

No. D2-54133/2018/PHQ

Police Headquarters, Kerala
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Dated: 11/04/2018

Circular No. 05/2018

**Sub: Preliminary Enquiry (PE) – Registration Report -
Conducting of – Reg.**

Conducting of a Preliminary Enquiry (PE) is as important as registration of a criminal case and conducting investigation thereof. The PEs are routinely conducted in Anti-Corruption Agencies, Central Law Enforcement Agencies. The Hon'ble Supreme Court of India, time and again, has not only validated conducting of such PEs but also issued directions under what circumstances PEs should be conducted by the Police. Till date, we have not issued instructions as to how to conduct PEs, how to conclude them, how to convert them into criminal cases, etc. In the light of the Supreme Court orders, we are issuing detailed instructions in this Circular to be complied with by all concerned. It is clearly mentioned here that PEs should be registered in appropriate circumstances in the CBCID and also in the Local Police. As far as Local Police is concerned, a close supervision by supervisory officers is required, otherwise there is every chance of the PEs being misused and conducted without control causing a lot of legal, ethical & practical issues.

02. In Police, in view of the directions of the Hon'ble Supreme Court of India, we need to conduct Preliminary Enquiries (PEs) in certain circumstances. Conducting of PEs should not be misused and there should not be any burking of registration of cases. Decision to conduct PEs should be in the interest of the department and in the interest of the complainant also.

03. The Hon'ble Supreme Court has laid down clearly the time limit in completing the PEs. That has to be adhered to. In all the circumstances, the roles of the supervisory officers are very crucial. It is intended that the supervisory officers of the level of DySP, SP, IGP and above must understand clearly various issues and directions contained in this Circular and explain them to the officers in the field, properly.

04. A Constitution Bench of the Hon'ble Supreme Court in Lalita Kumari Vs. Govt. of U.P [W.P. (Crl) No. 68/2008] held that registration of First Information Report is mandatory under Section 154 of the Code of Criminal Procedure (Cr.PC), if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible in such a situation. If the information received does not clearly disclose a cognizable offence but indicates the necessity for an enquiry, a Preliminary Enquiry may be conducted only to ascertain whether any cognizable offence is disclosed or not.

05. The Hon'ble Supreme Court issued the following guidelines regarding the registration of FIR & conducting of a PE:

- (i) Registration of FIR is mandatory under Section 154 of the CrPC, if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible in such a situation.*
- (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an enquiry, a preliminary enquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.*
- (iii) If the enquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary enquiry 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 enquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offences.*
- (vi) As to what type and in which cases preliminary enquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary enquiry 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 / lack 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 Enquiries].

(vii) While ensuring and protecting the rights of the accused and the complainant, a Preliminary Enquiry 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.

06. Later the Hon'ble Supreme Court made the following changes:

*(vii) While ensuring and protecting the rights of the accused and the complainant, a Preliminary Enquiry 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.*

(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 enquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary enquiry must also be reflected, as mentioned above.

07. When information regarding an incident or a complaint or an allegation is received by the SHO, he should record the brief of that information without changing the material facts in the General Diary. Therefore if the information does not reveal a cognizable offence a PE is to be conducted. Sometimes in the petitions or in the information received, there will be more than one allegation. There is no bar in registering more than one PEs on such petitions, allegations-wise. However that shall be decided by the IGP Range or above in case of Local Police and ADGP CBCID in case of CBCID.

08. Once the SHO feels that a PE is required regarding a particular information / complaint / allegation received at the Station he shall request for directions in writing from the range IGP concerned. The letter to the range IGP will be routed through DPC directly and not through the normal channel to avoid delay. The DPC shall forward the same to Range IGP on the same day itself and Range IGP shall convey his decision at the earliest to the SHO and DPC.

09. In case where it is decided to conduct a PE the PE shall be conducted by the SHO concerned or SDPO in Local Police and DySP/DI nominated by ADGP in CBCID..

