



POLICE



DEPARTMENT

KERALA

No.D1-41943/2026/PHQ

Police Headquarters,

Thiruvananthapuram

Vazhuthacaud

Pincode:695010

✉phq.pol@kerala.gov.in

☎04712721547

Dated. 13-03-2026

Circular. 3/2026/PHQ

Sub : Preliminary Enquiry (PE) under Section 173(3) in Bharatiya Nagarik Suraksha Sanhita, 2023 - procedures to be followed - reg.

Ref : Circular on Preliminary Enquiry issued from this office - No. 05/2018, Dtd. 11/04/2018).

As a general principle, the initiation of criminal proceedings requires the registration of a First Information Report (FIR). Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), prescribes the procedure for recording information relating to the commission of a cognizable offence.

Under the regime of the CrPC, and as a general rule continued under the BNSS, registration of an FIR upon disclosure of a cognizable offence was mandatory. The only recognized exception to this principle arose from the decision of the Supreme Court in *Lalita Kumari v. State of U.P.*, wherein a limited preliminary inquiry was permitted in specified categories of cases solely to ascertain whether the information disclosed a cognizable offence. Based on the Hon'ble Supreme Court's decision, a Circular on Preliminary Enquiry was issued from this office vide reference cited above.

However, the legal position has undergone modification with the introduction of BNSS, 2023. Section 173(3) of the BNSS now expressly carves out an additional exception to the general rule of mandatory registration.

Section 173(3) in Bharatiya Nagarik Suraksha Sanhita, 2023

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence, -



D1-41943/2026/PHQ



9769c1

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

This sub-section gives a discretion to the police officer who receives an information which discloses the commission of a cognizable offence not to straightaway register the FIR in certain cases, i.e., offence punishable with three years or more but less than seven years, but to hold an inquiry in order to find out whether the information received by him constitute a prime facie case.

The object of incorporating Section 173(3) of the BNSS is to prevent investigation of false and frivolous cases. This provision acts as a safeguard, particularly in cases involving freedom of speech or complex allegations, ensuring that the state's power to arrest is not used mechanically on unverified claims.

Legal Impact

This provision is a major change from previous law. In the landmark case of *Lalita Kumari v. Govt. of U.P. (2014)*, the Supreme Court held that registration of FIR is mandatory if the information discloses a cognizable offence. Police cannot conduct a preliminary enquiry before registering FIR in such case. Preliminary enquiries were only allowed in very specific exceptions (like matrimonial, commercial disputes, medical negligence cases, Corruption cases etc).

The Supreme Court, in the *Imran Pratapgadhi* case (2025), clarified the above principle is not absolute in all situations. especially after the new criminal procedure law and Section 173(3) is an exception to the general rule of immediate FIR registration. It is particularly relevant for cases involving speech, writing, or artistic expression to protect fundamental rights.

Section 173(3) of the BNSS now confers upon the police a broad statutory authority to defer the registration of a FIR, for a period of up to fourteen days, in cases involving offences punishable with imprisonment ranging from three to seven years.

Mandatory Requirements & Safeguards

The law places strict checks on this power to prevent police from delaying justice:

- (a) The SHO cannot decide to do a preliminary enquiry on their own; they must obtain prior permission from an officer not below the rank of Deputy Superintendent of Police.
- (b) The officer must consider the "nature and gravity of the offence" before deciding to conduct an enquiry.
- (c) The enquiry must be finished within 14 days.

The Core Points



- (i) Applies to cognizable offences punishable with imprisonment for 3 years or more, but less than 7 years.
- (ii) The officer in charge must obtain permission from an officer not below the rank of Deputy Superintendent of Police (SDPO/DySP) before initiating the enquiry.
- (iii) The preliminary enquiry must be completed within a strict period of 14 days.
- (iv) The purpose is to determine if a *prima facie* case exists to proceed with a formal investigation.
- (v) If a prima facie case is already evident from the initial information, the officer may choose to bypass the PE and proceed directly with the investigation after obtaining the necessary senior-level permission.
- (vi) If a prima facie case is not made out, the police must immediately inform the informant so they can seek alternative legal remedies.
- (vii) If the police refuse to register an FIR after the 14-day enquiry, the complainant can approach the Superintendent of Police. If that fails, they can apply to a Magistrate under Section 175(3).
- (viii) If the police are conducting a preliminary enquiry, a Magistrate still retains the power under Section 175 to order an investigation if they feel the police are not acting correctly.
- (ix) If the enquiry reveals a cognizable offence, the police must immediately register the FIR and proceed with a regular investigation.
- (x) If the officer concludes that no offence was committed, they must submit the findings to the senior officer (DySP/SDPO), for further action. The senior officer then decides whether to register the FIR or close the matter.

