

POLICE ORDER No. 276

It has been brought to my notice that Junior S. Is. attached to Police-Stations are submitting Final Forms after completion of the investigation of the cases entrusted to them by the Officer-in-charge of the P.-Ss. and objections have been raised in some cases by concerned Magistrates questioning the propriety of such actions and validity of such reports on the ground that those reports do not fulfill the requirements of section 173 (2) Cr. P. C. The matter has been examined in this office in consultation with the Law Department. According to the opinion of the Law Department, such a practice is erroneous and needs to be done away with.

Chapter XII of the Cr. P. C. deals with the matters relating to information to the Police and their powers of investigation. Sections 154, 156, 157, 168, 169, 170 and 173 Cr. P. C. are relevant in this regard. U/s 154 Cr. P. C. only the O. I. C. of a P.-S. has the powers to register a case on receipt of information about commission of a cognizable crime and U/s. 156 and 157 Cr. P. C. he alone has the authority to investigate into the same. The J. S.-I. or A. S.-I. of the P.-S. derives powers of investigation only when deputed by the O. I. C. to do so in specific cases U/s. 157 Cr. P. C. and he is required to report results of investigation of each such case to the O. I. C. in accordance with the provisions of Sec. 168 Cr. P. C. The O. I. C. of the P.-S. has also the exclusive powers U/s. 169 and 170 Cr. P. C. to take the final decision regarding prosecution of the accused or otherwise in a case basing upon the ultimate outcome of the investigation. It is also obligatory only on him to forward to the Magistrate the report stipulated U/s. 173 Cr. P. C. on completion of the investigation. Thus it is the O. I. C. of a P.-S. who can register the case, investigate into it or cause it to be investigated by a subordinate officer and submit the final form to the Magistrate.

It may also be mentioned in this context that the Magistrate has the powers U/s. 190 (1) (b) Cr. P. C. to take cognizance of an offence on a "POLICE REPORT", which according to the definition contained in Sec. 2 (r) is the report forwarded by the O. I. C. of the P.-S. 173 (2) of the Code.

In view of the above provisions of the law, it is necessary to do away with the practice of submission of F. F. by subordinate officers of the P.-S. without the concurrence of the O. I. C. of the P.-S. and adopt the following procedure in all cases investigated by subordinate officers:—

All Final Forms (Charge-Sheet and Final report) submitted by subordinate Police Officer of a P.-S. should be countersigned by the Officer-in-charge of the P.-S. before their transmission to the Magistrate concerned. The Officer-in-charge of the P.-S. should discuss about the evidence available in each case with the investigating officer, peruse the records of investigation as may be necessary and satisfy himself about the results of the investigation of the cases, concerned before countersigning the report. In the absence of the O. I. C. at the P.-S. the officer next in rank who, as per section 2 (0) of the Cr. P. C. can legally function as the O. I. C. of the P.-S. should submit final forms in the cases investigated by him or forward the same in cases investigated by other subordinate officers after following the above procedure in his capacity as the Officer-in-charge of the P.-S. for the time being. The Final Forms should not be held up for perused and countersignature by the O. I. C. under any circumstances.

The statutory provisions of section 167 Cr. P. C. relating to submission of charge-sheets within 60 days and 90 days as the case may be, should be borne in mind by the Officers-in-charge as well as the investigating officers, who should ensure that the charge-sheets are not held up on any ground at the P.-S. and sent to the Magistrate in time. If the expiry date of 60 days or 90 days falls on a holiday, the charge-sheet should be submitted one day prior to the expiry date to avoid any complications.

This order should be strictly followed by all officers and any deviation from it should be strongly dealt with.