10. PE Registration Report: As soon as it is instructed as above to register a PE, the Unit Head of CBCID / SHO will take action to get the PE Registration Report (to be prepared in a format shown as Annexure-I). **Registration Report of PE should be written in the PE Registration Report Form and not on the form prescribed for recording First Information Report under Section 154 Cr.PC.** Besides the allegations in brief, the complete details of the suspects involved should be recorded in the PE Registration Report. The copies of the PE Registration Reports should be sent to the DySP/ASP concerned in Local Police and to the SP/IGP concerned in CBCID.

11. After the registration of the PE, a GD entry should be made, a Plan of Action should be drawn up by the Enquiry Officer in consultation with his Supervisory Officer. He should put time limit for each of the action points contained in the Plan of Action. The time limit given by the Hon'ble Supreme Court to be adhered to. After the completion of the PE, a **Final Report** is to be prepared in a format (**Annexure-II**) and submitted to the Supervisory Officer along with recommendations for further necessary action.

12. Collection of Documents/Recording of Statements in PE: The Preliminary Enquiries should be limited to the scrutiny of records and examination of bare minimum persons which may be necessary to judge whether there is any substance in the allegations which are being enquired into and whether the case is worth pursuing further or not.

13. The required documents/records (copies only) should be collected under proper receipt memos. The statements of witnesses during the Preliminary Enquiries should be recorded in the same manner as recorded during the investigation of Criminal Cases. However, issuance of notices under section 91 Cr.PC. and 160 Cr.PC. shall not be resorted to during PE.

14. Register for PEs: A serial number shall be allotted to each P.E like PE No.001/2018 – Cantonment PS dated 01/01/2018 or PE No.001/2018-CBCID PS dated 02/01/2018. This should be entered into a Register for PE maintained in each P.S and CBCID HQs. The same format of FIR Index register can be used for the PEs. [In CBCID, PEs are to be registered in the CBCID HQ (CBCID PS) and given to various CBCID offices by ADGP Crimes.]

15. Procedure for Converting a PE into a Crime Case: The Preliminary Enquiries will result either in registration of Crime Cases or in recommending Departmental Action, or being closed for want of proof. As soon as sufficient material disclosing the commission of a cognizable offence becomes available during the course of Preliminary Enquiry, the Enquiry Officer will draw up the PE Final Report as in annexure II and a Criminal Case should be registered within 24 hours of such finalization.

16. Quick disposal of a PE is very important. Converting a PE, to a Crime Case is crucial. If such case ends in conviction, the Enquiry Officer must be rewarded.

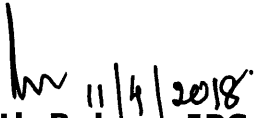
17. Procedure Regarding PEs received from Other Police Stations for Part Enquiries: Whenever requests are received from another Police Station to make part-enquiries in their PEs within the local limits of the PS concerned, these should be entered by the receiving PS in a separate Register for PE and given serial numbers for reference. The SHO receiving such request should get the part-enquiry done at the earliest and forward the report to the SHO/SP concerned as early as possible.

18. In nutshell it has been decided that –

- i) PEs shall be conducted by the CBCID forthwith. The decision to conduct a PE shall rest on the ADGP Crimes. In the event any CBCID Office receives a petition and the Unit Head feels that a PE to be conducted, the Unit Head (DySP/SP) shall transmit that quickly to the ADGP Crimes with the recommendation to conduct a PE and it is the ADGP Crimes to decide whether a PE to be conducted or not. Once he decides, he will issue the orders and the Unit Head will conduct the PE as per the directions contained in this Circular. PE in CBCID should be done by an Officer of and above the rank of Inspector of Police.

