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DISTRICT CIRCULAR ORDER 02 /2014

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After the amendments in the Code of Criminal Procedure by the Code of Criminal Procedure Act -2008 and 2010, provisions under section 41 of Cr.P.C. relating to arrest and treatment of arrested persons, have been substantially amended. CB circular No.12/2011 deals in quite detail the amendments of section 41 Cr.P.C.

The Hon'ble High Court of Odisha had also, in connection with WPCRL No.1678/2013 in its judgment dtd. 27.12.2013 directed the Govt. of Odisha to issue necessary circular to ensure strict compliance of the mandatory procedure of section 41 and 41(A) of Cr.P.C. by police authorities of the State.

Subsequently, Hon'ble Supreme Court of India had given detail directions to the State Govt. to instruct police officers not to automatically arrest when a case under Sec 498-A IPC is registered. Hon'ble Supreme Court had directed that all police officers be provided with a check list containing specific sub-clauses U/s 41(1)(b)(ii). Hon'ble Court had also directed that failing to comply with direction shall, apart from rendering police officers concerned liable for departmental action, also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

Following the above directions of Hon'ble Supreme Court of India in Criminal Appeal No.1277 of 2014 (Spl Writ Petition) (CRL) 9127 of 2013 in the matter of Arnesh Kumar Vrs State of Bihar and another; detailed guidelines vide Police Circular Order No.350/2014 have been prescribed by Crime Branch, Criminal Investigation Department of Odisha Police. A check list has also been prescribed vide Annexure-II of PCO No.350/2014.

Therefore, to implement the above mentioned directions, the I.O. of each case is directed to comply the following provisions.

1. Whenever arresting a person for an offence punishable with imprisonment for a term which may be less than 7 years or which may extend to 7 years with or without fine, the I.O. will fill up the check list and forward it to the court along with arrest memo and inspection memo, while forwarding the accused.
2. I.O. will append his full signature in the appropriate sub-columns of column No.9 of the check list; whichever are applicable in respect of the particular arrested accused person.
3. Preparing check list will also be mandatory in case of persons being arrested and released on bail as per order of Hon'ble Courts.

4. In every Non-SR case, I.O will submit the check list in respect of every arrested person along with the Final Form submitted to Crime Section of District Police Office. Final Form will be considered as incomplete, without the check list in respect of arrested accused person.

5. In case the I.O. is satisfied that it is not necessary to arrest an accused person; he will forward a report to the concerned SDPO justifying the reasons behind the satisfaction. The SDPO will approve the satisfaction of the IO after recording his observations in the forwarding report and send a copy to Crime Section, District Police Office for reference and record. After receiving the communication regarding approval from the SDPO, the I.O will forward the decision to the Magistrate within two weeks from the date of the institution of the case. The mandatory period of two weeks can be extended by the SP on prayer of the I.O. in specific case and the reasons for extending the period will be reduced into writing by the SP.

6. Notice of the appearance in terms of section 41(A) of Cr.P.C. will be served on accused within two weeks of the date of institution of the case, which may be extended by the S.P. on specific prayer by the I.O. after reasons are recorded in writing.

7. In case a notice is served on an accused, the details will be entered in a Register, which will be maintained in the format given below (Namely Notice U/s 41 (A) Cr.P.C Register). For each accused person the following information will be recorded in the Register; in one page keeping next page blank for recording appearance at stipulated date, time and place.

- i) SL.No.
- ii) PS case reference.
- iii) Name and address of accused person.
- iv) Date of birth/year of birth.
- v) Nature of offence for which accused is prima-facie liable.
- vi) Maximum punishment prescribed for the offence.
- vii) Name and designation of the investigating officer.
- viii) Date on which notice issued.
- ix) Date on which notice served.
- x) Date, time and place at which the accused is directed to report.

In 2nd page chronological entry recording appearance of accused will be entered ,one entry being made for each appearance in the following format.


Date	Time	Place	Signature of accused	Signature of One witness	Signature of the IO	Remarks (Next date, time and place of appearance)

LAO

An attested (by IIC/OIC of the PS)³

~~A certificate~~ xerox copy of this page will be given to the accused after taking his signature in the Register on every date of appearance.

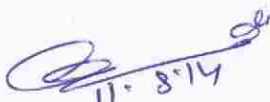
It is again re-iterated that failure to comply to the directions described above shall, apart from rendering the Investigating Police Officer liable for departmental action, also render them punishable for contempt before Hon'ble High Court of Odisha.



08.08.14
Superintendent of Police,
Angul.

Memo No 2583 /E

Date: 11 /08/2014

Copy to Addl. SP-I, Angul / Addl. SP-II, Angul / All SDPOS / DSsP HRPC / Hdqrs./ DIB / All Police Posts / Head Clerk, DPO, Angul / RO / Cyber Cell / SR Reader, DPO, Angul / Guard File (DCO) for information & necessary action.


11-8-14
Superintendent of Police,
Angul


11/8/14