

- Ref** – 1) This office circular no. DGP/23/54/Crime/2001, dated 3/10/2001.
2) No. DGP/23/54/FIR/954/08, dated 16/08/2008.
3) No. DGP/23/66/Writ Petition/2010, dated 15/10/2010.
4) Order dated 30/01/2012 passes by Hon'ble High Court, Mumbai in Criminal Writ Petition No. 112/2012.

Sub – F.I.R. filed before the Police disclosing cognizable offence.

Circular :

In Criminal Writ Petition No. 112 of 2012, filed by Iqbal Ramzan Khan Vs. State of Maharashtra & Ors., the Hon'ble High Court has observed that –

“It has come to our notice that in several cases though cognizable offence is disclosed, on the complaints being filed, such complaints are not registered by the police station, resulting in grave injustice being caused to the complainants. The Director General of Police is, therefore, directed to inform all the concerned police stations to strictly adhere to the provisions of Section 154 Cr.P.C and also the decision of this Court in the case of – *Sandeep Rammilan Shukla & Ors.* Vs. State of Maharashtra & Ors. [2008 ALL MR (Cri) 3486] and ensure that complaints are registered promptly as soon as they disclose commission of cognizable offence. It is brought to our notice that the directions which are given by this decision of this Court are not strictly adhered to. It is made clear that strict action will be taken if the directions given in the aforesaid decision of this Court are not followed”.

In the past, from time to time instructions have been issued on the above subject by this office. However, observations made by the Hon'ble High Court mentioned above, clearly show that instructions are not being followed scrupulously.

In the matter of *Sandeep Rammilan Shukla & Ors.* Vs. State of Maharashtra & Ors. [2008 ALL MR (Cri) 3486] Hon'ble Supreme Court had observed that

(a) The expression "shall" appearing in Section 154 of the Code of Criminal Procedure is mandatory. The Section places an 'absolute Duty' on the part of the 'officer in charge of a police station' to record information and place substance thereof in the prescribed book, where the information supplied or brought to his notice shows commission of cognizable offence.

(b) As the law does not specifically prohibit conducting of a limited preliminary inquiry pre-registration of FIR in exceptional and rare cases by the officer in charge of a police station, he may penultimately thus enter upon a preliminary inquiry in relation to information supplied of commission of a cognizable offence but only and only upon making due entry in the Daily Diary / Station Diary/ Roznamacha instantaneously with reasons as well as the need for adopting such a course of action. Such inquiry should be completed expeditiously and in any case not later than two days. Thereafter, the FIR should be recorded in the prescribed register and/ or the officer should take any other recourse permissible to him strictly in accordance with the provisions of the Code of Criminal Procedure under which he is empowered to investigate. Such cases can be illustrated by giving an example i.e. when the information received in regard to commission of a cognizable offence would patently cause absurd results or report of happening of events, authenticity of which ex facie is extremely doubtful.

(c) The law inescapably requires the police officer to register the information (FIR) received by him in relation to commission of a cognizable offence. Under the Scheme of the Code, no choice is vested in the police officer between recording or not recording the information received. The concerned officer would aptly take recourse to clause (a) as a normal rule while could adopt the course of action as stated in clause (b) above as an exceptional and rare case.

All Unit Commanders are directed to bring these instructions in writing to the notice of all the Police Stations and subordinate officers working under them and comply with the above directions issued by the Hon'ble Court scrupulously. The Unit Commanders should also mandate that these instructions are read over (in Marathi) during roll call continuously for three days and make station diary entry to that effect to ensure compliance of order of Hon'ble Court in true spirit. All concerned should be sensitized that any failure to comply with the above instructions would be viewed seriously and appropriate action would be taken against the concerned.


(G. D. Pol)

Spl. Inspector General of Police (L. & O.)
For Director General of Police,
Maharashtra State, Mumbai

To,

All Commrs. of Police (Including Rly.)
All Supdts. of Police (Including Rly.)

Copy to,

Addl. Director General of Police, C.I.D., M.S., Pune.
Addl. Director General of Police, Rly., M.S., Mumbai.
All Range Inspector General of Police.
Desk Officer, Desk No. 14, D.G.P. office, Mumbai.

Copy with compliments to

The Addl. Chief Secretary, Home Department, Mantralaya, Mumbai.
The Principal Secretary, Law and Judiciary Department, Mantralaya,
Mumbai.

Shri. P.A. Pol,
Govt. Pleader and Public Prosecutor,
High Court, A.S., Mumbai