- ii) Supervision of the PE shall be done in a hierarchical manner in the CB CID.
- iii) After the PE is completed, a case can be registered only on the directions of the ADGP Crimes. Therefore, Unit Head has to send the result of the PE to the ADGP Crimes through the concerned SP and IGP.
- iv) As far as Local Police is concerned, conducting of PE should be done prudently. There should not be a tendency not to register cases and go for PEs.
- v) A PE should not be considered as a shortcut and substitute to a criminal case.
- vi) The decision to conduct PE in Local Police will rest on the Range IGP concerned who will order the registration of a PE after getting recommendation from the Police Station through the DPC (SHO to DPC straight) concerned. The DPC concerned may also recommend to IGP directly.
- vii) The disposal of the PE will also be ordered by the Range IGP concerned. [This methodology should be followed at the moment and only after observing the success of the system, delegation to the DPCs instead of IsGP will be made].

The above instructions must be understood and complied with by all concerned.


Loknath Behera IPS
Director General of Police &
State Police Chief, Kerala.

Distribution:

All Officers in List 'B'

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KERALA POLICE

PRELIMINARY ENQUIRY REGISTRATION REPORT

1. District (ജില്ല): P.S.(പോലീസ് സ്റ്റേഷൻ):
PE No. (പ്രാഥമിക അന്വേഷണ നമ്പർ): Year (വർഷം):
Date and time of PE (പ്രാഥമിക അന്വേഷണ തീയതിയും സമയവും):
2. Occurrence of suspected offence / misconduct (സംശയിക്കുന്ന കുറ്റകൃത്യം / പെരുമാറ്റം സംഭവിച്ചു):
 - (a) Date From (തീയതി മുതൽ): Date To (തീയതി വരെ):
Time From (സമയം മുതൽ): Time To (സമയം വരെ):
 - (b) Information received at PS (പോലീസ് സ്റ്റേഷനിൽ വിവരം ലഭിച്ചു):
Date (തീയതി): Time (സമയം):
 - (c) General Diary Reference(ജനറൽ ഡയറി സൂചനാവിവരം):
Entry No. (നമ്പർ): Date (തീയതി): Time(സമയം):
3. Type of Information (ലഭിച്ച വിവരത്തിന്റെ സ്വഭാവം):
4. Place(s) of Occurrence (കൃത്യസ്ഥലം):
 - (a) Direction and distance from PS :
(PSൽ നിന്നുള്ള ദിശയും അകലവും)
Beat No (ബീറ്റ് നമ്പർ) :
 - (b) Address (മേൽവിലാസം) :
 - (c) In case, outside the limit of this Police Station, then
(പോലീസ് സ്റ്റേഷന്റെ അധികാരപരിധിക്ക് വെളിയിലാണെങ്കിൽ)
Name of P.S.(പോലീസ് സ്റ്റേഷന്റെ പേര്):
District / State (ജില്ല/സംസ്ഥാനം):
5. Complainant / Informant (പരാതിക്കാരൻ/വിവരം നൽകിയ ആൾ)
 - a) Name (പേര്) :
 - b) Father's / Mother's / Husband's Name :
(പിതാവിന്റെ/മാതാവിന്റെ/ഭർത്താവിന്റെ പേര്)
 - c) Date/Year of Birth (ജനന തീയതി/വർഷം):
 - d) Nationality (പൗരത്വം) :
 - e) UID Number (ആധാർ നമ്പർ) :
 - f) Passport No (പാസ്പോർട്ട് നമ്പർ) :
Date of Issue (നൽകിയ തീയതി) :
Place of Issue (നൽകിയ സ്ഥലം) :

g) ID details (Ration Card, Voter ID Card, UID No., Driving License, PAN) [തിരിച്ചറിയൽ രേഖകളുടെ വിശദാംശങ്ങൾ (റേഷൻ കാർഡ്, വോട്ടർ ഐഡി കാർഡ്, ആധാർ നമ്പർ, ഡ്രൈവിംഗ് ലൈസൻസ്, പാൻ)]

| S.No. (ക്രമ നമ്പർ) | ID Type (തിരിച്ചറിയൽ രേഖ) | ID Number (തിരിച്ചറിയൽ രേഖ നമ്പർ) |
|--------------------|---------------------------|-----------------------------------|
| | | |

