

POLICE ORDER No. 279/86

Sub:—Embezzlement of public funds—Investigation of cases.

It has been noticed that, embezzlement cases involving Government money are not being attended to properly at any stage consequent upon which delay in investigation and supervision as well as failure of such cases in the Court of law are occurring frequently. The Government have been giving special importance to these cases and desire that the police should handle these cases very speedily, carefully and sincerely at every stage.

2. The Police Order No. 214 was mainly based on Rules 19 to 22 of the O. G. F. R. Vol. I Appendix 2 of Vol. II and Government Order XXX-1962-1963 to regulate the procedure of institution and investigation of misappropriation cases. In the meanwhile the relevant Rules of Appendix 2 have been amended. Rule 8 on which the P. O. 214 was mainly based was omitted. Owing to this change it is no more necessary to obtain D. M.'s sanction to register such a case. So it is felt necessary to issue this order in supersession of the Police Order No. 214.

3. All cases of embezzlement of Government money as well as public funds like Grama Panchayat, Co-operative Societies etc., involving rupees one lakh or more, shall be specially reported and treated as special Report cases for all purposes.

4. From the financial significance, embezzlement cases should be promptly and correctly reported by the Head of the office where misappropriation takes place to ensure expeditious investigation by the Police.

5. Statutorily, the police has to register cases of cognizable crime and cases of misappropriation of Government money are no exception. But there is a marked distinction in the nature of embezzlement cases compared to other cognizable cases. Therefore, it is essential to follow the administrative directions with regard to the instruction and investigation of embezzlement cases.

6. On receipt of a report of embezzlement either oral or written, the following procedure should be adopted by the I. O. to expedite investigation, and trial of embezzlement cases.

(a) As soon as a case is reported the investigation of the case should be taken up by a suitable officer i. e. S.-I. of Inspector according to gravity of the offence.

(b) He should proceed to the office and closely examine the officer who has lodged the F. I. R. in order to remove ambiguity, if found in the F. I. R. and direct his investigation on proper lines.

(c) As soon as a case is instituted the case shall be supervised immediately by a Gazetted Police Officer. If a case is not supervised immediately the reasons must be furnished in Report No. II.

(d) The Head of office, where misappropriation has taken place should, before sending a report to Police, make an enquiry to verify the amount actually misappropriated and the identity of the accused.

(e) Para. 6 of Appendix 2 of O. G. F. R. Vol. II imposes a duty on the administrative authority to get the accounts audited by the Audit Officer or Account Officer to eliminate the possibility of delay or irregularities in investigation by the police. Where the audit report has not been furnished alongwith the F. I. R. by the reporting authority, the S. P. shall bring to the notice of the concerned administrative authority and request him to furnish the audit report within a period of one month. If by that period the audit report is not received, it shall be then open to the S. P. to take such steps as are required to finalise the case without waiting for the audit report. Once the case is finalised without the receipt of the audit report, S. P. shall report the matter to the Range D. I.-G. and Crime Branch and the concerned administrative authority relating to the specific, case. Once a quarter, S. P. of the district shall send to the Range D. I.-G. and Crime Branch a statement showing details of all cases which had to be finally closed without waiting for the Audit Report, so that they may pursue and ensure that appropriate departmental action is taken by the administrative authority.

(f) The I. O. should proceed personally for examination of Records and witnesses where delay is apprehended after obtaining necessary permission from the S. P. and such essential journeys if beyond Jurisdiction of I. O. should always be sanctioned promptly.

(g) It is noticed that prompt and due Co-operation are lacking from any particular department the S. P. should personally move the concerned officer in the matter and send a report to his Range D. I.-G. and C. I. D., C. B.

(h) In cases where it is necessary, the documents should be promptly sent to the Handwriting Bureau, Rasulgarh for getting the handwritings examined by the Handwriting experts. Where convincing direct and circumstantial evidence are available to prove the handwriting the case should not be kept pending awaiting the opinion of the Handwriting Expert. Efforts should always be made to collect such evidence keeping in mind that the opinion of the Handwriting Expert is not conclusive and courts may not accept it as such without other corroborative evidence.

(i) Fortnightly progress reports should invariably be sent both during investigation and trial of cases in courts.

(j) In all reports after Report No. II and before submission of Final Form the progress made in the investigation and further facts obtained and the reasons for which investigation is pending should be indicated and superficial reports viz., "Investigation is proceeding or in progress" should not be sent.

(k) All remarks and comments from the Range D. Is.-G. and C. I. D., C. B. should be attended to and replies sent promptly.

(l) After the closure of the investigation, the I.-C. and supervising officers should discuss the evidence with the G. P./P. P. before submission of the final form.

(m) In case where a sanction for prosecution is need either U/s. 197 Code of Criminal Procedure, 1973 or U/s.6 of the Prevention of Corruption Act, 1947, as the case may a detailed report containing the facts of the case together with the nature of evidence available on each point should be sent to the C. I. D., C. B. for taking up the matter with the authorities concerned. Copies of the statements of witnesses and relevant extracts of the documents concerned should invariably be sent with such report so the concerned authority will be in a position to go through the merits of entire case and take a proper decision regarding grant or withholding of such sanction.

(n) The I.O. has got power U/s. 91 of the Code of criminal procedure, 1973 to issue requisition for production of documents and also to issue notices U/s. 160 Code of criminal procedure 1973 for personal attendance of witnesses except male persons under the age of fifteen years or women. The powers are to be exercised in appropriate cases. As far as possible the I. O. should approach personally to procure a document or examine a witness. Whenever any attitude of non-co-operation or avoidance on the part of the, office or the witness concerned is noticed, resort to the above provisions of law should be taken and in case of disobedience the person (s) concerned should be prosecuted under the relevant provision of law. All such instances of non-co-operation should also be promptly reported to the C. I. D., C. B. for taking necessary action, if need be.

(o) If after submission of the Final Form the concerned I. O. or the O. I. C. feels it necessary to make further investigation into the case with a view to obtaining further documentary or oral evidence, he should first consult with his S. P. and take action as may be necessary. Further investigation after submission of the F. F. as per Sec. 173 (2) Code of Criminal procedure is permissible U/s. 173 (3) of the Code of criminal procedure, 1973.

(p) Whenever there is any ambiguity or difficulty in understanding law or procedure, the I. O. should forthwith bring it to the notice of the S. P., C. I. D., C. B., for clarification. There should be no delay in clarifying it.

7. The Police Order 214 issued in the year 1966 is hereby substituted by this order.

All the officers should follow these instructions for efficient investigation of embezzlement cases.

(Approved by Government in their letter No. PIA-21/86/30247/P. dated the 7th May 1986.)

ILLEGIBLE

Director-General of Police, Orissa