

POLICE



DEPARTMENT

No.D4-194129/2022/PHQ

Police Headquarters,
Thiruvananthapuram

✉ phq.pol@kerala.gov.in

☎ 04712721547

Dated. 14-02-2023

Circular. 4/2023/PHQ

Sub : Notice U/s 41(A) CrPC notice - modified instructions issued - reg:

Ref : (1) PHQ Circular No.07/2011 Dated.16/03/2011

(2) Judgement of Hon'ble Supreme Court of India dated: 02.07.2014 in Arnesh Kumar Vs State of Bihar (Crl A No. 1277/2014 @ SLP(Crl) No 9127/2013)

(3) Judgement of Hon'ble Supreme Court of India dated: 11.07.2022 in Satender Kumar Antil Vs CBI (Miscellaneous Application No. 1849/2021 @ SLP(Crl) No 5191/2021)

(4) Judgment of the Hon'ble High Court of Delhi dated: 07.02.2018 in Amandeep Singh Johar Vs. State of NCT of Delhi (WP(C) No.7608/2017)

(5) Judgement of Hon'ble High Court of Kerala dated: 27.07.2022 in Con. Case (C) No. 808/2022

The directions in the Judgement of Hon'ble Division Bench of the Hon'ble High Court in the reference cited 5th above are related with compliance of the Judgement of Hon'ble Supreme Court cited 2nd and 3rd above. As per the Judgment of the Hon'ble Apex Court cited 3rd above, all the State Governments and the Union Territories are to facilitate standing orders for the procedure to be followed under Section 41 and 41A of the CrPC while taking note of the order of the Hon'ble High Court of Delhi dated 07.02.2018 in Writ Petition (C) No. 7608 of 2018 and the Standing Order issued by the Delhi Police i.e., Standing Order No. 109 of 2020, to comply with the mandate of Section 41A of the CrPC. The Judgment of Hon'ble High Court of Delhi in WP(C) No.7608/2017, vide reference 4th cited, and Delhi Police Standing Order No.109 of 2020 lays down a new format of notice U/s 41A CrPC and also a new procedure for the issuance of such notices.

Hence, the Circular issued vide reference cited 1st above is modified in consonance with the directions in the aforesaid Judgement. As such, the format of notice which is to be used by the Investigating officers for serving to the suspects / accused during investigation as envisaged under 41A CrPC is appended below:-

Serial No.....

Police Station

To ,

[Name of Accused/Noticee]

[Last Known Address]

[Phone No./Email ID (if any)]

Notice under Section 41(A) CrPC

In exercise of the powers conferred under sub-section (1) of section 41A of the Code of Criminal Procedure, 1973, I hereby inform you that during the investigation of FIR/Case No dated u/s registered at Police Station, it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you, in relation to the present investigation. Hence you are directed to appear before me at AM/PM on at Police Station.



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You are directed to comply with all and/or the following directions:-

- (a) You will not commit any offence in future.
- (b) You will not tamper with the evidences in the case in any manner whatsoever.
- (c) You will not make any threat, inducement, or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing, such facts to the court or to the police officer.
- (d) You will appear before the Court as and when required/directed.
- (e) You will join the investigation of the case as and when required and will co-operate in the investigation.
- (f) You will disclose all the facts truthfully without concealing any part relevant for the purpose of investigation to reach to the right conclusion of the case.
- (g) You will produce all relevant documents/material required for the purpose of investigation.
- (h) You will-render your full co-operation/assistance in apprehension of the accomplice.
- (i) You will not allow in any manner destruction of any evidence relevant for the purpose of investigation/trial of the case.
- (j) Any other conditions, which may be imposed by the Investigating Officer/SHO as per the facts of the case.

Failure to attend/comply with the terms of this Notice can render you liable for arrest under Section 41A(3) and (4) of Cr.PC.

[Signature] _____

[Name and Designation] _____

[affix seal] _____

ACKNOWLEDGEMENT

Sr.No.....

In compliance with the above mentioned notice dated issued under Section 41A Cr.PC, the Noticee has appeared on from to The Noticee's presence has been recorded in the register maintained by the Police Station. This acknowledgement is being issued in compliance with Section 41A Cr.PC. The documents produced by the noticee have duly been seized vide seizure memo/ production memo (copy enclosed). The noticee undertakes to continue to comply with any further notice that she/he may receive during the course of the present investigation.

[Signature of Accused)/Noticee]

[Signature of IO]

All Police officers are hereby directed to follow the procedure envisaged in 41A CrPC in all those cases in which arrest of a person involved in a cognizance offence is not required under the provisions of sub section (1) of Section 41 of CrPC, by issuing notice to them to appear before him or at such other place as may be specified in the notice in the above mentioned format.



Anil Kant IPS
State Police Chief

To : All Officers in list 'B'

Copy To : CAs to all Officers in PHQ/Manager,PHQ/ Operation Cell, PIC, PHQ/Stock File/Circular Book



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