

Questions on Investigation

- Q.30 What is investigation ?
- Q.31 What is the object of investigation ?
- Q.32 What do you mean by the maxim "*contra veritatem lex nunquam aliquid permittit*" and what is its relevance in the matter of investigation ?
- Q.33 Is "*investigation*" confined to investigation conducted by the Police only ?
- Q.34 What are the statutorily enumerated powers of investigation of an SHO under the Cr.P.C. ?
- Q.35 What are the various steps of investigation to be carried out by an investigating Police Officer ?
- Q.36 Is receipt of "*information*" a condition precedent for starting of investigation?
- Q.37 Can the SHO who had to mandatorily register an FIR under Section 154 Cr.P.C, refrain from commencing investigation?
- Q.38 Section 157 (1) Cr.P.C. states that if the SHO "*has reason to suspect the commission of an offence which he is empowered under Section 156 to investigate*", he shall forthwith proceed in person or shall depute one of his subordinates to proceed

to the spot to investigate the facts and circumstances of the case. What is the empowerment under Section 156 Cr.P.C. ?

- Q.39 Should the copy of the two informations referred to under Section 157 (1) and (2) Cr.P.C be sent to the Magistrate forthwith?
- Q.40 What are the options available to the Magistrate upon receipt of report either under Section 157 (1) or under Section 157 (2) Cr.P.C.?
- Q.41 What is the purpose sending a report to the Magistrate under Section 157 (1) and (2)?
- Q.42 Which is the report covered by Section 159 Cr.P.C which says “on receiving such report”?
- Q.43 Is there any special procedure for recording the statement of a rape victim ?
- Q.44 Is not the registration of an FIR, a *sine qua non* (condition precedent or indispensable requisite) for the commencement of investigation?
- Q.45 An SHO while sitting in the Police Station received information at 11 pm that a lorry which is believed to carry illicitly loaded rice meant for public distribution through

ration shops has been spotted in front of a closed shop at the market. The SHO along with his police party rushed to the said spot. The SHO interrogated the fidgety accused who was in custody of the contraband rice. The SHO seized the bags of rice under a mahazar and also recorded the statements of the witnesses to the occurrence. The accused, the seized rice and the seizure documents were taken to the police station from where the FIR was registered. Thereafter the Superior police inspector took over the investigation of the case. After the conclusion of investigation the accused was charge sheeted for an offence punishable under the Essential Commodities Act, 1955.

During the trial of the case the Public Prosecutor was seen using the statements of the mahazar witnesses for the purpose of corroboration. This was objected to by the defense lawyer on the ground that the statements are subjected to the interdict under Section 162 (1) Cr.P.C. The Public Prosecutor argued that since the statements were recorded even before the registration of the FIR, the bar under Section 162 Cr.P.C does not apply. The Prosecutor relies on *Mohindro v. State of Punjab (2001) 9 SCC 581* and *Shashikanth v. CBI (2007) 1 SCC 630* to contend that *whatever steps taken before the registration of the crime, do not amount to investigation so as to attract the embargo under Section 162 (1) Cr.P.C. Who is right?*

- Q.46** Is laying of a trap in a corruption case, part of investigation ?
- Q.47** Is it not open to the investigating Police Officers or their superiors to address letters to the Court for obtaining judicial orders in pending cases ?
- Q.48** Will not the illegality or irregularity of investigation vitiate the resultant trial ?
- Q.49** Is evidence collected by improper or illegal means, admissible ?
- Q.50** Is evidence obtained under an illegal search, admissible during trial ?
- Q.51** Is not the accused entitled to hearing in deciding the agency to be entrusted with the investigation ?
- Q.52** Is there any difference in the nature and purpose of investigation under Chapter XII Cr.P.C. and under Section 202 (1) Cr.P.C. ?
- Q.53** Is it not open to the Special Judge of the State Vigilance Department trying a case under the Prevention of Corruption Act, 1988 to order investigation by the CBI ?
- Q.54** Where there is a conflict between the provisions of the CBI Manual and the Cr.P.C. which will prevail ?

- Q.55** Is not the Court including the High Court entitled to direct the investigating agency to submit a charge-sheet after closing the investigation ?
- Q.56** Supposing the Investigating Officer files a closure report to the effect that no case is made out for prosecuting the accused. Has the Magistrate the authority to disagree with the Police and take cognizance of an offence made out by the prosecution records ?
- Q.57** Is the Magistrate bound to give notice and opportunity of hearing to the informant before accepting a closure report (refer report or refer charge) ?
- Q.58** Are not the Courts entitled to interfere with the investigation of cognizable offence by the Police ?
- Q.59** Can a charge – sheet against an absconding accused be filed merely because sufficient evidence against him is available ?
- Q.60** Has the accused any right to inspect documents in the custody of the Court whether relied on or not by the prosecution ?
- Q.61** Which are the documents to be supplied to the accused ?

- Q.62** Can an Officer superior to the SHO conduct investigation on the basis that he is an officer-in-charge of a Police station ?
- Q.63** Can the Court refuse to take cognizance of the offence for the reason that charge-sheet is incomplete ?
- Q.64** Can the investigation of a case be monitored by the Court ?
- Q.65** What is the report filed by the Police before the Court after the conclusion of investigation ?
- Q.66** What is meant by “charge- sheet” or “final report” ?
- Q.67** When a *charge sheet* is filed before the Magistrate, what are the options available to the Magistrates ?
- Q.68** If what has been filed before the Magistrate is a *closure report/ refer report/ refer charge/ final form*, what are the options available to the Magistrate?

Questions on “I N Q U I R Y”
Including the holding of INQUEST

- Q.69 What is an inquest ?**
- Q.70 What is an autopsy ?**
- Q.71 Which is the enabling power of an SHO to hold an inquest over a dead body ?**
- Q.72 Should not the SHO obtain the permission of the Executive Magistrate for holding inquest of the dead body of a person believed to have died an unnatural death ?**
- Q.73 What is the purpose of holding an inquest ?**
- Q.74 Has not the SHO the discretion not to send the dead body for post mortem examination in a case where he entertains no doubt regarding the cause of death ?**
- Q.75 Should not the inquest report contain the incident, the manner in which the incident took place, name of the accused etc. ?**
- Q.76 Is it necessary that the inquest should be held at the spot where the dead body is found ?**
- Q.77 Is it correct to say that the FIR loses its authenticity if it is lodged after the inquest is held ?**
- Q.78 Do not discrepancy, over-writing, omission or contradiction in the inquest report, render it liable to be eschewed from consideration ?**
- Q.79 Will interpolation in the inquest report render the prosecution case doubtful ?**

- Q.80** Is it open for the defence to falsify the prosecution version by relying on a document produced by the prosecution but not exhibited or formally proved by the prosecution ?
- Q.81** Is it usual to mention in the inquest report, a gist of the FIR and the cause of death as narrated by the witnesses ?
- Q.82** Is it not correct to say that both the “inquest report” and the “post-mortem report” are substantive evidence ?
- Q.83** Can the SHO who does an official act by preparing the inquest report etc., be guilty of causing disappearance of evidence of offence punishable under Section 201 IPC ?
- Q.84** In spite of a written application to the Police to investigate into the alleged murder of his sister married to one of the accused persons, the Police did not register it as an FIR. From the very beginning the Police were attempting to treat the case as one of suicide. If there are circumstances to justify an investigation into the allegation of suspicious murder, is it permissible for the Court to direct the Police to register the written application as an FIR ?
- Q.85** Are the statements of witnesses given during the inquiry under Section 174 Cr.P.C., governed by Section 162 Cr.P.C. ?
- Q.86** Are not post-mortem report and inquest report “public documents” and is not the accused entitled to inspect or receive their copies during the stage of investigation?
- Q.87** Are the Police bound to register an FIR as if in a cognizable offence, in the case of a missing person?

- Q.88** Are not the statements in the inquest report as to what the SHO saw and found on the dead body, hit by Section 162 Cr.P.C?
- Q.89** Are the statements of witnesses recorded by a police officer at the time of inquest during an “inquiry” under Section 174 Cr.P.C, subject to the embargo under Section 162 Cr.P.C ?



***Kochi,
20-08-2020***

***Justice V. Ramkumar,
Former Judge,
High Court of Kerala.***

C. INVESTIGATION

The power of the Police Officer to investigate an offence is to be located under Chapter XII Cr.P.C. particularly, Sections 154 to 163 and 165 to 175 of that Chapter. Under sub-section (1) of Section 202 Cr.P.C., a Magistrate on receipt of a private complaint, is entitled to direct an investigation to be made either by a Police Officer or by any other person as the Magistrate may think fit and by virtue of sub-section (3) to Section 202 Cr.P.C. such non-police officer who has been directed by the Magistrate to conduct an investigation, has all the powers of an officer-in-charge of a Police station except the power to arrest without a warrant. This is why, in the definition of the word investigation a person other than a Police Officer is also referred to.

