

Arrest, Investigation & Monitoring Supervision under Article 226

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Justice C.V. KARTHIKEYAN
Madras High Court
National Judicial Academy
National Conference For High Court Justices
on
Prevention of Corruption Act
(P-1386)
10/02/2024 : Session 2

Scope of Discussion

- Investigatory Lapses &
Continuous Mandamus
- Special Investigation through High Court (SIT)
- Arrest & Bail
- Consent by State under DSPE Act, 1946
- CBI Manual Vs. CrPC
- Preliminary Investigation

Registration of Case

- Registration of FIR sets the criminal law into motion regarding cognizable offence
- Proceeding to spot on receipt of a definite information of a cognizable offence, making entry in GD is justified, even in the absence of FIR at that point of time. (Crl. A 938/1995 SP, CBI & Others Vs. Tapan Kr. Singh – AIR 2003 SC 4140)
- Registration of FIR either on the basis of information furnished by the informant as regards commission of cognizable offence or otherwise u/s. 157(1) Cr.P.C. is obligatory. (W.P, (Cri.) No.68 of 2008 in Lalita Kumari Vs Government of U.P and others – AIR 2014 SC 187)

Lalita Kumari Case

- Reliability, genuineness and credibility of information is not condition precedent to registration of FIR.**

Lalita Kumari Case - Exceptions

Preliminary Enquiry when

- Information does not disclose commission of cognizable offence**
- To be completed within one week**
- If closed, copy of entry of such closure must be supplied to the first informant with brief reasons for closing**

Lalita Kumari Case – Exceptions...

Preliminary Enquiry in

- Matrimonial/Family disputes.
- Commercial offences.
- Medical negligence cases.
- Corruption Cases.
- Cases where abnormal delay in criminal prosecution e.g. over 3 months delay in reporting the matter without satisfactory explanation for such delay.
- Causes regarding delay in not completing PE within 7 days to be reflected in the General Diary (GD).

Special Police Establishment

- Special Police was formed in 1941 through executive order ;
- To curb corruption in large scale procurement during Word War-II ;
- DIG headed ; HQ at Lahore ;
- Due to success, in 1942, powers extended to cover Railways ;

SPE

- Powers of War Department challenged in 1942**
- Ordinance promulgated in 1943**
- Delhi Special Police Establishment Act 1946**

DSPE Act

- Empowers investigation of any offence notified u/s. 3 of the Act in any Union Territory (UT).
[Sec.2(1)]
- Powers of the police in the UT conferred on members of DSPE.
[Sec.2(2)]

DSPE Act

- Empowers investigation of any offence notified u/s. 3 of the Act in any Union Territory (UT). [Sec.2(1)]**
- Powers of the police in the UT conferred on members of DSPE of SI & above. [Sec.2(2), 2(3)]**

DSPE Act...

- Central Government will notify offences or class of offences to be investigated by members of DSPE. [Sec.3]
- Central Vigilance Commission (CVC) shall have superintendence over DSPE regarding cases under Prevention of Corruption Act (PC Act). [Sec.4]

Offences Notified

ISSUED UNDER THE DELHI SPECIAL POLICE ESTABLISHMENT
ACT, 1946 (25 OF 1946)

SECTION 3

“Offences to be investigated by Special Police Establishment

The Central Government may, by notification in the official Gazette, specify the offences or classes of offences which are to be investigated by the Delhi Special Police Establishment”

Notifications issued by the Central Government specify the following offences, which are to be investigated by the Delhi Special Police Establishment under Section 3 of the DSPE Act:-

