

OFFICE OF THE SENIOR SUPERINTENDENT OF POLICE (L&O)
PUDUCHERRY

No. 3383 SSP(L&O)-RR/2016

Dated: 24.11.16

NOTE

Directions issued by the Hon'ble High Court of Judicature at Madras registration of FIR - Reg.

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The Hon'ble Mr. Justice P.N. Prakash of Hon'ble High Court of Judicature at Madras pronounced a Judgment on 27.09.2016 in CrI. O.P. Nos. 19197, 19198, 19343 and 19359 19363 of 2016 in "Sugesan Transport Pvt. Ltd., Chennai & 6 others Versus the Assistant Commissioner of Police, Adyar PS, Chennai & others". The following directions are issued in the Judgment:

- i. A petition under Section 482, Cr.P.C. for a direction to register an FIR on the complaint of the petitioner circumventing the time table prescribed by the Supreme Court in Lalita Kumari-IV and V is not maintainable.
- ii. This Court directs all the Station House Officers in the State of Tamil Nadu and Union Territory of Puducherry to receive any complaint relating to the commission of cognizable offence by a common man and if the Station House Officer wants to conduct a preliminary enquiry, he shall immediately issue a CSR receipt (in case of Tamil Nadu) or issue a separate receipt (in case of Union Territory of Puducherry) to the complainant and after making the necessary entries in the Station General Diary, as directed by the Supreme Court in Lalita Kumari-IV and V, conduct preliminary enquiry. In Lalita Kumari-IV, the Supreme Court has directed that after conducting preliminary enquiry, if the police come to the conclusion that no FIR need be registered, a duty is cast upon the police to furnish a copy of the closure report to the complainant. After getting the closure report, it is open to the complainant to file a petition under Section 156(3) Cr.P.C. or private complaint under Section 190 read with Section 200 Cr.P.C. disclosing the facts and persuading the Magistrate to take cognizance of the offence. Such a petition/private complaint should disclose the closure report of the police. After taking cognizance of the offence, the Magistrate can also order police investigation under Section 202, Cr.P.C. to a limited extent. The closure report cannot be subject to judicial review under Section 482 Cr.P.C.

OFFICE OF THE
SUPDT. OF POLICE (EAST)
4847/SPE/GR/1/6 Sub:
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MUTHIALPET CIRCLE
No: 1697/ma/or/16
Date: NOV. 2016

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- iii. If the Station House Officer refuses to receive the complaint, the complainant shall send the complaint together with a covering letter to the Superintendent of Police/Deputy Commissioner of Police by Registered Post with Acknowledgment Due under Section 154(3) Cr.P.C.
- iv. If there is inaction on the part of the Station House Officer and the Superintendent of Police, the complainant is at liberty to move the jurisdictional Magistrate under Section 156(3) Cr.P.C.
- v. The complaint shall be given to the Magistrate either in Tamil or in English in the form of a representation in first person addressed directly to the Magistrate.
- vi. The complaint shall be accompanied by an affidavit as mandated by the Supreme Court in Priyanka Srivastava.
- vii. On receipt of the complaint, the Magistrate shall pass orders thereon within 15 days, either issuing directions or dismissing the petition.
- viii. If the Magistrate decides to order police investigation, he should pass a judicial order to that effect in the record sheet.
- ix. A copy of the order, together with original complaint and copy of the affidavit, shall be forwarded by the Magistrate to the jurisdictional police officer for investigation.
- x. If the police officer does not register FIR within a period of one week from the date of receipt of the Magistrate's order, the Magistrate shall initiate prosecution against him under Section 21 read with Section 44 of the District Police Act before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be.
- xi. If no FIR is registered by the police within one week from the date of receipt of a copy of the order of the Magistrate under Section 156(3), Cr.P.C., the complainant can approach this Court under Section 482, Cr.P.C.
- xii. If the police fail to complete the preliminary enquiry within six weeks as mandated by the Supreme Court in Lalita Kumari-V, the complainant can approach this Court under Article 144 read with Section 482, Cr.P.C.
- xiii. The aforesaid petition under Article 144 read with Section 482, Cr.P.C. must be accompanied by an affidavit sworn to by the complainant with satisfactory materials to show that the police have not completed the preliminary enquiry within six weeks, as mandated by the Supreme Court in Lalita Kumari-V. In such a petition, this Court will not read the complaint, but, issue directions to the police to register an FIR on the

complaint for the very failure of the police to follow the mandates of Lalita Kumari and V. The Registry of this Court shall not number the petition filed under Sect 482, Cr.P.C. seeking a direction to register an FIR unless it is accompanied by affidavit containing the above details.

- xiv. In suitable cases, this Court shall also direct disciplinary action to be taken against police officer for the violation of the mandates of Lalita Kumari - IV and V.
 - xv. If the police officer fails to register the FIR pursuant to the directions of this Court, will be liable for contempt of Court, besides facing disciplinary action.
 - xvi. The aggrieved party can also approach the local Legal Services Authority and t Authority shall take immediate steps to ensure that an FIR is registered or CSR rece issued to the complainant.
 - xvii. Every police station shall have a board giving the name and telephone number of t local Legal Services Authority.
2. All SHOs/CIs in Puducherry District are hereby instructed to follow the abo directions in letter and spirit. The SDPOs shall ensure this.

 23.11.16

(A. K. GAWAS, IPS)
Sr. Supdt. of Police (L&O)
Puducherry

To: All SDPOs, CIs & SHOs in Puducherry District.

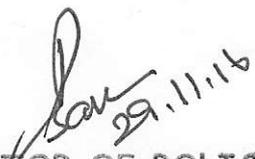
Copy for info to :

The Director General of Police, Puducherry.

All SDPOs / CIs / SHOs / Muthialpet
Amma/9

Forwarded for Necessary action
Mut. PS / Kal. PS / O.P.


28/11/16
SUPDT. OF POLICE (EAST)
PUDUCHERRY


29.11.16
INSPECTOR OF POLICE
MUTHIALPET CIRCLE
PUDUCHERRY