Even though, going by the definition of the word “investigation” the main duty of the Investigating Officer is collection of **evidence**, the term “evidence” in this context should not be given the meaning ascribed to the said expression in Section 3 of the Indian Evidence Act, 1872. Collection of evidence need not be restricted to oral statements and documentary evidence. It can also include other acts of Investigation provided under Chapter XII of Cr.P.C., the recording of a confession from an accused leading to the discovery of a fact falling under Section 27 of the Evidence Act, laying of a trap in corruption cases etc. Likewise, a Magistrate is also given certain powers for aiding the investigation. Steps taken by a Magistrate recording a **dying declaration** or issuing a **search**

warrant or holding a **test identification parade** etc. are steps taken in aid of the investigation.

When the sweep of the Constitutional desideratum of “**Speedy trial**” emanating from Article 21 of the Constitution of India is not only confined to trials before Court, but also to investigations as well (vide *P. Ramachandra Rao v. State of Karnataka (2002) 4 SCC 578 = AIR 2002 SC 1856 – 7 Judges*; *Vakil Prasad Singh v. State of Bihar (2009) 3 SCC 355 = AIR 2009 SC 1822*; *Sirajul v. State of U.P. (2015) 9 SCC 201 = 2015 KHC 4440*; *Dilawar v. State of Haryana (2018) 16 SCC 521 = AIR 2018 SC 2269*.) one cannot resist the temptation of noticing the amendment brought about to the Prevention of Corruption Act, 1988 (the “P.C. Act” for short). In Prevention of Corruption (Amendment) Act, 2018 (Central Act 16/2018) a new provision has been inserted as Section 17 A. The said new Section says that no Police Officer shall conduct an “**enquiry**”, “**inquiry**” or “**investigation**” *into an offence relatable to any recommendation made or decision taken by a public servant, without the **previous approval** of the authority who is, by and large, the authority competent to grant prosecution sanction under Section 19 thereof.* No attempt at all has been made to define or distinguish between the expressions “**enquiry**” or “**inquiry**”. In the first place, “**inquiry**” is not a procedure assigned to the Police. Even **Lalita Kumari’s case** specifically took notice of the fact that “**inquiry**” is a procedure before a Magistrate or a Court of law. The Judge-made procedure of “preliminary inquiry” was ceded to the Police only for a limited purpose, and that too, for a specified category of cases only. Hence, when the Legislature was making a provision like Section 17 A referred to above, it ought to have clarified as to what is “**enquiry**” and “**inquiry**” by defining those

expressions. In the corridors of power in the State of Kerala the word “**enquiry**” is understood as the “*vigilance enquiry*” at the departmental level and the word “**inquiry**” is understood as the “*preliminary inquiry*” ordered by the Court. It was certainly not open to the Legislature to have enacted a provision of law leaving it to the enforcement agencies to ascribe whatever meaning they would prefer to give for the two expressions. Secondly, after the decision of the Apex Court in **Vineet Narain v. Union of India (1998) 1 SCC 226 = AIR 1998 SC 889**, it is not open either to the Government or to anybody else to interfere with the freedom of the SHO in the matter of mandatory registration of an offence and commencement of investigation and finally, arriving at the decision as to whether the accused should or should not be placed for trial. New Section 17 A interferes with the freedom of the SHO. Thirdly, if the provision was sought to be justified as a measure of safety for the public servant, there is sufficient safety by way of “preliminary inquiry” and “prosecution sanction”. Fourthly, this new Section 17 A appears to be a colorable exercise of power with a view to circumvent the binding verdict of the Constitution Bench of the Supreme Court of India in **Subramanian Swamy (Dr.) v. Director, CBI (2014) 8 SCC 682 = AIR 2014 SC 2140**, wherein Section 6 A (1) of the Delhi Special Police Establishment Act, 1946 was struck down as unconstitutional. If under the said Section 6 A (1) above the higher echelons of public servants were brought under the protective umbrella of prior approval, by Section 17 A of the P.C.Act Amendment, the entire class of public servants have been favoured with a similar protective cover. Do the public servants

deserve such additional safeguards which are really designed to permanently or temporarily jettison them from prosecution. A case which warrants expeditious investigation thereby avoiding loss or destruction of incriminating evidence, will lie dormant in the power centers of the State awaiting approval. Even in cases where the superior official eventually accords approval, it will be too late in the day for a meaningful prosecution. That apart, the pendency of the case in the corridors of power will add to the delay in the investigation and the consequent trial thereby offending the fundamental right of “speedy trial” guaranteed by Article 21 of the Constitution of India. The P.C. Amending Act has also drastically amended many of the penal provisions of the P.C.Act. Those provisions had got settled through the judicial pronouncements of the Apex Court after several rounds of litigation. Now, the present amendment will definitely pave the way for challenge at various levels and the unavoidable consequence will be, trials before various Courts will be stayed. I am a person having no affiliation or affinity to any political party. But when such unnecessary amendments are brought, one tends to suspect whether it is for political mileage or credit that such statutory measures are piloted. What was the drawback of the P.C.Act necessitating such drastic amendment? The Prevention of Corruption Act, 1988, after its amendment, has now really become a **Promotion** of Corruption Act. I am surprised that, to my knowledge, so far no lawyer worth his name has chosen to question the vires of the Amending Act, particularly Section 17 A thereof. I am sure that the Constitutional

Courts in the country will not allow such a provision to remain in the statute book.

Q.30 What is investigation ?

Ans. *Section 2 (h) of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) defines the expression "investigation" as under:-*

"(h) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a Police Officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf".

*Investigation ends with the formation of an opinion as to whether on the materials collected, there is a case to place the accused before a Magistrate for trial and if so, taking the necessary steps for the same by the filing of a charge-sheet under Section 173 Cr.P.C. (Vide para 11 of **Union of India v. Prakash P. Hinduja (2003) 6 SCC 195**).*

Q.31 What is the object of investigation ?

Ans. *The object of investigation is to find out whether the offences alleged have been committed and if so, who committed them. (Vide **Kari Chaudhary v. Sita Devi (2002) 1 SCC 714 = AIR 2002 SC 441**).*

Q.32 What do you mean by the maxim "*contra veritatem lex nunquam aliquid permittit*" and what is its relevance in the matter of investigation ?

Ans. *The said maxim means "the law never allows anything contrary to truth". There is a high responsibility on the shoulders of the investigating agency that the investigation is not conducted in a*

*tainted or unfair manner. The investigation should not prima facie be indicative of a biased mind and every effort should be made to bring the guilty to law as nobody stands above the law not withstanding his position and influence in the society. Courts have declined to accept a report submitted by an investigating officer where it is glaringly unfair and offends the basic canons of criminal investigation and jurisprudence. A Court is not to accept a report which is “**contra legem**” (contrary to law). Court has to ensure that the investigating agencies conduct the investigation in a judicious and fair manner and submit a report in accordance with Section 173 Cr.P.C. (Vide para 201 of **Manu Sharma v. State (NCT Of Delhi) (2010) 6 SCC 1**).*

Q.33 Is “*investigation*” confined to investigation conducted by the Police only ?

Ans. *No. The word “investigation” cannot be limited only to Police investigation, but on the other hand, the said word has a wider connotation and is flexible so as to include investigation carried on by any agency whether he be a Police Officer or empowered or authorised Officer or a person not being a Police Officer, acting under the direction of a Magistrate to make an investigation and vested with the power of investigation. (Vide **Directorate of Enforcement v. Deepak Mahajan (1994) 3 SCC 440 = AIR 1994 SC 1775**).*

Q.34 What are the statutorily enumerated powers of investigation of an SHO under the Cr.P.C. ?

Sl.No.	SECTIONS	PURPOSE
1.	4(1) & (2)	Procedure to be adopted for investigation of offences under the Indian Penal Code and other laws.
2.	36	Chapter IV – Part A. Power of superior Police Officers to investigate an offence.
3.	41 to 60 and 60A	Chapter V – Provisions pertaining to arrest of persons during investigation.
4.	91 to 105 102	Chapter VII – Provisions pertaining to search and seizure during investigation. Power to seize property and forthwith report to Magistrate.
5.	154	Information in cognizable cases. (FIR)
6.	155	Information as to non-cognizable cases and investigation of such cases.
7.	156	Police officer's power to investigate cognizable case.
8.	157	Procedure for investigation.
9.	158	Report under Section 157 to the Magistrate to be submitted through designated superior officer.
10.	160	Police Officer's power to require attendance of persons acquainted with the facts and circumstances of the case.
11.	161	Examination by the Police of persons acquainted with the facts and circumstances of the case.
12.	162	Statements to Police not to be signed and the extent of user of such statements in evidence.
13.	163	No inducement, threat or promise to be offered by the Police Officer.
14.	164 (1) to (5) 164 (5-A) (a) 164 (5-A) (b) MAGISTRATE	Recording of confessions of accused and statements (<i>other than confession</i>) of persons by Magistrate. Compulsory recording of statements by Magistrate of victims of certain specified erotic offences. Statement so recorded of a person who is temporarily or permanently mentally or physically disabled, to be treated as examination-in- chief under Section 137 of the Evidence Act.
15.	164 A	Medical examination of a rape victim.

