

CIRCULAR No. 07/2011

Sub: Arrest – Amendments to Code of Criminal Procedure 1973 - changes in police procedure - instructions issued - reg.

Ref: (1) PHQ Circular No 09/2010 dtd 18/2/2010
(2) Code of Criminal Procedure (Amendment) Act 2008 (5 of 2009)
(3) Code of Criminal Procedure (Amendment) Act 2010 (41 of 2010)

1. Through the CrPC Amendment Acts 2008 and 2010, Section 41 CrPC relating to the power of police to arrest without warrant, has been substantially amended. The Amendment intends that the powers of arrest conferred upon the police officer must be exercised after reasonable care and justification. It is noticed that, though the amendment came into effect w. e. f. 01/11/2010, police officers are not following the new provisions strictly. All officers are directed to familiarise themselves by referring to the amendments and to pay special attention to sections 41, 41-A, 41-B, 41-C and 41-D.

2. The major change is that it is now compulsory for the police to record the reasons both for making as well as for not making an arrest on the basis of a complaint or information or reasonable suspicion in respect of a cognizable offence for which the maximum punishment prescribed is 7 years or less. Henceforth, no person can be arrested for a complaint or suspicion of involvement in such an offence without a warrant unless.

(a) Such person commits a cognizable offence in the presence of a police officer; or the police officer has reason to believe that such person has committed the offence and is satisfied that such arrest is necessary, (i) to prevent such person from committing any further offence; or (ii) for proper investigation of the offence; or (iii) to prevent such person from causing the evidence of the offence to disappear or tampering; or (iv) to prevent such person from making any inducement, threat or promise to any person

acquainted with the facts of the case; or (v) to ensure his presence before the court as and when required.

(b) While making such arrest the police officer shall record his reasons in writing.

(c) In all cases where the arrest of a person is not required, the police officer shall record the reasons in writing for not making the arrest.

(d) In all cases where the arrest of a person is not required under the provisions of sub section (1) of section 41, the police officer shall , issue a notice (in the form of notice given below) directing the person to appear before him and to comply with the terms of notice. He can be arrested if such person fails to comply with such direction.

Form of notice to be issued as per section 41 (A) CrPC

Office Address

Notice

In exercise of the powers conferred under sub section (1) of section 41(A) of CrPC, I hereby inform you that during the investigation of Crime No..... U/s registered at Police Station, it is revealed that there are reasonable grounds to question you to ascertain facts and circumstances from you. Hence you are directed to appear before me at am/pm on at Police Station.

Date:

Signature
Name and Designation

(seal)


4. The police officer while making any arrest shall - (a) bear an accurate, visible and clear identification of his name for easy identification, (b) prepare a memorandum of arrest which shall be attested by at least one witness and counter signed by the person

arrested (c) inform the person arrested that he has a right to have a relative or a friend named by him to be informed of his arrest.

5. When any person is arrested for any offence and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

6. It is also directed that the present District Police Control Rooms in every district will function as the District Control Room required as per Section 41 C. A Notice Board shall be kept outside the Control Room to display the details of the persons arrested on the day and the previous day and the designation of the police officers who made the arrests. All Station House Officers of the District shall inform necessary details to their District Police Control Room with copy to the DySP DCRB immediately after they arrest any person. The particulars to be communicated are the Name of the Accused/Name of the Father of the Accused/Age/Sex/Address of Accused/Place at which Arrested/Time of Arrest/Date of Arrest/Crime No./Section of law/ Police Station/ Name of Arresting Officer/ Rank/Designation.

7. The State Crime Records Bureau functioning at Thiruvananthapuram will function as the State Level Control Room under the Police Headquarters. All DySsP of DCRB all over the state shall consolidate the list of arrested persons from Sunday to Saturday every week and electronically forward the consolidated list to the SCRB on the succeeding Wednesday. IGP SCRB will maintain this as a computerised digital data bank for the information of the general public and for the Department. Asst. Inspector of Police (Public Grievances) Police Headquarters will co-ordinate this activity and review the position every week and report deficiencies to Zonal ADGPs and the State Police Chief.


State Police Chief
Kerala

To All Officers in list 'B'.
Copy to: CAs to all Officers in PHQ/Manager, PHQ
Ops Cell / PIC, PHQ / Stock File / Circular Book