

Rc.No.000112/Crime.3(2)/2022
Dated: 08.04.2022

Office of the Director General of Police,
Head of Police Force,
Chennai-4.

CIRCULAR MEMORANDUM

Sub : Police – Filing of Police report (Charge Sheet) u/s 173
Cr.P.C – opinion of Public Prosecutor – NOT
NECESSARY – Instructions – Issued.

Ref : Orders of the Hon'ble Madurai Bench of Madras High
Court dt 11.02.2022 in H.C.P No 1121 of 2021.

The Investigating Officers are following the procedure of getting opinion from the Public Prosecutor / Assistant Public Prosecutor concerned on the police final report (charge sheet) before forwarding it to the Magistrate concerned.

2., The Hon'ble Madurai Bench of Madras High Court, in the judgment reference cited, has ordered to the effect that there is no need whatsoever either to get an opinion or concurrence of the Public Prosecutor to present the final report before the Court of law as per the Code of Criminal Procedure. The excerpts from the judgement are as follows:-

"13. Therefore, we are of the view that when the Code itself does not contemplate obtaining opinion from the Public Prosecutor before filing a final report, handing over the final report even after completion of the investigation to the Public Prosecutor for opinion is not warranted."

15. The above rule makes it very clear that the final report normally should not be returned on the ground that forensic report or experts opinion is not available on the final report. Even such reports are not available, the Court has to send the communication to the expert to forward the copies to the Court. It is useful to refer to the judgment of Hon'ble Apex Court in R.Sarala Vs. T.S.Velu and Ors reported in 2000 (4) SCC 459. In the above judgment, the Hon'ble Apex Court has held as follows:

".....The aforesaid power of the officer in charge of the police station is subjected only to the supervision of superior police officers in rank as envisaged in Section 36 of the Code. There is no stage during which the investigating officer is legally obliged to take the opinion of a Public Prosecutor or any authority, except the aforesaid superior police officer in rank.

"16. The law laid down by the Hon'ble Apex Court considering various judgments referred to in the above judgment, makes it very clear that the investigating officer is not legally obliged to take the opinion of the Public Prosecutor or any authority except the superior police officer in rank as discussed in the above judgment."

3. In view of the above judgment of the Hon'ble High Court and judgment of the Hon'ble Supreme Court referred to therein, all the Investigating Officers are hereby instructed to henceforth file the final reports (charge sheets) within the time stipulated under the Cr.P.C and there would be no requirement in the cases investigated by them to obtain the opinion of the Public Prosecutor / Assistant Public Prosecutor concerned before filing it in the concerned Court.

4. Henceforth, no final report (charge sheet) shall be filed belatedly for the reason of seeking opinion of the Public Prosecutor / Assistant Public Prosecutor concerned and any deviation in this regard will be viewed seriously.

5. Also in case, any of the Courts return the charge sheet for want of copy of forensic report or experts opinion, the judgment of the Hon'ble Madurai Bench of Madras High Court (para 15) in the reference cited shall be brought to the knowledge of the Court concerned to get the charge sheet filed before the Court.

6. All Unit Officers are hereby directed to communicate this circular to the Investigating Officers under their jurisdiction and sensitize them in this regard and ensure strict compliance of the instructions.

7. Receipt of this circular should be acknowledged.

Sd/-Dr.C.Sylendra Babu
Director General of Police
Head of Police Force

To

All Unit Officers (including special units)

Copy to

All Zonal Inspectors General of Police.

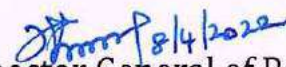
All Range Deputy Inspectors General of Police.

LA(S) / LA, Chief Office, Chennai.

The Administration Officer, RA Wing, Chief Office, Chennai.

Stock file.

//True Copy/Forwarded/BY Order//


Assistant Inspector General of Police
Law and Order