16.	165	Search by an SHO during investigation either directly or through a subordinate officer.
17.	166	Request by the SHO to the SHO of another Police Station to issue search warrant.
18.	166 A	Letterogatory for investigation in a country or place outside India.
19.	166 B	Letterogatory from a country or place outside India to a Court or authority for investigation in India.
20.	167	Procedure to be followed when investigation cannot be completed in 24 hours.
21.	168	Report of the result of investigation by a subordinate Police Officer to the SHO.
22.	169	When the investigation does not produce sufficient evidence or reasonable ground to forward the accused for trial, SHO to release the accused on his executing bond.
23.	170	When the investigation has produced sufficient evidence or reasonable ground to forward the accused or commit him for trial, the SHO to forward the accused to the Magistrate after taking security from the accused for his due appearance.
24.	171	Complainant and witnesses on their way to any Court not to be required to accompany Police Officer and not to be subjected to any restraint.
25.	172	Diary of proceedings in investigation (i.e. Police diary or case diary).
26.	173	Submission of “Police Report” before the Magistrate upon completion of investigation.
27.	174 and 175	Investigation including inquest into suicide or other cases of unnatural death.

2. Let us now consider the scope of Section 157 Cr.P.C. which reads as follows:-

Section 157: Procedure for investigation

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under Section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that--

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case:

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements to that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

The following chart will give a rough idea about the Police investigation under the Cr.P.C.

P O L I C E I N V E S T I G A T I O N

Sl. No.	Initial investigation. Chapter XII Cr.P.C. (2013) 5 SCC 762	Further investigation. Chapter XII Cr.P.C.	Limited investigation. Chapter XV Cr.P.C.	Fresh/de novo investigation or reinvestigation.
1.	S. 154 r/w 156 (1) r/w 157 (Cognizable case)	S. 156 (3)		<u>Who can order ?</u> a) Constitutional Courts, namely the High Court under Article 226 and the Supreme Court under Article 32 of the Constitution of India (2009) 9 SCC 129 (2013) 5 SCC 762 (2013) 6 SCC 384
2.	S. 2 (d) r/w 200 r/w 156 (3) (Cognizable case)		S. 202 (1)	b) State Govt. or Central Govt., depending on the investigating agency. (AIR 1980 SC 326)
3.	S. 155 (1) and (2) (non-cognizable offence)	S. 173 (8)		The Investigating Officer or the Magistrate or the trial Judge (other than the High Court) cannot order (2010) 9 SCC 171) except in cases where the investigation was illegal and it is raised at the earliest stage. (AIR 1955 SC 196; AIR 1957 SC 592; AIR 1968 SC 1323; 2004 (1) KLT 122).
4.	Ss. 174 & 175 – Suicide or unnatural death.	<u>Who can order ?</u> a) Magistrate or Sessions Judge or Special Judge can order. But investigation by the same agency alone can be ordered. b) Constitutional Courts. c) Superior Police Officer – S. 36 Cr.P.C. (AIR 1980 SC 326 – para 12) d) State Government. (AIR 1980 SC 326- para 17)	<u>Who can order ?</u> The Magistrate or Court taking cognizance can direct investigation. This direction for investigation can be made to a Police Officer or any other person. The purpose of this investigation is to aid the Court to decide whether there is sufficient ground for proceeding and is not controlled by the interdicts under Section 162 Cr.P.C.	
	<u>Who can entrust the investigation with another agency ?</u> a) Constitutional Courts. b) State Government. (AIR 1980 SC 326- para 17) c) Superior Officer – S.36 Cr.P.C. (AIR 1980 SC 326- para 12) d) Central Government with the consent of the State Government Magistrate cannot.			

Q.35 What are the various steps of investigation to be carried out by an investigating Police Officer ?

Ans. S.2(h) of the Code defines investigation which reads as under:

'(h) 'investigation' includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf;.'

Under the scheme of the Code, investigation ordinarily commences with lodgment of “*information*” relating to the commission of an offence. If it is a cognizable offence, the officer - in - charge of the police station, to whom the information is supplied orally, has a statutory duty to reduce it to writing and get the signature of the informant. He shall enter the substance of the information, whether given in writing or reduced to writing as aforesaid, in a book prescribed by the State in that behalf. The officer - in - charge has no escape from doing so if the offence mentioned therein is a cognizable offence and whether or not such offence was committed within the limits of that police station. But when the offence is non - cognizable, the officer - in - charge of the police station has no obligation to record it if the offence was not committed within the limits of his Police Station. Investigation thereafter would commence and the investigating officer has to go step by step. The Code contemplates the following steps to be carried out during such investigation:

- (1) Proceeding to the spot;*
- (2) ascertainment of the facts and circumstances of the case;*
- (3) discovery and arrest of the suspected offender;*
- (4) collection of evidence relating to the commission of the offence which may consist of –*

- (a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit,
- (b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial; and
- (5) formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and, if so, to take necessary steps for the same by the filing of a charge - sheet under S.173.

(Vide **H. N. Rishbud and Another v. State of Delhi**, 1955 KHC 339 : AIR 1955 SC 196 : 1955 (1) SCR 1150 : 1955 CriLJ 526; **Navinchandra N. Majithia v. State of Meghalaya and Others**, 2000 KHC 1730 : 2000 (8) SCC 323 : 2000 SCC (Cri) 1510 : AIR 2000 SC 3275 : 2000 CriLJ 4600)

Q.36 Is receipt of “*information*” a condition precedent for starting of investigation?

Ans. No. Section 157 (1) Cr.P.C envisages a situation where investigation can be initiated either on “*information*” or “*otherwise*”. (vide **State of U.P v. Bhagwant Kishore Joshi** AIR 1964 SC 221 – 3 Judges). Again in **State v. V. Jayapaul (2004) 5 SCC 223**, we have seen the Police Officer not convinced by the cryptic, vague and discreet information which he got, himself conducted a probe and finally figured as the “*first informant*” and submitted a **suo motu** report. That also falls under “*otherwise*”.

Q.37 Can the SHO who had to mandatorily register an FIR under Section 154 Cr.P.C, refrain from commencing investigation?

Ans. Yes. A reading of Section 157 shows that if, from the “**information**” received under Section 154 (1) Cr.P.C. or otherwise, the SHO has “**reason to suspect the commission of an offence**” which he is empowered under Section 156 to investigate, he shall either proceed in person or depute one of his subordinates to proceed to the spot, to investigate the facts and circumstances of the case, and, **if necessary**, to take measures for the discovery and **arrest of the offender**. The said Section 157 further shows that while registration of FIR on receipt of “**information**” relating to the commission of a cognizable offence, is mandatory, investigation into such alleged offence is not a must unless the SHO has “**reason to suspect the commission of an offence**”. In other words, the Police is not liable to launch an investigation in every FIR which is mandatorily registered under Section 154. (Vide para 102 of **Lalita Kumari** (Supra.). Notwithstanding the fact that the SHO was bound to register an FIR consequent on his receiving “**information**” regarding the commission of a “cognizable offence”, he need embark on an investigation only if he has reason to suspect the commission of the “cognizable offence” alleged. (Vide para 102 of **Lalita Kumari v. Govt. of U.P. (2014) 2 SCC 1 = AIR 2014 SC 187**).

“**Reason to suspect the commission of an offence**” under Section 157 (1) Cr.P.C. and the **sufficiency of the ground** for entering on an investigation under Clause (b) of the proviso to Section 157 (1) Cr.P.C., are to be satisfied by the SHO from the allegations in the

*FIR and the materials, if any, placed before him at that stage. (Vide **State of Haryana v. Bhajan Lal 1992 Supp. (1) SCC 335 = AIR 1992 SC 604**).*

Q.38 Section 157 (1) Cr.P.C. states that if the SHO “*has reason to suspect the commission of an offence which he is empowered under Section 156 to investigate*”, he shall forthwith proceed in person or shall depute one of his subordinates to proceed to the spot to investigate the facts and circumstances of the case. What is the empowerment under Section 156 Cr.P.C. ?

Ans. *The empowerment under Section 156 (1) Cr.P.C. is the statutory empowerment to investigate a cognizable offence. The territorial jurisdiction of the Police Station is co-extensive with that of the appropriate Court which is competent to try the offence. (Vide **T.P. Nandakumar v. State of Kerala (2008) Cri.L.J. 298 (Kerala) = 2007 (4) KLT 775**).*

On the question of territorial jurisdiction, we had seen –

1. **Punati Ramulu AIR 1993 SC 2644** – according to me, the correct approach
2. **Satvinder Kaur AIR 1999 SC 3596**
3. **Rasiklal Dalpatral AIR 2010 SC 715** – forwarded to the SHO u/s 156 (3)
4. **Sushant Singh Rajput**
5. **T.P. Nanda Kumar 2008 Cri.L.J. 298** – co-extensive

Think of a cognizable offence committed at Kochi in Kerala and information is given to the SHO of a Police Station in Punjab. Does the law expect the Punjab Police to come to Kochi and conduct investigation ?

