

No. U6-17786/2021/PHQ

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Dated: 03/05/2021

Circular No. 13/2021

Sub: Different procedure in Investigation and Prosecution laid down by the Hon'ble Supreme Court in *Suo Motu Writ (Criminal) No. 1/2017 - Compliance of the Order - Instructions – Reg.*

Read: Order of the Hon'ble Supreme Court dated 20-04-2021 in *Suo Motu Writ (Criminal) No.1/2017.*

Hon'ble Supreme Court of India, vide Order cited, had *interalia* laid down some procedure in investigations which is to be incorporated in the Criminal Rules of Practices by the High Courts and in the Police Manual/Rules within a period of six months. As direction takes effect from the date of the Court Order, the new procedure as laid down by the Hon'ble Court in relation to investigation, is furnished below, for compliance by all officers concerned, with immediate effect:

INVESTIGATION

1. BODY SKETCH TO ACCOMPANY MEDICO LEGAL CERTIFICATE, POST MORTEM REPORT AND INQUEST REPORT:

Every Medico Legal Certificate, Post Mortem Report shall contain a printed format of the human body on its reverse and injuries, if any, shall be indicated on such sketch.

Explanation: The printed format of the human body shall contain both a frontal and rear view of the human body as provided in ANNEXURE–A (2 Sheets).

This must be brought to the notice of all concerned (Police Surgeon etc) by DPC / DySP, District CB / DySP DCRB immediately.

2. PHOTOGRAPHS AND VIDEOGRAPHS OF POST MORTEM IN CERTAIN CASES

- I. In case of death of a person in Police action [under Section 46 Criminal Procedure Code, 1973("Cr.PC") or Sections 129 to 131 Cr.PC] or death while in Police custody, the Magistrate or the Investigating Officer, as the case may be, shall inform the hospital or doctor in charge to arrange for Photographs or Videography for conducting the post-mortem examination of the deceased. The Photographs of the deceased shall also be arranged to be taken in all cases.
- II. Such Photographs and Videographs shall be taken either by arranging a Police Photographer or a nominated Photographer of the State Government, and where

neither of the above are available, an independent or private photographer shall be engaged.

- III. Such Photographs or Videographs shall be seized under a *panchnama* (*Mahazar*) or Seizure Memo and all steps taken to ensure proper proof of such Photographs/Videographs during Trial.
- IV. The Investigating Officer shall ensure that such Photographs and Videographs, if taken electronically, are seized under a *panchnama* (*Mahazar*) or seizure memo and steps are taken to preserve the original, and ensure that certificates under Section 65B Indian Evidence Act, 1872 are obtained and taken to be proved during trial.
- V. The Videos or Photographs shall be stored on a separate memory card, accompanied by a duly certificates under Section 65B Indian Evidence Act, 1872.
- VI. Where Post-mortems are recorded in electronic form, the file containing the Post-mortem proceedings, duly certified, should be placed with the memory card as an attachment, unless individual memory cards are not capable of being produced before Court.

3. SCENE MAHAZAR / SPOT PANCHNAMA

- i. A site plan of the place of occurrence of an incident shall be appended by the Investigating Officer to the Scene Mahazar or Spot Panchnama.
- ii. The site plan shall be prepared by the Investigating Officer by hand, and shall disclose
 - a) the place of occurrence,
 - b) the place where the body (or bodies) was / were found,
 - c) the place where material exhibits and/or weapons,
 - d) blood stains and/or body fluids had fallen,
 - e) the place where bullet shells, if any, were found or have caused impact,
 - f) the source of light, if any and
 - g) adjoining natural and man-made structures or features such as walls, pits, fences, trees/bushes, if any &
 - h) elevation of structures and their location.
- iii. The preparation of this sketch by the Investigating Officer shall be followed by a scaled site plan prepared by police draftsman, if available, or such other authorized or nominated draftsman by the State Government, who shall prepare the scaled site plan after visiting the spot. This must be done within 2 or 3 days of the incident.
- iii. The relevant details in the *mahazar* or *panchnama* shall be marked and correlated in the said site plan.


4. SUPPLY OF DOCUMENTS U/S. 173, 207 & 208 Cr.PC

Every accused shall be supplied with Statements of Witness recorded u/s. 161 and 164 Cr.PC and a list of Documents, Material Objects and Exhibits seized during investigation and relied upon by the Investigating Officer (I.O) in accordance with Sections 207 and 208, Cr. PC.

*Explanation: The list of Statements, Documents, Material Objects and Exhibits shall specify statements, documents, material objects and exhibits **that are not relied upon by the Investigating Officer.***

The above instructions are binding.

NB: Please go through the entire judgment to have a proper understanding.

..3.5.2021
Loknath Behera IPS
Director General of Police &
State Police Chief, Kerala

Distribution:-

- 1) All SHOs in Police Stations including the Crime Branch - for info & urgent n/a.
- 2) All Officers in List B - for for info & urgent n/a.
- 3) The Director FSL / The Chief Chemical Examiner, Govt. of Kerala, Tvpm.
- 4) **ADGP Trg & IGP Trg – A Video Tutorial shall be made in 7 days and all Officers above the ranks of SIs to be sensitized. Report compliance in 3 months.**
- 5) All Officers in PHQ / DD, State Police Media Centre, PHQ.

Copy to:-

Circular File / Police Website / D-Space / CA to SPC.

