

No. U4/18052/2012
POLICE HEADQUARTERS
Kerala, Thiruvananthapuram-10
Dated: 08.04.2012

CIRCULAR No. 08/2012

Sub:- Missing persons – Release of traced person – modified instructions issued –
Ref:- PHQ Circular No.20/2011 dtd. 21.07.2011.

As per Sec.57 of the Kerala Police Act 2011 detailed instructions were issued regarding registration and investigation of cases related to missing persons vide PHQ Circular No.20/2011 dated 21.07.2011.

In the judgement related to a "woman missing" case in WP (CrI) No.582/2011 dated 22.12.2011, the Hon'ble High Court of Kerala has ordered that "in all cases of information relating to the missing of any person, the jurisdictional police, through the appropriate SHO, is duty bound to register that information following the procedure that has to be adopted for registering a cognizable offence in terms of the Code of Criminal Procedure. It is further ordered that upon the registration in terms of what is aforesaid, the police shall take all efforts to trace the missing person; and, upon being traced, that person shall be produced, without fail, before the jurisdictional Judicial Magistrate, including to decide on the question whether the said person has to be released or permitted to go with a person who claims to be the "responsible guardian" of the person so traced out".

In view of the above judgement, in all cases where the information relating to the missing of any person is registered and the said person is traced out, the Investigating Officer should proceed under sub section 5 of section 57 of the Kerala Police Act 2011 and that person should be produced before the Judicial Magistrate having jurisdiction. The handing over of the missing person to the so called "responsible" guardian has to be done only after ascertaining the identity of the guardian, to the satisfaction of the jurisdictional Judicial Magistrate.

The missing person, on being traced, should not be released by the Police, but invariably should be produced before the jurisdictional Judicial Magistrate.

Para 6 of PHQ Circular No.20/2011 dated 21.07.2011 is modified to the above extent.

STATE POLICE CHIEF

To

All Officers in List 'B' for information and necessary action.
Copy to All Officers in PHQ/Manager/AO/Legal Advisor.
,, ,, RAC/Circular Register/Stock File/Records.