With what expedition and efficacy can the Punjab Police having the constraints of language barrier, complete the investigation and submit the police report before the Magistrate ?

Where will he submit the Police report ?

*Is it before the Magistrate having jurisdiction over the Police station at Punjab for the reason that as per the decision in **AIR 1999 SC 3499** any Magistrate can take cognizance of an offence ?*

If so, can the Magistrate at Punjab try the offence ?

Going by Section 156 (1) read with Section 177 Cr.P.C. is it not the Magistrate at Kochi competent to try the offence ?

Will it not be necessary for the Punjab Police to again visit Kochi for the purpose of giving evidence with the same disadvantage of the language barrier ?

*Instead, if the Punjab Police, acting strictly under Section 156 (1) Cr.P.C. as interpreted in **AIR 1993 SC 2644**, were to register an FIR and transfer the same to the Police station concerned at Kochi and if the Kochi Police were to conduct investigation and submit the Police Report before the Magistrate at Kochi, would it not be legally and practicably proper ?*

***AIR 1999 SC 3499** which has taken the view that a Magistrate can take cognizance of an offence committed outside his territorial jurisdiction, has overlooked Sections 170, 173 (2) (i), 204 (1) Cr.P.C. wherein it is indicated giving no room for any doubt whatsoever that the Court which can try the offence is the Court which is competent to take cognizance of the offence **and** try the offence. My respectful opinion is that **AIR 1999 SC 3499** requires reconsideration by a larger Bench of the Supreme Court of India.*

Sending “report” to the Magistrate in cases where the SHO decides to investigate or not to investigate.

Q.39 Should the copy of the two informations referred to under Section 157 (1) and (2) Cr.P.C be sent to the Magistrate forthwith?

Ans. *Yes. Section 157 (1) and (2) Cr.P.C. mandates this. (Vide para 87 of Lalita Kumari v. Govt. of U.P. (2014) 2 SCC 1 = AIR 2014 SC 187).*

Q.40 What are the options available to the Magistrate upon receipt of report either under Section 157 (1) or under Section 157 (2) Cr.P.C.?

Ans. *As per Section 159 Cr.P.C. the Magistrate can direct an investigation or at once proceed to hold a **preliminary inquiry** or depute any subordinate Magistrate to conduct such preliminary inquiry or otherwise to dispose of the matter in the manner provided by the Cr.P.C. (Vide **Pala Singh v. State of Punjab (1972) 2 SCC 640 = AIR 1972 SC 2679 – 3 Judges**)*

Q.41 What is the purpose sending a report to the Magistrate under Section 157 (1) and (2)?

Ans. *Its purpose is to keep the Magistrate informed of the investigation of such cognizable offence so as to be able to control the investigation and if necessary give appropriate direction under Section 159. (vide para 6 of **Pala Singh v. State of Punjab (1972) 2 SCC 640 = AIR 1972 SC 2679 -3 Judges**).*

Q.42 Which is the report covered by Section 159 Cr.P.C which says “on receiving such report”?

Ans. *It is the report under Section 157 (2) Cr.P.C and not under Section 157 (1) Cr.P.C because the question of directing an investigation by the Magistrate cannot arise in pursuance of the report referred to under Section 157 (1) intimating that the police officer proceeded with the investigation either in person or by deputing any one of his subordinate officers. (vide **State of Haryana v. Bhajan Lal 1992 Supp. (1) SCC 335 = AIR 1992 SC 604**).*

***NOTE:** Section 159 Cr.P.C. does not say that “such report” occurring in that Section refers to the report under Section 157 (2) only and not under Section 157 (1) also.*

Q.43 Is there any special procedure for recording the statement of a rape victim ?

Ans. *Yes. If the offence alleged is rape, then the statement of the victim shall be recorded at the residence of the victim or at a place of her choice and as far as practicable by a women police officer in the presence of her parents or guardian or near relatives or social worker of the locality. The victim shall not be required to attend before the Police Officer or any place other than the place in which the women resides. (Vide **2nd proviso to Section 157 (1) and the proviso to Section 160 (1) Cr.P.C.**). The second proviso to Section 161 (3) Cr.P.C. inserted with effect from 03-02-2013 further directs that the statement of the women against whom the specified erotic offences including*

rape had been committed, shall be recorded by a woman police officer or any woman officer.

Investigation whether a necessary consequence of the registration of an FIR in every case.

Q.44 Is not the registration of an FIR, a *sine qua non* (condition precedent or indispensable requisite) for the commencement of investigation?

Ans. Ordinarily yes. It has been so held in *Mohindro v. State of Punjab (2001) 9 SCC 581* and *Shashikanth v. CBI (2007) 1 SCC 630*. But, there can be extraordinary situations whereunder a Police Officer may have to conduct investigation even before the formal registration of an FIR.

Q.45 An SHO while sitting in the Police Station received information at 11 pm that a lorry which is believed to carry illicitly loaded rice meant for public distribution through ration shops has been spotted in front of a closed shop at the market. The SHO along with his police party rushed to the said spot. The SHO interrogated the fidgety accused who was in custody of the contraband rice. The SHO seized the bags of rice under a mahazar and also recorded the statements of the witnesses to the occurrence. The accused, the seized rice and the seizure documents were taken to the police station from where the FIR was registered. Thereafter the Superior police inspector took over the investigation of the case. After the conclusion of investigation the accused was charge sheeted

for an offence punishable under the Essential Commodities Act, 1955.

During the trial of the case the Public Prosecutor was seen using the statements of the mahazar witnesses for the purpose of corroboration. This was objected to by the defense lawyer on the ground that the statements are subjected to the interdict under Section 162 (1) Cr.P.C. The Public Prosecutor argued that since the statements were recorded even before the registration of the FIR, the bar under Section 162 Cr.P.C does not apply. The Prosecutor relies on *Mohindro v. State of Punjab* (2001) 9 SCC 581 and *Shashikanth v. CBI* (2007) 1 SCC 630 to contend that whatever steps taken before the registration of the crime, do not amount to investigation so as to attract the embargo under Section 162 (1) Cr.P.C. Who is right?

Ans. *The defense counsel is right. It is not necessary that the formal registration of a crime should be made before proceeding to the spot. It is enough if the police officer has some information affording him reason to suspect the commission of a "cognizable offence". Any step taken by him pursuant to such information, towards the detection of the offence etc. would be part of investigation (vide **Maha Singh v. State (Delhi Admn.)** (1976) 1 SCC 644 = AIR 1976 SC 449). Although, ordinarily investigation is undertaken on information, Section 157 Cr.P.C indicates that an SHO can start investigation either on information or otherwise. (vide para 8 of **State of UP v. Bhagwant Kishore Joshi** AIR 1964 SC 221 = 1964 (1) Cri.L.J 140 – 3 Judges; **Apren Joseph v. State of Kerala** (1973) 3 SCC 114 =*

AIR 1973 SC 1 – 3 Judges; Chandrababu v. S.I. of Police 1988 (2) KLT 529). It does not make any difference whether the information received by the police officer was reduced to writing or not at that particular stage. (vide **Kanthi Lal Damodar Das v. State of Gujarat AIR 1970 Gujarat 218 –** followed by the Kerala High Court in **Chandrababu (Supra)**).

Q.46 Is laying of a trap in a corruption case, part of investigation ?

Ans. *Not always. It depends upon the fact whether the trap was laid before or after recording the complaint. In **State of M.P. v. Mubarak Ali AIR 1959 SC 707 = 1959 Cri.L.J. 920 – 3 Judges, –** The trap was laid after a typewritten complaint was given. In **Maha Singh v. State (Delhi Admn.) (1976) 1 SCC 644 = AIR 1976 SC 449 –** The trap was laid after recording of the complaint).*

*Laying a trap by a Police Officer may be a step in investigation if a case had already been registered in the Police station pursuant to which the trap is set. But, laying of a trap cannot be part of investigation where the exercise is only to find out whether an offence is going to be committed after a successful trap. (Vide para 7 of **Raghubir Singh v. State of Haryana (1974) 4 SCC 560 = AIR 1974 SC 1516 – 3 Judges –** Here the FIR was registered after the trap).*

Q.47 Is it not open to the investigating Police Officers or their superiors to address letters to the Court for obtaining judicial orders in pending cases ?

Ans. *No. The legally accepted mode of getting a judicial order is to move the Court on the judicial side through the public*

*prosecutor in charge of the case. (vide para 23 of **State of Bihar v. JAC Saldanna (1980) 1 SCC 554 = AIR 1980 SC 326 – 3 Judges**).*

Q.48 Will not the illegality or irregularity of investigation vitiate the resultant trial ?

