate maintenance of record of applications u/s 154(3) and disposal of the same throughout all zonal offices (DCP offices) in Mumbai.*
3. **Section 154(3) CRPC**

**Any person aggrieved by a refusal on the part of an officer in charge of police station to record the information referred to in section (1) may send the substance of such information, in writing or by post, to the Supt. Of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by the Code, and such officer shall have all powers of an officer in charge of the police station in relation to that offence.**

*Section 154(3) has put the responsibility on DCP to be satisfied that the complaint discloses commission of cognizable. The DCP after being satisfied that the complaint discloses commission of cognizable offences directs and appoints ACP to take further action. i.e. registration of FIR. However, the ACP or the appointed officers do not register FIR and conduct illegal enquiry. However, the DCP and Addl CP allows such illegal activity thereby defeating the spirit and purpose of section 154(3) CRPC.*

***Not Maintaining complaint register as per GR 17.6.2016***

1. *No police station and office of any police authority is maintaining complaint register as per GR 17.6.2016 thereby causing irreparable loss and injury to the citizens and also to the nation by protecting the corrupt and non-performing police officers.*
2. *Clear responsibility shall be set upon the concerned DCP and Addl CP to take action against the concerned officers within stipulated days for violating the above procedures u/s 154(3) & GR dt. 17.06.2016 and thereby causing injury and hurt citizens. On failure of action by DCP and Addl CP these officers shall be liable for disciplinary action which shall be recorded in their service register and confidential report to prevent them from being posted in executive posting and / or sensitive posting.*
3. *Details of the authority to whom the application for sanction to prosecute can be filed against DCP, Addl CP, Jt CP, Addl DG, DG*
4. *Compliance of Regulation 9(2) Delay in discharge of duty act i.e. the immediate 3 officers to whom the complaint can be filed against the above officers.*
5. *Details of the authority who can appoint and dismiss the above officers.*
6. *The circular shall clearly mention that all the concerned officers who fail to implement 154(1), 154(3) CRPC and GR 17.06.2016 shall be prosecuted u/s 166 A, 167 IPC.*
7. *Each and Every document / evidence and statements recorded/ correspondence shall be signed along with date and time. There are several instances when an incorrect record is created and used as genuine in court or evidence.*

The Petition Group through their legal representatives will be always ready to satisfy all queries or discussions related to the issue if provided an opportunity as the matter involves larger public interest.

Sincerely,