(h) Occupation (തൊഴിൽ):

(h) Address (മേൽവിലാസം):

| S.No. (ക്രമ നമ്പർ) | Address Type (മേൽവിലാസത്തിന്റെ തരം) | Address (മേൽവിലാസം) |
|--------------------|--|---------------------|
| 1. | Present Address (നിലവിലെ മേൽവിലാസം) | |
| 2. | Permanent Address (സ്ഥിരമായ മേൽവിലാസം) | |

(i) Phone Number (ഫോൺ നമ്പർ) :
 Mobile Phone Number (മൊബൈൽ ഫോൺ നമ്പർ) :

6. Information contents (ലഭിച്ച വിവരത്തിന്റെ ഉള്ളടക്കം):

7. Details of Known / Suspected / Unknown accused with full particulars (അറിയാവുന്ന/കണ്ടാലറിയാവുന്ന/ സംശയിക്കാവുന്ന / അറിയാത്ത കുറ്റവാളികളെ സംബന്ധിച്ച വിശദ വിവരങ്ങൾ):

(Attached separate sheet, if necessary) (ആവശ്യമെങ്കിൽ പ്രത്യേകം ഷീറ്റ് ചേർക്കുക)

| S.No. (ക്രമ നമ്പർ) | Name (പേര്) | Alias (അപരനാമം) | Relative's Name (ബന്ധുവിന്റെ പേര്) | Address (മേൽവിലാസം) |
|--------------------|-------------|-----------------|------------------------------------|---------------------|
| 1. | | | | |

8. The PE being registered and the enquiry taken up. ((പ്രാഥമിക വിവരം രജിസ്റ്റർ ചെയ്ത് അന്വേഷണം ഏറ്റെടുത്തു):

Shri. to take up the enquiry as per the directions of the competent authority.

Registered the reports, read over to the complainant/informant and admitted to be correctly recorded: (റിപ്പോർട്ട് രജിസ്റ്റർ ചെയ്ത്, പരാതിക്കാരനെ/വിവരം നൽകിയ ആളെ വായിച്ചു കേൾപ്പിച്ചു. ശരിയായ വിവരമാണ് രേഖപ്പെടുത്തിയതെന്ന് സമ്മതിച്ചു.)

9. Signature/Thumb impression of the complainant/informant

Signature of officer-in-charge
 Police Station
 Name:
 Rank:



KERALA POLICE
PRELIMINARY ENQUIRY FINAL REPORT

- | | |
|--|-----------------|
| 1. District : | Police Station: |
| 2. PE No. & Date of Registration | : |
| 3. Place (s) & Date (s) Occurrence | : |
| 4. Background of Registration | : |
| 5. Suspect / Accused Persons | : |
| <u>A1</u> | : |
| i) Name with parentage | : |
| ii) Address (present) | : |
| iii) Role in the crime, in brief | : |
| iv) Arrested/on bail/not arrested / absconding | : |
| A2 | : |
| 6. Name(s) of Enquiry Officer(s) (Chronologically if more than one) | : |
| 7. Name(s) of Supervisory Officer(s) | : |
| 8. Date on which case was made over to the Enquiry Officer | : |
| 9. Date of completion of Enquiry | : |
| 10. Reasons for delay, if any | : |
| 11. A detailed background of the allegation and its registration | : |

12. Allegation(s) made in the PE :

13. Fresh Allegations found during the enquiry :

14. :
(i) Allegations on which PE was conducted (point wise)

(ii) Evidence chart, accused wise :

(iii) Witnesses & documents relevant to prove the allegations :

(iv) Conclusion: :

15. Final Recommendations of the Enquiry Officer :
(To be done accused wise)

CERTIFICATE

The Preliminary Enquiry Final Report has been prepared as per the materials / documents, collected / available during the enquiry, statements prepared by me and other officers who assisted me in the enquiry.

Signature of Enquiry Officer
with date.