Ans. *No, the defect or illegality, however serious, has no direct bearing on the cognizance of a case or its trial. It is only in the nature of an error in the proceeding antecedent to trial and is curable under Section 465 Cr.P.C. unless it can be shown to have caused prejudice to the accused or has resulted in miscarriage of justice. (Vide **Lumbhardar Zutshi v. The King AIR 1950 PC 26 = (1950) 51 Cri.L.J. 644; Rishbud H. N. and Inder Singh v. State of Delhi AIR 1955 SC 196 = 1955 Cri.L.J. 526 (SC) – 3 Judges; Din Dayan Sharma v. State of U.P. AIR 1959 SC 831 = 1955 Cri.L.J. 526 (SC); Major E. G. Barsay v. State of Bombay AIR 1961 SC 1762 = 1961 (2) Cri.L.J. 828; Munna Lal v. State of U.P. AIR 1964 SC 28 = 1964 (1) Cri.L.J. 11 (SC) – 3 Judges**).*

Q.49 Is evidence collected by improper or illegal means, admissible ?

Ans. *Yes, if it is relevant and its genuineness stands proved. However, Court may be cautious while scrutinizing such evidence. (Vide **Pooran Mal v. Director of Inspection (Investigation) (1974) 1***

SCC 345 = AIR 1974 SC 348 – 5 Judges; *Pedda Narayana v. State of A.P.* (1975) 4 SCC 153 = AIR 1975 SC 1252).

Q.50 Is evidence obtained under an illegal search, admissible during trial ?

Ans. *Yes. Even if search is illegal, that will not vitiate the seizure and the further investigation. (Vide **State of Maharashtra v. Natwarlal Damodardas Soni** (1980) 4 SCC 669 = AIR 1980 SC 593).*

Q.51 Is not the accused entitled to hearing in deciding the agency to be entrusted with the investigation ?

Ans. *No. The accused has no right to be heard in the matter. (Vide **CBI. V. Rajesh Gandhi** (1996) 11 SCC 253 = AIR 1997 SC 93).*

Q.52 Is there any difference in the nature and purpose of investigation under Chapter XII Cr.P.C. and under Section 202 (1) Cr.P.C. ?

Ans. *Yes. The investigation under Chapter XII Cr.P.C., whether in pursuance of the registration of a crime under Section 154 Cr.P.C. or in compliance of a Court order under Section 156 (3) Cr.P.C., should necessarily end in a “Police Report” filed under Section 173 (2) Cr.P.C. The purpose of such investigation is to prosecute the offender in case there is incriminating evidence against him.*

*But an investigation ordered under Section 202 (1) Cr.P.C. which is at the post-cognizance stage, need not necessarily be by the Police. It can be by a non-police person as well. Even if such investigation is by the police, it will not end in a "Police report" filed under Section 173 (2) Cr.P.C. The purpose of this investigation is only to aid the Magistrate to consider whether there is sufficient ground for proceeding further with the private complaint. (Vide **Dilwar Singh v. State (2007) 12 SCC 641 = AIR 2007 SC 3234; Mohd. Yousuf v. Afaq Jahan (2006) 1 SCC 627 = AIR 2006 SC 705**).*

Q.53 Is it not open to the Special Judge of the State Vigilance Department trying a case under the Prevention of Corruption Act, 1988 to order investigation by the CBI ?

Ans. *No. Power to entrust the investigation with the CBI rests only with the Constitutional Courts such as the High Court under Article 226 and the Supreme Court under Article 32 of the Constitution of India. (Vide **Ram Saral Nautiyal v. State of Uttaranchal 2006 Cri.L.J. 1713 (Uttara)**; **State of Karnataka v. Thammaiah 1999 Cri.L.J. 53 (Karnataka)**; **State of Maharashtra v. Ibrahim A. Patel 2008 Cri.L.J. 1496 (Bombay) (DB)**).*

Q.54 Where there is a conflict between the provisions of the CBI Manual and the Cr.P.C. which will prevail ?

Ans. *The Cr.P.C. (Vide **M.C. Mehta (Taj Corridor scam) v. Union of India (2007) 1 SCC 110 = AIR 2007 SC 1087**).*

*The CBI Manual is not a statute nor is it enacted by the Legislature. They are only a set of administrative orders issued for the internal guidance of the CBI Officers. The CBI Manual cannot supersede the Cr.P.C. (Vide paras 89 to 92 of **Lalita Kumari v. Govt. of U.P. (2014) 2 SCC 1 – 5 Judges**).*

Q.55 Is not the Court including the High Court entitled to direct the investigating agency to submit a charge-sheet after the close of investigation ?

Ans. *No. (Vide paras 17 and 18 of **M.C. Abraham v. State of Maharashtra (2003) 2 SCC 649 = 2003 KHC 871; Anhinandan Jha v. Dinesh Mishra AIR 1968 SC 117 = 1968 Cri.L.J. 97**).*

Q.56 Supposing the Investigating Officer files a closure report to the effect that no case is made out for prosecuting the accused. Has the Magistrate the authority to disagree with the Police and take cognizance of an offence made out by the prosecution records ?

Ans. *Yes. (Vide para 17 of **M.C. Abraham v. State of Maharashtra (2003) 2 SCC 649 = 2003 KHC 871**).*

Q.57 Is the Magistrate bound to give notice and opportunity of hearing to the informant before accepting a closure report (refer report or refer charge) ?

Ans. *Yes. (Vide **Bhagwant Singh v. Commissioner of Police (1985) 2 SCC 537 = AIR 1985 SC 1285 – 3 Judges**).*

Q.58 Are not the Courts entitled to interfere with the investigation of cognizable offence by the Police ?

Ans. Ordinarily no. Investigation is the exclusive prerogative of the Police. As long as the investigation is proceeding on proper lines, this power of investigation of the Police cannot be interfered with by the Courts.

In King emperor v. Khwaja Nazir Ahmed AIR 1945 PC 18=71 Indian Appeal 203, the Judicial Committee of the Privy Council held “The functions of the judiciary and the Police are complementary and not overlapping” and “the Court’s functions begin when a charge is preferred before it and not until then”.

*Under Sections 154 and 156 Cr.P.C the police has the **statutory right** to investigate into a cognizable offence without the authority from a Magistrate and this **statutory power** of the police cannot be interfered with by the exercise of the power under Section 401 Cr.P.C (revisional power) or under the inherent power of the High Court.*

*under Section 482 Cr.P.C (vide **State of W.B v. S. N. Basak AIR 1963 SC 447; Abhinandan Jha v. Dinesh Mishra AIR 1968 SC 117; Nirmaljit Singh Hoon v. State of W. B. AIR 1972 SC 2639**).*

Q.59 Can a charge – sheet against an absconding accused be filed merely because sufficient evidence against him is available ?

And. Yes. If the Investigating Officer has been able to collect sufficient evidence even against an absconding accused, the filing of the charge-sheet against him need not await his

*arrest. (Vide para 19 of **Dinesh Dalmia v. CBI (2007) 8 SCC 770 = AIR 2008 SC 78**).*

Q.60 Has the accused any right to inspect documents in the custody of the Court whether relied on or not by the prosecution ?

Ans. *Yes. (Vide **Sasikala V.K. v. State represented by Supt. of Police (2012) 9 SCC 771 = AIR 2013 SC 613**).*

Q.61 Which are the documents to be supplied to the accused in a case instituted on a Police report ?

Ans. *Section 207 Cr.P.C. gives details of those documents. The accused is entitled to have the entire set of documents which accompanied the final report. However, the case diary can be used only by the Court subject to the restrictions under Section 172 (2) and (3) of Cr.P.C. and the accused can have no claim to it. (Vide para 2 of **CBI v. Mohinder Singh (2004) 13 SCC 578**).*

*The restriction imposed by Section 172 (3) Cr.P.C. that the accused shall not be entitled to call for the case diary, is confined only to the case under inquiry or trial before the Court. It does not prohibit the accused from summoning the case diary of **another case** which can include the counter-case when the main case is on trial. (Vide **State of Kerala v. Babu AIR 1999 SC 2161**).*

Q.62 Can an Officer superior to the SHO conduct investigation on the basis that he is an officer-in-charge of a Police station ?

Ans. *Yes. Under Section 36 Cr.P.C. an officer superior to the officer-in-charge of the Police Station has been given the same powers as that of the officer-in-charge of the Police Station. (Vide para 9 of **State of Bihar v. Lalu Singh (2014) 1 SCC 663**).*

*In **Murukeshan v. State of Kerala 2011 (1) KLT 194**, the Kerala High Court has held that a superior Police officer, without himself taking over the investigation, is not entitled to give directions to the investigating officer since any action taken under dictation from the superior officer will have to be authored by the investigating officer. This direction is in accord with the verdict of the Apex Court in **Vineet Narain v. Union of India AIR 1998 SC 889**.*

Q.63 Can the Court refuse to take cognizance of the offence for the reason that charge-sheet is incomplete ?

