

POLICE CIRCULAR ORDER NO. 261, dated 6-12-1985

SUBJECT : Expeditious investigation of accident cases in view of Section 167 (5) Cr. P. Code 1973.

The upward trend in road accidents poses a serious threat to the safety of life and property on roads. There are many reasons responsible for this situation. Of these reasons the enforcement of M.V. Act and Rules is most important, the responsibility of which lies with the police.

Cases of road accident are instituted under sections 279/337/338/304-A.I.P. Code. These offences are summon triable cases to which Section 167 (5) Cr. P. Code applies. According to Section 167 (5), if investigation is not concluded within a period of 6 months from the date of arrest of the accused the Magistrate shall stop further investigation into the offence, unless the Magistrate is satisfied from the report of the I.O. that for special reasons and in the interest of justice the continuation of investigation beyond the period of six months is necessary. In most of the accident cases generally, accused persons are arrested on the date of occurrence or on subsequent dates.

Section 468 Cr.P. Code prescribes limitations period for different category of offences for taking cognizance by the Magistrate. According to this section the Magistrate can take cognizance of offences under section 279/337 I.P.C. if C.S. is submitted within one year and for offences under section 338/304-A I.P.C. if it is submitted within 3 years.

The object of Section 167 (5) and Section 468 Cr.P.C. are quite different. The court can stop further investigation under section 167 (5) if investigation is not concluded within 6 months from the date of arrest of the accused. But there is no bar for the court to take cognizance of an offence in view of section. 468 Cr. P.C. on the basis of evidence collected during the six months period, i.e., before stopping of further investigation of the case, provided there is prima facie case for doing so. Collection of evidence by the I.O. after expiry of 6 months or after further investigation is stopped without permission of the Magistrate will be without jurisdiction and the Magistrate will not act upon those evidence being illegal.

Reports of M.V.I. and Medical officers will not serve any purpose, if those reports are received by the I.Os. after Magistrate has stopped further investigation. It is therefore essential to receive those reports before investigation is stopped by the Magistrate.

The most safest course is to investigate accident cases before Magistrate stops further investigation u/s 167 (5) Cr. P.C. Because, once the investigation is stopped by the Magistrate, a lot of complication will arise. To reconcile such complications the Police has to take recourse to section. 167 (6) Cr. P. Code in filing petitions before the court of Sessions to permit continuation of investigation, but the fate of such petitions may be uncertain and time consuming. It should be remembered that section. 167 (5) of the code applies not only to the accident cases but also to all summons triable cases.

Sec. 167 (5) Cr. P.C. has of course no applicability to a case in which no arrest is made and such case will be governed by section. 468 Cr.P.C. Police Officers, therefore, should remember the distinction between the objects of section. 167 (5) and section. 468 Cr.P.C.

Investigation of accident cases specially when accused persons are arrested, should promptly be completed and C.Ss. submitted within the specified time. On the other hand, if there is necessity to continue investigation beyond six months, the I.O. should pray the Magistrate before expiry of six months to permit for continuing investigation, beyond six months. If the Magistrate stops further investigation, steps should immediately be taken to file petition before the court of sessions u/s 167 (6) of the code with a prayer to permit for continuing investigation of the case.

The I.O. s are hereby directed to go through the relevant provisions of law and follow the instructions strictly to submit final forms specially cases in which accused persons are arrested within the period of six months, from the date of arrest of accused persons to avoid stopping of investigation by Magistrates. The supervising officers are also advised to keep close watch over the summons triable cases and ensure timely submission of Final Forms so that no investigation would be stopped by Magistrates.

In the event, investigation of a case is stopped by the Magistrate for non-submission of Final Form by the I.O. within the stipulated period, departmental action will be taken against the said officer.

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