General Instructions

- (i) The inquiry should be conducted without unnecessary delay, balancing the need for investigation with protection against harassment.
- (ii) All steps taken during the preliminary enquiry must be recorded in the General Diary (GD). Since the General Diary is the record of all information received in a Police Station, all information relating to cognizable offences, whether resulting in the registration of an FIR or leading to an enquiry, must be mandatorily and meticulously reflected in the said Diary. The decision to conduct a preliminary enquiry must also be duly recorded therein.
- (iii) When information regarding an incident, complaint, or allegation is received by the SHO, he shall record a brief of such information in the General Diary without altering the material facts.
- (iv) Once the SHO is of the opinion that a Preliminary Enquiry (PE) is required in respect of particular information, complaint, or allegation received at the Station, he



shall request directions in writing from the DySP/SDPO concerned (Unit Head in Crime Branch).

(v) In cases where it is decided to conduct a PE, the PE shall be conducted by the SHO concerned or the SDPO/DySP in Local Police, and by the Unit Head in the Crime Branch.

(vi) As soon as instructions are issued to register a PE, the SHO / Unit Head of the Crime Branch shall take action to prepare the PE Registration Report in the format shown as Annexure-I. The PE Registration Report shall be written in the prescribed PE Registration Report Form and not on the form prescribed for recording a First Information Report. In addition to the allegations in brief, complete details of the suspects involved shall be recorded in the PE Registration Report. Copies of the PE Registration Report shall be sent to the DySP/SDPO concerned.

(vii) After registration of the PE, a GD entry shall be made and a Plan of Action shall be drawn up by the Enquiry Officer in consultation with the Supervisory Officer. A time limit shall be fixed for each action point contained in the Plan of Action. The time limit prescribed by law must be strictly adhered to. Upon completion of the PE, a Final Report shall be prepared in the prescribed format (Annexure-II) and submitted to the Supervisory Officer along with recommendations for further necessary action.

(viii) Preliminary Enquiries shall be limited to the scrutiny of records and the examination of the bare minimum number of persons necessary to determine whether there is any substance in the allegations under enquiry and whether the case is worth pursuing further.

(ix) Required documents/records (copies only) shall be collected under proper receipt memos. Statements of witnesses during Preliminary Enquiries shall be recorded in the same manner as during the investigation of criminal cases. However, notices permitted for investigation purposes after registration of an FIR under the relevant provisions of law shall not be issued during the PE.

(x) A serial number shall be allotted to each PE (for example: PE No. 001/2026 – Name of Police Station, dated 01/01/2026 or PE No. 001/2018 – Crime Branch Police Station, dated 02/01/2026). This shall be entered in a separate PE Register maintained in each Police Station and Crime Branch Police Station/Unit. The same format as the FIR Index Register may be used for PEs.

(xi) Preliminary Enquiries shall result either in the registration of a criminal case, recommendation of departmental action, or closure for want of proof. As soon as sufficient material disclosing the commission of a cognizable offence becomes available during the course of a Preliminary Enquiry, the Enquiry Officer shall prepare the PE Final Report as per Annexure-II, and a criminal case shall be registered within 24 hours of such finalisation.



(xii) Whenever requests are received from another Police Station to conduct part-enquiries within the local limits of the receiving Police Station in connection with their PEs, such requests shall be entered in a separate PE Register and assigned serial numbers for reference. The SHO receiving such request shall ensure that the part-enquiry is conducted at the earliest and shall forward the report to the concerned SHO/DySP as expeditiously as possible.

The aforementioned instructions must be clearly understood and strictly adhered to by all concerned Police Officers.



Ravada Azad Chandra Sekhar IPS
State Police Chief

To : All Unit Heads.

Copy : (1) Cyber Police Headquarters (for information and publishing in Police
To Website).
(2) All Officers in PHQ.
(3) Circular Register.