Ans. *The report under S.173(2) Cr.P.C. is nothing more than an opinion of the police officer that as far as he is concerned, he has been able to collect evidence during his investigation about the commission of the offence by the accused who is being placed on trial. If the police report or charge sheet contains necessary details so as to enable the Magistrate to take cognizance of the offence and proceed further, it cannot be said that there is failure of compliance of S.173(5) Cr.P.C. just because the scientific reports have not been produced along with the charge sheet filed by the police officer. In such a case*

it cannot be said that the charge sheet so produced is incomplete (vide **Swami Premananda @ Premkumar @ Ravi v. Inspector of Police, XXXIX MLJ (Crl) 702**). Even in a case where the investigating officer has chosen to term the police report as 'incomplete', the power of the Magistrate to take cognizance of the offence is not lost. If the police report and the materials produced along with it are sufficient to satisfy the Magistrate that he should take cognizance of the offence, then his power is not fettered by the label which the investigating agency chooses to give to the report submitted under S.173(2) Cr.P.C. (See **State of Maharashtra v. S. V. Dongre, 1995 KHC 732 : 1995 (1) SCC 42 : 1995 SCC (Cri) 16 : 1995 (1) Mah LJ 432 : 1995 (32) ACC 25 : 1995 Cr LR (SC) 114 : AIR 1995 SC 231; Kamalaksha v. S.I. of Police 2007 (1) KLT 299 = 2007 (1) KHC 122**).

Q.64 Can the investigation of a case be monitored by the Court ?

Ans. Yes. The power under Section 156 (3) Cr.P.C. is wide enough to clothe the Magistrate with the authority to issue appropriate direction for ensuring a proper investigation including the monitoring of the same. (Vide para 24 of **Sakiri Vasu v. State of U.P. (2008) 2 SCC 409 = AIR 2008 SC 907**). Section 159 Cr.P.C. may also be relevant in this context.

NOTE: It is always better for the Court to refrain from monitoring the investigation since such acts of adventurism may invite unnecessary criticism that the Court is being partisan. If the investigation gets derailed, then there are interested elements to bring it to the notice of the Court for appropriate intervention.

Q.65 What is the report filed by the Police before the Court after the conclusion of investigation ?

Ans. *The report filed by the Police before the Court after the conclusion of investigation, is called the “**Police Report**” as defined under Section 2 (r) Cr.P.C. and filed under Section 173 (2) Cr.P.C. In case the conclusion reached by the Police is one falling under Section 169 Cr.P.C. to the effect that there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to the Magistrate for trial, the Police may file the Police Report which is usually called the “**refer report**”, or “**refer-charge**”, or “**final form**”. If, on the contrary, the conclusion reached by the Police is one falling under Section 170 Cr.P.C. to the effect that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to the Magistrate for trial, the Police may file a Police Report which is loosely called a “**charge-sheet**” or “**Police challan**” or a “**final report**” and the Police Officer shall forward the accused under custody to the Magistrate empowered to take cognizance of the offence.*

Q.66 What is meant by “charge- sheet” or “final report” ?

Ans. *Both these expressions are neither defined nor used in the Cr.P.C., but they are understood as such in the Police Manuals of several States. In certain rules or regulations a report filed by the Police under Section 170 Cr.P.C. when there is sufficient materials collected for placing the accused on trial, such reports are described as “charge-sheets”. In the case of*

reports sent under Section 169 Cr.P.C. where there is no sufficient evidence to justify the forwarding of the accused for trial, such reports are referred to as “referred charge” or “final report” or “summary”. (Vide para 10 of **Gangadhar Janardan Mhatre v. State of Maharashtra (2004) 7 SCC 768**; Para 13 of **Minu Kumari v. State of Bihar (2006) 4 SCC 359 = AIR 2006 SC 1937**).

“Charge-sheet” or “final report” or whatever nomenclature used, only mean a report to be filed by an officer-in-charge of a Police station under Section 173 (2) Cr.P.C. after the conclusion of investigation. (Vide para 16 of **Srinivas Gundluri v. M/s Sepco Electric Power Construction Corporation (2010) 8 SCC 206 = 2010 Cri.L.J. 4457 (SC)**).

Q.67 When a *charge sheet* is filed before the Magistrate, what are the options available to the Magistrates ?

Ans. The Magistrate is not bound by the conclusion reached by the Police. If a charge sheet has been filed before the Magistrate, he has 3 options, namely,

- i. He may accept the report and take cognizance of the offence and issue process, or
- ii. He may disagree with the report and drop the proceedings, or
- iii. He may direct further investigation under Section 156 (3) Cr.P.C. and require the Police to make a further report.

Q.68 If what has been filed before the Magistrate is a *closure report/ refer report/ refer charge/ final form*, what are the options available to the Magistrate?

Ans. The Magistrate has the following 3 options:-

- i. *He may accept the report and drop the proceedings, or*
- ii. *He may disagree with the report and ignoring the conclusions drawn by the Police he may independently apply his mind to the facts emerging from the investigation and take cognizance of the offence which is revealed by the material on record and issue process, or*
- iii. *He may order further investigation under Section 156 (3) Cr.P.C. and direct the Police to file a further report.*

(vide **Abhinandan Jha v. Dinesh Mishra AIR 1968 SC 117; H.S. Bains v. State of U.T. of Chandigarh (1980) 4 SCC 631 = AIR 1980 SC 1883; Bhagwant Singh v. Commissioner of Police (1985) 2 SCC 537 = AIR 1985 SC 1285 – 3 Judges; Indian Carat (P) Ltd. V. State of Karnataka (1989) 2 SCC 132 = AIR 1989 SC 885 – 3 Judges**).

If the refer report is filed in a matter which was forwarded under Section 156 (3) Cr.P.C., the option of taking cognizance of the offence can be exercised by the Magistrate either on the basis of the Police Report under Section 190 (1) (b) or on the basis of the original complaint under Section 190 (1) (a) Cr.P.C. (vide **H.S. Bains v. State (UT, Chandigarh) (1980) 4 SCC 631 = AIR 1980 SC 1883; Tula Ram v. Kishore Singh (1977) 4 SCC 459 = AIR 1977 SC 2401**).

INQUIRY –

Including the holding of INQUEST

By the Police (Section 174 Cr.P.C.)

① When the **SHO** or some other specially empowered Police Officer, receives “**information**” that a person —

- i) has committed suicide, or
- ii) has been killed by another, or
- iii) has been killed by an animal, or
- iv) has been killed by machinery, or
- v) has been killed by an accident, or
- vi) has died under circumstances

raising a reasonable suspicion that some person has committed an offence,

the **SHO** or the other Police Officer —

- a) shall immediately give **intimation** thereof to the nearest Executive Magistrate empowered (*under Section 174 (4) Cr.P.C.*) to hold **inquests**,
- AND
- b) shall proceed to the place where the body of the deceased person is
- AND
- c) **there**, in the presence of 2 or more respectable inhabitants of the

By the Magistrate (Section 176 Cr.P.C.)

① When the case is of the nature covered by clauses (i) or (ii) of Section 174 (3) [*which is ③ in column 1 of this table*] the **nearest Magistrate** empowered to hold **inquests** u/s 174 (4) Cr.P.C.

(*i.e. any District Magistrate, Sub-divisional Magistrate or any other Executive Magistrate specially empowered either by the State Govt. or by the District Magistrate*)

and in any other case mentioned in Section 174 (1) [*which is ① in column 1 of this table*], **any Magistrate** so empowered may hold an **inquiry** into the cause of death **either instead of, or in addition to**, the investigation held by the Police Officer; and if he does so, he shall have all the powers which he has while holding an inquiry into an offence.

1.A Where, —

- (a) any person **dies** or **disappears**, or
- (b) **rape** is alleged to have been committed on any woman

while such person or woman is **in the custody** of the Police or any other custody authorised by the Magistrate or the Court, under the Cr.P.C., in addition to the inquiry or

neighborhood,

- i. shall draw up a **report** of the **apparent cause of death**
- ii. describing such wounds, fractures, bruises and other marks of injury as may be found on the body
AND
- iii. stating in what manner or by what weapon or instrument (if any) such marks appear to have been inflicted

② The report shall be signed by the Police Officer and other persons who concur therein and shall be **forthwith** forwarded to the District Magistrate or Sub-divisional Magistrate.

③ When —

- (i) the case involves suicide by a woman within 7 years of her marriage, or
- (ii) the case relates to the death of a woman within 7 years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman, or
- (iii) the case relates to the death of a woman within 7 years of her marriage and any relative of the woman has made a request in this behalf, or
- (iv) there is any doubt regarding the cause of death, or
- (v) the Police Officer for any other reason considers it expedient so

inquiry shall be held by the **judicial Magistrate** or the **Metropolitan Magistrate**, within whose local jurisdiction the offence has been committed. —

② The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed, according to the circumstances of the case.

③ Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

④ Where an inquiry is to be held under this Section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known and shall allow them to remain present at the inquiry.

⑤ The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or Police Officer holding an inquiry or investigation under sub-section (1.A) shall, within 24 hours of the

to do

he shall, subject to any State Govt. Rules, forward the body for examination to the nearest Civil Surgeon or other qualified medical man appointed by the State Govt.—

- if the state of the weather,
and
- the distance so admits, without risk of putrefaction on the road rendering such examination useless.

Power of the Police Officer

Section 175 (1) Cr.P.C. clothes the Police Officer proceeding under Section 174 with the power to summon persons for the purpose of his investigation and such person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Section 175 (2) enjoins that if the facts do not disclose a “*cognizable offence*” to which Section 170 applies, such persons shall not be required by the Police Officer to attend a Magistrate’s Court.

death of a person, forward the body for examination to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Govt., unless it is not possible to do so for examination to the nearest Civil Surgeon or other qualified medical person appointed by the State for reasons to be recorded in writing.

