

No. D7/122883/2015

Police Headquarters, Kerala,
Thiruvananthapuram.

Dated: 31 /08/2015.

Circular No. 35/2015

Sub:- Judgement in WP(c) 21545/14 filed by Sri. Dharmaraj Bhosale, Suraj Bhavan, Varikkuzhiyil Thazham, Koduvally, Kozhikode- Seizure of Tube Money/ Unaccounted Money- Instruction issues- Reg.

Ref :- Order dated 08/10/2014 of the Hon'ble High Court of Kerala in WP(c) 21545/14

The Hon'ble High Court of Kerala while considering WP(c) 21545/14 filed by Sri. Dharmaraj Bhosale, Suraj Bhavan, Varikkuzhiyil Thazham, Koduvally, Kozhikode observed that the police is handing over the Tube money/ Unaccounted money etc. to the enforcement authorities without producing the same before the Magistrate Court as per the seizure list.

As per the order of the Hon'ble High Court of Kerala read above, the following instructions are issued to the police while seizing Tube money/ Unaccounted money.

1). Any police officer may seize any property which may alleged or suspected to have been stolen or which may be found under circumstances which create suspicion of the Commission of any offence. Such police officer, if subordinate to the officer in change of Police Station , shall forthwith report the seizure to that officer.

2). The Police officer acting under sub- section(1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to Court or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation.

3).He may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to further orders of the Court as to the disposal of the same.

4).The property seized under sub- section (1) is subject to speedy and natural decay and if the person entitled to possession of such property is unknown or absent

and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the Superintendent of police and provisions of section 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

5). As under Section 102 of the Civil Procedure Code the police has an accountability before the Jurisdictional Magistrate. It is the Magistrate to decide how to deal with the seized articles. The police cannot decide that the seized articles have to be handed over to the enforcement authorities.

6). If the police officer has a reasonable cause to believe that some other agency or authority has a right to claim over the seized articles, a report shall be filed before the Magistrate indicating the authority or agency that may likely to claim a right over the seized articles.

7). The enforcement authority can independently investigate and also can claim for seized articles in accordance with FEMA (Foreign Exchange Management Act, 1999).

8). The local police is not accountable to enforcement authorities. The authority to act upon seized articles must flow from the legal authority prescribed under law, if there are any discrepancies as to the seized articles, this also has to be adjudicated by the Magistrate.

To.

All Officers in List 'B'

Copy to : CA to all Officers in PHQ

: All SS and JS of PHQ for information

: RAC/Circular Book/Records/Stock File

State Police Chief

Kerala

SS
31/1/15
31/1/15
31/1/15