CIRCULAR

No. 4 /2011

SUBJECT: REGARDING SUPPLY OF COPY OF FIR TO ACCUSED.

The fundamental issue that had emerged for consideration before the Hon'ble Delhi High Court in Writ Petition No. (Crl.) No. 468/2010 in the matter of Court on its own motion V/S State was whether an accused is entitled to get a copy of the First Information Report after it is lodged and if so, what steps are required to be taken to facilitate its availability as the liberty of an individual is inextricably linked with his right to be aware how he has been booked under law and on what allegations.

2. While disposing the writ petition, the Hon'ble Delhi High Court in its order dated 6.12.2010 has recorded its conclusion and given the directions as enumerated below with regard to entitlement of accused for a copy of FIR and procedure for the same:-

(A) An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under Section 207 of the Cr.P.C.

(B) An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report can submit an application through his representative/agent/parokar for grant of a certified copy before the concerned police officer or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the court. On such application being made, the copy shall be supplied within twenty-four hours.

(C) Once the First Information Report is forwarded by the police station to the concerned Magistrate or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhered under Section 207 of the Cr.P.C.

(D) The copies of the FIR, unless reasons recorded regard being had to the nature of the offence that the same is sensitive in nature, should be uploaded on the Delhi Police website within twenty-four hours of lodging of the FIR so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances.

(E) The decision not to upload the copy of the FIR on the website of Delhi Police shall not be taken by an officer below the rank of Deputy Commissioner of Police and that too by way of a speaking order. A decision so taken by the Deputy Commissioner of police shall also be duly communicated to the area magistrate.

(F) The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR.

(G) In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation with the Commissioner of Police who shall constitute a committee of three high officers and the committee shall deal with the said grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

(H) The Commissioner of Police shall constitute the committee within eight weeks.

(I) In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application for grant of certified copy before the court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned court not beyond three days of the submission of the application.

(J) The directions for uploading the FIR on the Website of the Delhi Police shall be given effect from 1st February, 2011.

3. The directions mentioned at points (D) & (G) suggest that the copy of the FIR of an offence which is sensitive in nature may not be provided to an applicant or uploaded on the Delhi Police Website. The reason for not uploading the FIR on the website (and impliedly for not providing a copy too) needs to be duly recorded. Further, this decision shall not be taken by an officer below the rank of Deputy Commissioner of Police.

4. A mechanism for uploading of FIRs on the Website is being designed and will be made operational before 1st February, 2011, as per the directions of the Hon'ble Delhi High Court. The procedure to deal with the applications received in the police station or office of Addl. Commissioner/Dy. Commissioner of Police of the district till such time the mechanism of uploading of FIR on Website is started and thereafter would be as under:

(i) An accused who has reason to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report, may submit an application through his representative/agent/Parokar for supply of a certified copy before the concerned police officer in the Police Station or before the Single Window already existing in the offices of the district Addl. Commissioners/Dy. Commissioners of Police (during office hours on all working days) along with a fee of Rs. 25/- (Rupees Twenty Five only) in cash or through Pay Order or Demand Draft payable to Addl. Commissioner / Dy. Commissioner of Police of the concerned district upto 4 pages of FIR and Rs.10/- (Rupees Ten only) for every additional page. In Police Stations, cash and pay order or demand draft will be collected by Malkhana under a proper receipt. The application will be submitted in duplicate on the form given at Annexure-'A' which will be available in all the Police Stations and district Addl. CP/DCP offices or it can be downloaded from the official website of Delhi Police, i.e. www.delhipolice.nic.in

(ii) In case the application for getting the copy of FIR on behalf of the accused is submitted in the Police Station, the Duty Officer shall acknowledge the receipt of such application by putting the stamp of the Police Station, Diary Number, date and time of receipt alongwith his/her full signatures and hand over one copy to the applicant. The duty officer then shall immediately submit this application before the SHO. The SHO would trace the said FIR, apply his mind and send a report with his recommendation to the District Addl. CP/DCP office to obtain the orders from the Addl. Commissioner/Dy.Commissioner of Police to either supply the copy of FIR or to refuse its supply through the District Record Cell.