Explanation- In this Section, the expression “*relative*” means parents, children, brothers, sisters and spouse.

Questions on “I N Q U I R Y”
Including the holding of INQUEST

Q.69 **What is an inquest ?**

Ans. *An inquest is an inquiry into the manner of death of a person who has died under suspicious circumstances. In England such inquiry is conducted by a coroner or a medical examiner.*

*Coroner is a public official whose duty is to investigate the cause and circumstances of any death that occurs suddenly, suspiciously or violently. Among other things, the duties of the coroner consisted of holding an inquest upon dead bodies. A coroner’s Court in English law is a common law Court that holds an inquisition if a person died a violent or unnatural death. (Vide **Black’s Law Dictionary**)*

Q.70 **What is an autopsy ?**

Ans. *An autopsy is the medical examination of a corpse to determine the cause of death especially in criminal investigation. It is also called post-mortem or necropsy. (Vide **Black’s Law Dictionary**)*

Q.71 **Which is the enabling power of an SHO to hold an inquest over a dead body ?**

Ans. *Section 174 Cr.P.C. is the provision which enables an SHO to hold an inquest.*

Q.72 Should not the SHO obtain the permission of the Executive Magistrate for holding inquest of the dead body of a person believed to have died an unnatural death ?

Ans. *No. The obligation of the SHO is only to intimate the Executive Magistrate empowered to hold inquest. (Vide paras 21 to 23 of **Madhu v. State of Karnataka (2014) 12 SCC 419 = AIR 2014 SC 394**).*

Q.73 What is the purpose of holding an inquest ?

Ans. *The main purpose of holding an inquest is to find out the apparent cause of death. (Vide **Section 174 (1) Cr.P.C** and **Podda Narayana v. State of A.P. (1975) 4 SCC 153 = AIR 1975 SC 1252; George v. State of Kerala (1998) 4 SCC 605 = AIR 1998 SC 1376; Para 12 of Amar Singh v. Balwinder Singh (2003) 2 SCC 518 = AIR 2003 SC 1164**).*

Q.74 Has not the SHO the discretion not to send the dead body for post mortem examination in a case where he entertains no doubt regarding the cause of death ?

Ans. *No, after the amendment of sub-section (3) of Section 174 Cr.P.C. with effect from 23-12-1983. The view taken in **Kodali Puranchandra Rao v. Public Prosecutor, A.P. (1975) 2 SCC 570 = AIR 1975 SC 1925 – 3 Judges**, is no more good law.*

Q.75 Should not the inquest report contain the incident, the manner in which the incident took place, name of the accused etc. ?

Ans. *No. (Vide State of U.P. v. Abdul (1997) 10 SCC 135 = AIR 1997 SC 2512; Para 5 of Shaikh Ayub v. State of Maharashtra (1998) 9 SCC 52 = AIR 1998 SC 1285; Suresh Rai v. State of Bihar (2000) 4 SCC 84 = AIR 2000 SC 2207; Amar Singh v. Balwinder Singh (2003) 2 SCC 518 = AIR 2003 SC 1164).*

Substitution of the correct name of the informant in the inquest report subsequently, justified. (Vide para 11 of State of U.P. v. Ram Swaroop 1988 Supp. SCC 262 = AIR 1988 SC 1028 – 3 Judges.)

Non-mention of the names of eye witnesses in the inquest report will not render their testimony unreliable. (Vide Kujji @ Surendra Tiwari v. State of M.P. (1991) 3 SCC 627 = AIR 1991 SC 1853 – 3 Judges – (1975) 4 SCC 153 followed.)

Q.76 Is it necessary that the inquest should be held at the spot where the dead body is found ?

Ans. *Yes. The word “There” in Section 174 (1) suggests that the inquest should be held at the spot where the dead body is found. (Vide Kodali Puranchandra Rao v. Public Prosecutor, A.P. (1975) 2 SCC 570 = AIR 1975 SC 1925 – 3 Judges.)*

Q.77 Is it correct to say that the FIR loses its authenticity if it is lodged after the inquest is held ?

Ans. *Yes. (Vide **Sambhu Das @ Bijoy Das v. State of Assam (2010) 10 SCC 374 = AIR 2010 SC 3300.**) Also contains a discussion as to what all should an inquest report contain.*

Q.78 **Do not discrepancy, over-writing, omission or contradiction in the inquest report, render it liable to be eschewed from consideration ?**

Ans. *No, unless the above aspects have been put to the author of the inquest report and his explanation elicited. (Vide **Radha Mohan Singh @ Lal Saheb v. State of U.P. (2006) 2 SCC 450 = AIR 2006 SC 951 – 3 Judges.**)*

*Where the case of the prosecution is strong and substantiated by reliable evidence, lapses including over writing in the inquest report, may not be relevant. (Vide **Sukhwinder Singh v. State of Punjab (2014) 12 SCC 490 = 2014 Cri.L.J. 446 (SC).**)*

*Where the discrepancy in the date of lodging the FIR mentioned in the inquest report was not put to the author of the inquest report, no adverse inference can be drawn against the prosecution. (Vide **Radha Mohan Singh @ Lal Saheb v. State of U.P. (2006) 2 SCC 450 = AIR 2006 SC 951 – 3 Judges.**)*

Q.79 **Will interpolation in the inquest report render the prosecution case doubtful ?**

Ans. *Yes. (Vide **State of Haryana v. Shibu @ Shiv Narain (2008) 11 SCC 377 = AIR 2009 Supp. SC 609 – 3 Judges.**)*

Q.80 Is it open for the defence to falsify the prosecution version by relying on a document produced by the prosecution but not exhibited or formally proved by the prosecution ?

Ans. *Yes. (Vide para 16 of Ramaiah @ Rama v. State of Karnataka (2014) 9 SCC 365 = AIR 2014 SC 3388.)*

Q.81 Is it usual to mention in the inquest report, a gist of the FIR and the cause of death as narrated by the witnesses ?

Ans. *Yes. (Vide Thanedar Singh v. State of M.P. (2002) 1 SCC 487 = AIR 2002 SC 175).*

Substitution of the correct name of the informant in the inquest report subsequently, justified. (Vide para 11 of State of U.P. v. Ram Swaroop 1988 Supp. SCC 262 = AIR 1988 SC 1028 – 3 Judges.)

Omission to mention Crime No. in the inquest report held not material if there was other evidence to show the registration of FIR earlier. (Vide Dr. Krishna Pal v. State of U.P. (1996) 7 SCC 194 = AIR 1996 SC 733).

Q.82 Is it not correct to say that both the “inquest report” and the “post-mortem report” are substantive evidence ?

Ans. *No. Both of them are not substantive evidence. (Vide para 13 of Madhu @ Madhuranatha v. State of Karnataka (2014) 12 SCC 419 = AIR 2014 SC 394).*

Q.83 Can the SHO who does an official act by preparing the inquest report etc., be guilty of causing disappearance of evidence of offence punishable under Section 201 IPC ?

Ans. *Yes. (Vide **Kodali Puranchandra Rao v. Public Prosecutor, A.P. (1975) 2 SCC 570 = AIR 1975 SC 1925 – 3 Judges – In this case, on receiving information about the recovery of dead bodies, the sub inspector, feigning ignorance and flouting all the salutary requirements of Section 174 Cr.P.C., prepared false records regarding the identity of the dead bodies, cause of death and indulged in falsification of data etc.)***

Q.84 In spite of a written application to the Police to investigate into the alleged murder of his sister married to one of the accused persons, the Police did not register it as an FIR. From the very beginning the Police were attempting to treat the case as one of suicide. If there are circumstances to justify an investigation into the allegation of suspicious murder, is it permissible for the Court to direct the Police to register the written application as an FIR ?

Ans. *Yes. That was what the Supreme Court did in **Joint Womens' Programme v. State of Rajasthan 1987 Supp. SCC 707 = AIR 1987 SC 2060**).*

Q.85 Are the statements of witnesses given during the inquiry under Section 174 Cr.P.C., governed by Section 162 Cr.P.C. ?

Ans. *Yes. Inquiry including inquest under Section 174 Cr.P.C. is part of investigation within the meaning of Section 162 (1)*

Cr.P.C. (Vide Razik Ram v. J.S. Chouhan (1975) 4 SCC 769 = AIR 1975 SC 667; Narpal Singh v. State of Haryana (1977) 2 SCC 131 = AIR 1977 SC 1066.)

Q.86 Are not post-mortem report and inquest report “public documents” and is not the accused entitled to inspect or receive their copies during the stage of investigation?

Ans. *No. They are not public documents and the accused is not entitled to inspect or receive copies of those reports during the stage of investigation. (Vide State v. Gian Singh 1981 Cri.L.J. 538 (Delhi).*

Accused will be entitled to copies in the interests of fair trial, but only at the proper time. (Vide Palaniswamy Vaiyapuri v. State AIR 1968 Bombay = 1968 Cri.L.J. 453 Bombay.