A.	INDIAN PENAL CODE
	Offences punishable under sections 4, 34, 109, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 120-B, 121, 121-A, 122, 123, 124, 124-A, 128, 129, 130, 131, 132, 133, 134, 135, 136, 138, 140, 143, 147, 148, 149, 153, 153-A, 153-B, 161, 162, 163, 164, 165, 165-A, 166, 166 A, 166 B, 167, 168, 169, 170, 171, 171-E, 171-F, 174-A, 182, 186, 188, 189, 190, 193, 195 A, 196, 197, 198, 199, 200, 201, 203, 204, 211, 212, 214, 216, 216-A, 217, 218, 220, 222, 223, 224, 225, 225-B, 228-A, 228-B, 229-A, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 263-A, 275, 277, 279, 283, 284, 285, 286, 287, 292, 294(b), 295, 295-A, 302, 303, 304, 304-A, 304-B, 305, 306, 307, 308, 309, 323, 324, 325, 326, 326-A, 326-B, 328, 330, 331, 332, 333, 334, 336, 337, 338, 341, 342, 343, 344, 346, 347, 352, 353, 354, 354-A, 354-B, 354-C, 354-D, 355, 363, 363-A, 364, 364-A, 365, 366, 366-A, 366-B, 367, 368, 370, 370-A, 371, 372, 373, 374, 376, 376-A, 376-B, 376-C, 376-D, 376-E, 377, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 396, 397, 398, 399, 401, 402, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 421, 423, 422, 424, 426, 427, 429, 431, 432, 434, 435, 436, 440, 447, 448, 449, 450, 452, 454, 456, 457, 459, 460, 461, 465, 466, 467, 468, 469, 471, 472, 473, 474, 475, 476, 477, 477-A, 482, 483, 485, 489, 489-A, 489-B, 489-C, 489-D, 489-E, 495, 498-A, 499, 500, 501, 502, 504, 505, 506, 507, 509 and 511 of the Indian Penal Code, 1860 (Act No.45 of 1860).

B.	CENTRAL ACTS
	Offences punishable under the following Acts, namely :-
1	Aircraft Act, 1934 (22 of 1934) and rules made there under.

Offences Notified...

2	Anti-Hijacking Act, 1982 (65 of 1982).
3	Antiquities and Art Treasures Act, 1972 (52 of 1972).
4	Antiquities (Export Control) Act, 1947 (31 of 1947) Repealed.
5	Arms Act, 1959 (54 of 1959).
6	The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).
7	The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010 (10 of 2010)
8	Atomic Energy Act, 1962 (33 of 1962).
9	Section 3 of the Benami Transaction (Prohibition) Act, 1988 (45 of 1988).
10	Bonded Labour System (Abolition) Act, 1976 (19 of 1976).
11	Central Excise and Salt Act, 1944 (1 of 1944).
12	Sections 14(1) and 14(3) of Child Labour (Prohibition and Regulation) Act, 1986
13	Companies Act, 1956 (1 of 1956).
14	The Companies Act, 2013 (18 of 2013)
15	The Companies (Amendment) Act, 2017 (1 of 2018)
16	The Companies (Amendment) Act, 2019 (22 of 2019)
17	Sections 63, 63-A, 63-B, 65, 67, 68, 68-A and 69 of Copy-rights Act, 1957 (14 of 1957).
18	Criminal Law (Amendment) Act, 1961 (23 of 1961).
19	Customs Act, 1962 (52 of 1962).
20	Section 3 and 4 of the Dowry Prohibition Act, 1961 (28 of 1961).
21	Drugs and Cosmetics Act, 1940 (23 of 1940).
22	Section 24 of Emigration Act, 1983 (31 of 1983).
23	Emergency Provisions (Continuance) Ordinance, 1946 (Ordinance No.20 of 1946) if committed by the Employees of the Central Government or contractors or sub-contractors or their representatives by contravening any order issued by the Central Government.
24	Essential Commodities Act, 1955 (10 of 1955).
25	Explosives Act, 1884 (4 of 1884).
26	Explosive Substances Act, 1908 (6 of 1908).

Offences Notified...