(iii) In case the application for getting the copy of FIR is submitted to the Single Window of the District Police Headquarters, the concerned clerk shall on receipt of the same acknowledge it with the stamp of the district office with diary number, date and time of receipt along with his full name and signatures. One copy of the acknowledgement will be handed over to the applicant. The application shall then be submitted before the district Addl. Commissioner/Dy. Commissioner of Police for approval through the District Record Cell.

(iv) The District Record Cell shall keep the copies of all FIRs (Police Station-wise and Year-wise) registered in the District. For this, a copy of all FIRs shall be submitted to District Record Cell for record on day to day basis by the SHOs. The SHO would also bear the onus to send a specific report along with the copy of FIR in sensitive cases immediately after its registration for getting the approval of District Addl.CP/DCP for refusal to supply a copy and not uploading the same on Delhi Police Website, through the District Record Cell.

(v) The District Record Cell shall submit all the FIRs and the specific reports of sensitive cases, if any, for refusal to supply a copy and not uploading the same on Delhi Police Website to the District Addl.CP/DCP for approval.

(vi) District Addl. Commissioner/Dy. Commissioner of Police will decide whether a copy of FIR should be supplied to the accused or refused being sensitive in nature, including concept of privacy. The reasons to refuse the supply of FIR would be recorded in writing by the Addl.

CP/DCP. The decision of refusal so taken by the Addl.CP/DCP shall also be duly communicated to the area Magistrate and the concerned SHO on the same day.

(vii) If the concerned case is not considered to be sensitive in nature, Addl.CP/DCP should direct the District Record Cell or the concerned SHO to supply the copy of FIR duly stamped with the Official Stamp with the words 'Copy for the accused' on each page, within 24 hours of the receipt of such application or refuse the applicant in writing for supply of copy of FIR along with the contents of reasons assigned by Addl. Commissioner/Dy. Commissioner of Police of the district for refusing the same. In case the FIR asked for does not exist or could not be traced in the Record Cell or Police Station due to insufficient information, the same should be communicated to the applicant.

(viii) All the FIRs which are decided to be refused to supply being sensitive in nature shall be marked/stamped as 'Sensitive Case".

(ix) The communication for refusal to supply of FIR should also mention that the applicant can make a representation against such orders to the Commissioner of Police who would refer the same to the Review Committee of three senior officers formed by him. A specimen letter for communication of refusal is also enclosed as Annexure 'B'.

(x) The Review Committee would deal with the grievances of refusal to supply copy of FIR to the accused within three working days from the date of receipt of a representation and communicate the decision to the grieved person.

5. As a broad guideline to be taken into account by the Addl. Commissioner / Dy. Commissioner of Police of the district before the supply of copy to the accused or allowing uploading of FIRs on Delhi Police website, the FIRs of the following categories of cases should be refused for supply/updating on website :-

1) Cases registered Under Section 376, 376A, 376B, 376C, 376D IPC as the disclosure of identity of victim in such cases is a punishable offence Under Section 228 A IPC.

2) Cases involving a juvenile in conflict with law or a child in the need of care and protection as the Section 21 of Juvenile Justice (Care & Protection of Children) Act, 2000 prohibits disclosure of identity of any such juvenile or child.

3) Cases of Kidnapping for Ransom as its disclosure may be dangerous to the life of kidnapped victim.

4) Cases in which desperate criminals/gangsters are involved or where there is a danger to witnesses or the complainant being intimidated.

5) Other serious cases in which one accused has been arrested while others may be at large. Since the FIR may contain the names of complainant, eye-witnesses etc., there may be chances of undue advantage being taken either by the accused still at large to continue to evade arrest or his/their becoming a threat to the complainant or eye-witnesses etc.

6) Cases relating to terrorists and cases in which the contents of the FIR may deal with the issues of National Security.

7) Cases such as those registered under the Official Secrets Act where disclosure of information would be prejudicial to the interest of State.

8) Cases in which the nature of FIR is such that it is, in the opinion of the Addl. Commissioner/Deputy Commissioner of Police, sensitive for the reason of concept of privacy or otherwise.

9) In any other case which may prejudice investigation and circumvent criminal justice system.

