

No. D.G.P./28-Court Cases/94
 Maharashtra Rajya Police
 Mukhyalaya, S.O., Marg.,
 Colaba, Bombay - 400 039.
 Dated :- 15-6-1994

(53)

Circular :-

The Supreme Court of India in their judgment dt. 25-4-94 in Criminal Writ Petition No. 9/94 filed by Jiginderkumar v/s State of U.P. & others has come very heavily on the law enforcement agencies for indiscriminate arrests of citizens ignoring individual rights, liberties and privileges on one hand, and, individual duties, obligations and responsibilities on other. The supreme court had directed all the D.G.s.P. of all the States in India to issue Departmental instructions to Police Officers in this connection.

2. The Supreme Court, quoting the recommendations of the National Police Commission, has observed that the quality of arrests by the Police in India is one of the chief sources of corruption in police. By and large, nearly 60% of the arrests were either unnecessary or unjustified and that such unjustified police action accounted for 43.2% of the expenditure of the jails. Therefore, an arrest during the investigation of a cognizable case may be considered justified in one or other of the following circumstances :-

- 1) The case involves a grave offence like murder, dacoity, robbery, rape etc. and it is necessary to arrest the accused and bring his movement under restraint to.....
 infuse confidence among the terror stricken victims,
- 2) The accused is likely to abscond and evade the process of law,
- 3) The accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint,

- 4) The accused is a habitual offender and unless kept in custody, is likely to commit similar offences again.

Elaborating the above guidelines, the Supreme Court has observed that no arrests can be made because it is lawful for the police officers to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. The Police officers must be able to justify the arrests apart from his power to do so. Arrests and detentions in police lock-up of a person can cause incalculable harm to the reputation and self esteem of a person. No arrests can be made in a routine manner on a mere allegation of a commission of offence made against a person. It would be prudent for a Police officer in the interest of protection of the constitutional right of a citizen and perhaps in his own interest that no arrests can be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and reasonable belief both as to the person's complicity and even so as to the need to effect arrests. Denying a person of his liberty is a serious matter.

While elaborating the inherent rights of citizen as laid down in Article 21 and 22, (1) of the Constitution of India and for effective enforcement of these fundamental rights the Supreme Court has laid down the following requirements for strict observance by the Police :-

- 1) The arrested person being held in custody, is, entitled if he so requests, to have one friend, relative or other person, who is known to him or likely to take an interest in his welfare, told as far as is practicable that he has been arrested and where he is being detained.
- 2) The Police officer shall inform the arrested person when he is brought to the Police Station of this right.
- 3) An entry shall be required to be made in the Diary as to who was informed of the arrest.

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Such boards may/should displayed in each P.S. informing the accused/arrested persons about their rights.

The Unit officers are requested to ensure strict compliance of the above guidelines and whenever arrests are unavoidable the police officers making the arrests should also record in the Case Diary the reasons for making the arrest.

Whenever the arrest is made, the officer in charge of the Police Station will be personally held responsible in case the arrest was found to be contrary to the above instructions in addition to the officer(s) effecting such arrests.

The Unit commanders are requested to bring these instructions to the notice of all officers and men working under them. Similarly, heads of the Training Institutes should please acquaint the students undergoing the training at their institutes the above guidelines for their information so that when they come out of Institutes they can not plead ignorance of the above instructions.

(S.V. Barakar)
Director, General of Police, MS,
Bombay.

- To
- All concerned units.
- Copy WCs. to:-
- The Dir. A.C.B., Bombay.
- Copy to:-
- The Comr. & Spl. I.G.P., (Int.), C.I.D., Bombay;
- The Addl. D.G., C.I.D., Crim., Pune.
- All Dy. Inspectors General of Police.