Q.87 Are the Police bound to register an FIR as if in a cognizable offence, in the case of a missing person?

Ans. *Yes. Very often State Police Acts or allied statutory measures provide for the registration of an FIR by the SHO in “man missing cases”. The relevant provision in the Kerala Police Act, 2011 is Section 57 which directs the State Police to attempt to locate missing persons after registering any information received in the same manner as in the case of a cognizable offence and to take immediate action to locate the missing person. The said provision in the Kerala Police Act has been highlighted by a Division Bench of the Kerala*

*High Court in **Anil Kumar V.R. v. Sathi Kumari 2012 (1) KLT 641 = 2012 (1) KHC 531 (DB)**. The said decision has also directed that in case the missing person has been finally traced out, the police shall not release him. He shall be produced before the Magistrate having jurisdiction and the Magistrate will decide whether the missing person should be allowed to go or not. The Division Bench also clarified that it is not for the police to decide whether the missing person was under illegal detention or not and that the judiciary alone can decide that question.*

Q.88 Are not the statements in the inquest report as to what the SHO saw and found on the dead body, hit by Section 162 Cr.P.C?

Ans. *No. What is hit by Section 162 Cr.P.C is only that statement of the SHO made in the inquest report as to what he heard or gathered from others. What he actually perceived by his senses from the dead body, is not hit by Section 162 Cr.P.C. (vide **George v. State of Kerala (1998) 4 SCC 605 = AIR 1998 SC 1376**).*

Q.89 Are the statements of witnesses recorded by a police officer at the time of inquest during an “inquiry” under Section 174 Cr.P.C, subject to the embargo under Section 162 Cr.P.C ?

Ans. *Yes. It is really an investigation under Chapter XII as indicated by Section 175 Cr.P.C. Therefore, the statements*

*of witnesses recorded by the police officer at the time of inquest will be hit by Section 162 Cr.P.C. (vide **Datar Singh v. State of Punjab (1975) 4 SCC 272 = AIR 1974 SC 1193; Periasami v. State of T.N. (1996) 6 SCC 457 = 1997 Cri.L.J. 219).***

*Kochi,
23-08-2020*

*Justice V. Ramkumar,
Former Judge,
High Court of Kerala.*

Section 157: Procedure for investigation

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under Section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that--

- (a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;*
- (b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case:*

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements to that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

INQUIRY –

Including the holding of INQUEST

By the Police (Section 174 Cr.P.C.)

① When the **SHO** or some other specially empowered Police Officer receives “**information**” that a person —

- i) has committed suicide, or
- ii) has been killed by another, or
- iii) has been killed by an animal, or
- iv) has been killed by machinery, or
- v) has been killed by an accident, or
- vi) has died under circumstances

raising a reasonable suspicion that some person has committed an offence,

the **SHO** or the other Police Officer —

- a) shall immediately give **intimation** thereof to the nearest Executive Magistrate empowered (*under Section 174 (4) Cr.P.C.*) to hold **inquests**,
AND
- b) shall proceed to the place where the body of the deceased person is
AND
- c) **there**, in the presence of 2 or more respectable inhabitants of the neighborhood,

By the Magistrate (Section 176 Cr.P.C.)

① When the case is of the nature covered by clauses (i) or (ii) of Section 174 (3) [*which is ③ in column 1*] the **nearest Magistrate** empowered to hold **inquests** u/s 174 (4) Cr.P.C.

(*i.e. any District Magistrate, Sub-divisional Magistrate or any other Executive Magistrate specially empowered either by the State Govt. or by the District Magistrate*)

and in any other case mentioned in Section 174 (1) [*which is ① in column 1*], **any Magistrate** so empowered may hold an **inquiry** into the cause of death **either instead of, or in addition to**, the investigation held by the Police Officer; and if he does so, he shall have all the powers which he has while holding an inquiry into an offence.

1.A Where, —

- (a) any person **dies** or **disappears**, or
- (b) **rape** is alleged to have been committed on any woman

while such person or woman is **in the custody** of the Police or any other custody authorised by the Magistrate or the Court, under the Cr.P.C., in addition to the inquiry or investigation held by the Police, an

- i. shall draw up a **report** of the **apparent cause of death**
 - ii. describing such wounds, fractures, bruises and other marks of injury as may be found on the body
- AND
- iii. stating in what manner or by what weapon or instrument (if any) such marks appear to have been inflicted

② The report shall be signed by the Police Officer and other persons who concur therein and shall be **forthwith** forwarded to the District Magistrate or Sub-divisional Magistrate.

- ③ When —
- (i) the case involves suicide by a woman within 7 years of her marriage, or
 - (ii) the case relates to the death of a woman within 7 years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman, or
 - (iii) the case relates to the death of a woman within 7 years of her marriage and any relative of the woman has made a request in this behalf, or
 - (iv) there is any doubt regarding the cause of death, or
 - (v) the Police Officer for any other reason considers it expedient so to do

inquiry shall be held by the **judicial Magistrate** or the **Metropolitan Magistrate**, within whose local jurisdiction the offence has been committed. —

② The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed, according to the circumstances of the case.

③ Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

④ Where an inquiry is to be held under this Section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known and shall allow them to remain present at the inquiry.

⑤ The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or Police Officer holding an inquiry or investigation under sub-section (1.A) shall, within 24 hours of the

he shall, subject to any State Govt. Rules, forward the body for examination to the nearest Civil Surgeon or other qualified medical man appointed by the State Govt.—

- if the state of the weather,
and
- the distance so admits, without risk of putrefaction on the road rendering such examination useless.

Power of the Police Officer

Section 175 (1) Cr.P.C. clothes the Police Officer proceeding under Section 174 with the power to summon persons for the purpose of his investigation and such person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Section 175 (2) enjoins that if the facts do not disclose a “*cognizable offence*” to which Section 170 applies, such persons shall not be required by the Police Officer to attend a Magistrate’s Court.

death of a person, forward the body for examination to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Govt., unless it is not possible to do so for examination to the nearest Civil Surgeon or other qualified medical person appointed by the State for reasons to be recorded in writing.

Explanation- In this Section, the expression “*relative*” means parents, children, brothers, sisters and spouse.

STATUTORILY ENUMERATED POWERS OF INVESTIGATION OF AN SHO UNDER THE Cr.P.C.

Sl.No.	SECTIONS	PURPOSE
1.	4(1) & (2)	Procedure to be adopted for investigation of offences under the Indian Penal Code and other laws.
2.	36	Chapter IV – Part A. Power of superior Police Officers to investigate an offence.
3.	41 to 60 and 60A	Chapter V – Provisions pertaining to arrest of persons during investigation.
4.	91 to 105 102	Chapter VII – Provisions pertaining to search and seizure during investigation. Power to seize property and forthwith report to Magistrate.
5.	154	Information in cognizable cases. (FIR)
6.	155	Information as to non-cognizable cases and investigation of such cases.
7.	156	Police officer's power to investigate cognizable case.
8.	157	Procedure for investigation.
9.	158	Report under Section 157 to the Magistrate to be submitted through designated superior officer.
10.	160	Police Officer's power to require attendance of persons acquainted with the facts and circumstances of the case.
11.	161	Examination by the Police of persons acquainted with the facts and circumstances of the case.
12.	162	Statements to Police not to be signed and the extent of user of such statements in evidence.
13.	163	No inducement, threat or promise to be offered by the Police Officer.
14.	164 (1) to (5) 164 (5-A) (a) 164 (5-A) (b)	Recording of confessions of accused and statements (<i>other than confession</i>) of persons by Magistrate. Compulsory recording of statements by Magistrate of victims of certain specified erotic offences. Statement so recorded of a person who is temporarily or permanently mentally or physically disabled, to be treated as examination-in- chief under Section 137 of the Evidence Act.
15.	164 A	Medical examination of a rape victim.

16.	165	Search by an SHO during investigation either directly or through a subordinate officer.
17.	166	Request by the SHO to the SHO of another Police Station to issue search warrant.
18.	166 A	Letterogatory for investigation in a country or place outside India.
19.	166 B	Letterogatory from a country or place outside India to a Court or authority for investigation in India.
20.	167	Procedure to be followed when investigation cannot be completed in 24 hours.
21.	168	Report of the result of investigation by a subordinate Police Officer to the SHO.
22.	169	When the investigation does not produce sufficient evidence or reasonable ground to forward the accused for trial, SHO to release the accused on his executing bond.
23.	170	When the investigation has produced sufficient evidence or reasonable ground to forward the accused or commit him for trial, the SHO to forward the accused to the Magistrate after taking security from the accused for his due appearance.
24.	171	Complainant and witnesses on their way to any Court not to be required to accompany Police Officer and not to be subjected to any restraint.
25.	172	Diary of proceedings in investigation (i.e. Police diary or case diary).
26.	173	Submission of "Police Report" before the Magistrate upon completion of investigation.
27.	174 and 175	Investigation including inquest into suicide or other cases of unnatural death.