6. Nevertheless, the discretion lies with the Addl. Commissioner/Deputy Commissioner of Police which should be exercised judiciously while allowing or denying the copy of FIR to the accused person as well as uploading it on Delhi Police Website.

7. The directions in the circular will be applicable to the districts as well as other units having police stations.

ANNEXURE-B

To

_____

_____

Subject:- Reg. supply of copy of FIR No._____ date _____ u/s _____

PS_____District_____

Sir/Madam,

With reference to your application dated _____ regarding supply of copy of FIR, you are hereby informed that the same could not be supplied due to the reason(s) tick marked below and the decision not to supply copy of FIR has been taken by Addl.CP/DCP_____ district.

1) Cases registered Under Section 376, 376A, 376B, 376C, 376D IPC as the disclosure of identity of victim in such cases is a punishable offence Under Section 228 A IPC.

2) Cases involving a juvenile in conflict with law or a child in the need of care and protection as the Section 21 of Juvenile Justice (Care & Protection of Children) Act, 2000 prohibits disclosure of identity of any such juvenile or child.

3) Cases of Kidnapping for Ransom as its disclosure may be dangerous to the life of kidnapped victim.

4) Cases in which desperate criminals/gangsters are involved or where there is a danger to witnesses or the complainant being intimidated.

5) Other serious cases in which one accused has been arrested while others may be at large. Since the FIR may contain the names of complainant, eye-witnesses etc., there may be chances of undue advantage being taken either by the accused still at large to continue to evade arrest or his/their becoming a threat to the complainant or eye-witnesses etc.

6) Cases relating to terrorists and cases in which the contents of the FIR may deal with the issues of National Security.

7) Cases such as those registered under the Official Secrets Act where disclosure of information would be prejudicial to the interest of State.

8) Cases in which the nature of FIR is such that it is, in the opinion of the Addi. Commissioner/Deputy Commissioner of Police, sensitive for the reason of concept of privacy or otherwise.

9) Any other reason _____

_____

You may file an appeal against this decision to the Commissioner of Police/Delhi.

Note:- Police Station Record have been checked only for the details and period maintained in the application.

SHO/_____

Date _____

I/C Record Cell _____ **District**

8. The orders for constituting a Committee of three senior officers to deal with the grievances relating to the decision of Additional Commissioner/Dy. Commissioner of Police for denying copy of FIR to the accused person will be issued separately. Similarly, the instructions on the procedure for uploading the FIRs of Delhi Police website will also be separately issued.

9. The above instructions should be complied with in letter and spirit and put in practice immediately.

20/1/2011

(B.K. GUPTA)
COMMISSIONER OF POLICE:
DELHI

No. 459-550/Records/PHQ dated, New Delhi, the 20/01/2011

Copy to:-

1. All Special Commissioners of Police, Delhi/New Delhi.
2. All Joint Commissioners of Police, Delhi/New Delhi.
3. All Addl. Commissioners of Police, Delhi/New Delhi.
4. All Deputy Commissioners of Police-Districts/Units, Delhi/New Delhi.
5. SO to Commissioner of Police, Delhi.
6. All Inspectors in Police Headquarters.
7. I/C record Branch/Police Headquarters with 10 spare copies.

ANNEXURE - A

APPLICATION FOR OBTAINING COPY OF FIR FOR THE ACCUSED

1.	FIR No. / Year/Date (if known)	
2.	Expected Date of Registration of FIR	From _____ To _____
3.	Police Station	
4.	District	
5.	Name/details of the complainant	
6.	Name of the accused/ alleged person	

7. Applicant's detail

(i)	Name	
(ii)	Parentage	
(iii)	Address	
(iv)	Contact Phone Number(s)	
(v)	Relation with the accused/alleged person	
8.	Purpose of applying for the copy of FIR	

Note:- Police Station Record will be checked only for the details and period mentioned in the application.

Signature of applicant

Application Receipt of Details	
Name of the D.O/Receiving Clerk	
Time	
Date	
Diary No.	
DD/PO/Cash Receipt No.	
Date	
Signatures of D.O/ Receiving Clerk	

STAMP of Police Station / DCP Office receiving application

_____ Pages of FIR No. _____ Year _____ PS _____ **supplied/refused to supply.**

Signature of applicant/recipient