CIRCULAR

No. 61 /2013.

Subject :- Decision of Hon'ble Supreme Court of India in a Writ Petition (Criminal) No. 68 of 2008 –Lalita Kumari V/S Govt. of U.P. & ors. With S.L.P (Crl.) No. 5986 of 2006, S.L.P (Crl.) No.5200 of 2009, Criminal Appeal No.1410 or 2011 & Criminal Appeal No. 1267 of 2007 and Contempt petition © No. 6722 of 2008.

While disposing of the above referred Writ petition, a Bench of five Hon'ble Judges of the Hon'ble Supreme Court of India headed by CJI has laid down directions for police with regard to registration of FIR and conducting of preliminary enquiries. The operative para i.e. 111 of the judgment dated 12.11.2013 is reproduced below for necessary action:-

111. "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.

vii. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

viii. 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.

ix. Since the General Diary/Station Diary/Daily Dairy 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".

the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above".

All Districts/Units concerned Addl. CsP/DCsP should direct ACsP, SHOs and IOs for strict compliance and implementation of these guidelines laid down by the Hon'ble Supreme Court of India.

Any laxity will be viewed seriously.

(S.K. GAUTAM)
JOINT COMMISSIONER OF POLICE
GENARAL ADMINISTRATION : DELHI

No.9002-9152/Record Branch/PHQ, dated, Delhi the 15/11/2013.

Copy forwarded for information and necessary action to the:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi.
3. All Addl. Commissioners of Police, Delhi.
4. SO to Commissioner of Police, Delhi.
5. All Districts/Units Addl CsP/DCsP including P/PTC, FRRO & IGIA, Delhi/NewDelhi.
6. All ACsP/PHQ, LA to CP. FA to CP, Delhi.
7. All Inspr./PHQ.
8. So to DCP/Hdqrs., Delhi.
9. HAR PHQ with 10 spare copies.

MOST IMMEDIATE/SUPREME COURT MATTER

OFFICE OF THE COMMISSIONER OF POLICE : DELHI.

No.50/L/SC/08/ /Court Cell/DA-I/[C&T Branch]/PHQ, dated

To

The Addl. Commissioners of Police/
The Dy. Commissioners of Police,
All Districts/Units of Delhi Police,
Including Principal/PTC, Crime, Railways, Metro, IGIA, FRRO and Special Cell,
Delhi/New Delhi.

Subject:- **Criminal Misc. Petition No. 5029 of 2014 in Writ Petition(Criminal) No. 68 of 2008; Lalita Kumari Versus Govt. of UP & others.**

Memo.

Kindly refer to PHQ's Circular No. 61/2013 issued vide No. 9002-9152/Record Branch/PHQ dated 15.11.2013 regarding decision of Hon'ble Supreme Court of India in a Writ Petition(Criminal) No. 68 of 2008; Lalita Kumari Vs. Govt. of UP & ors. with SLP(Crl.) No. 5986 of 2006, SLP(Crl.) No. 5200 of 2009, Criminal Appeal No. 1410 of 2011 & Criminal Appeal No. 1410 of 2011 & Criminal Appeal No. 1267 of 2007 and Contempt Petition © No. 6722 of 2008.

The above cited matter was heard by the Hon'ble Supreme Court of India on 05.03.2014. After hearing the learned Additional Solicitor General of India and in the light of the grievance expressed in the present criminal miscellaneous petition filed in the writ petition, the Hon'ble Apex court has modified clause (vii) of paragraph 111 of the Hon'ble Supreme Court of India's judgement dated 12.11.2013, in the following manner:-

"(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 fifteen days generally and in exceptional cases, by giving adequate reasons, six weeks time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry."

No.1075/RB/PHQ
26-05-14.
SI/SO.
Record Branch
Delhi

It is requested that all ACsP, SHOs and IOs working under your respective districts/units may please be directed for strict compliance and implementation of these guidelines laid down by the Hon'ble Supreme Court of India.

[HARENDRA K. SINGH]
DEPUTY COMMISSIONER OF POLICE
HDQRS., DELHI

No.50/L/SC/08/ 3577-3617 /Court Cell/DA-I/[C&T Branch]/PHQ, dated 23/1/14

Copy forwarded with reference to PHQ's Circular No. 61/2013 issued vide No. 9002-9152/Record Branch/PHQ dated 15.11.2013, for favour of information and necessary action to the:-

1. All Joint CsP, Delhi.
2. SO to the CP/Delhi.
3. LA & FA to the CP/Delhi.
4. SOs to the Special CsP/Delhi.
5. HAR/PHQ.

[HARENDRA K. SINGH]
DEPUTY COMMISSIONER OF POLICE
HDQRS., DELHI