27	Electricity Act, 1910 (9 of 1910).
28	Foreign Contribution (Regulation) Act, 1976 (49 of 1976).
29	Foreign Contribution (Regulation) Act, 2010 (42 of 2010).
30	Foreigners Act, 1946 (31 of 1946).
31	Foreign Exchange Regulation Act 1973 (46 of 1973).
32	Forward Contracts (Regulation) Act, 1952 (No. 74 of 1952).
33	General Insurance Business (Nationalisation) Act, 1922 (57 of 1922).
34	Gift Tax Act, 1958 (18 of 1958).
35	Gold Control Act, 1968 (No. 45 of 1968).
36	Income -tax Act, 1961 (43 of 1961).
37	Import and Export (Control) Act, 1947 (18 of 1947).
38	Sections 3, 4, 5, 8, 9 and 15 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956).
39	Sections 6, 7 and 16 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956).
40	Insurance Act, 1938 (4 of 1938).
41	Industries (Development and Regulation) Act, 1951 (65 of 1951).
42	Information Technology Act, 2000 (21 of 2000).
43	Information Technology (Amendment) Act, 2008 (10 of 2009).
44	Indian Stamp Act, 1899 (02 of 1899).
45	The Indian Forest Act, 1927 (16 of 1927).
46	The Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986).
47	Sections 23, 24, 25 and 26 of the Juvenile Justice Act, 2006 (33 of 2006).
48	The Juvenile Justice (Care and protection of children) Act, 2000 (56 of 2000).
49	The Juvenile Justice (Care and protection of children) Act, 2015 (No. 2 of 2015).
50	The Lotteries (Regulation) Act, 1998 (17 of 1998).
51	The Merchant Shipping Act, 1958 (44 of 1958)
52	Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957).

Offences Notified...

53	Motor Vehicles Act, 1939 (4 of 1939).
54	Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985).
55	Section 25-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985).
56	Section 138 of the Negotiable Instruments Act, 1881 (26 of 1881).
57	The National Highways Act, 1956 (48 of 1956).
58	Official Secrets Act, 1923 (19 of 1923).
59	Passport Act, 1920 (24 of 1920) and rule 6 of Passport Rules, 1950.
60	The Passport (Entry into India) Rules 1950 r/w Passport (Entry into India) Act, 1920, (34 of 1920).
61	Passport Act, 1967 (15 of 1967).
62	Post Office Act, 1898 (6 of 1898).
63	Prevention of Corruption Act, 1947 (2 of 1947).
64	Prevention of Corruption Act, 1988 (49 of 1988).
65	The Prevention of Corruption (Amendment) Act, 2018 (16 of 2018)
66	Prevention of Food Adulteration Act, 1954 (37 of 1954).
67	Prevention of Damage to Public Property Act 1984 (3 of 1984).
68	The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (46 of 1988).
69	Prevention of Insults to National Honour Act, 1971 (69 of 1971).
70	Prevention of Terrorism Ordinance, 2001 (9 of 2001).
71	Prevention of Terrorism Act, 2002 (15 of 2002).
72	The Prevention of Money Laundering Act, 2002 (15 of 2003).
73	The Press and Registration of Books Act, 1867 (25 of 1867).
74	Protection of Children from Sexual Offences Act, 2012 (32 of 2012)
75	Public Examinations (Offences) Act, 1980 (XLII of 1980).
76	Sections 4 and 5 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 (43 of 1978).
77	Section 3 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (43 of 1978).

Offences Notified...

78	Railways Act, 1890 (9 of 1890).
79	Railways Stores (Unlawful Possession) Act, 1955 (51 of 1955).
80	The Railways Act, 1989 (24 of 1989).
81	Representation of the People Act, 1950 (43 of 1950).
82	Representation of the People Act, 1951 (43 of 1951).
83	Registration of Foreigners Act, 1939 (16 of 1939).
84	The Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988).
85	Section 45 (S) and Section 58 B and C of Reserve Bank of India Act, 1934.
86	Section 24 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).
87	Suppression of Unlawful Act against Safety of Civil Aviation Act, 1982 (66 of 1982).
88	Section 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 89).
89	Section 11 & 12 of the Territorial Waters Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976).
90	Telegraph Act, 1885 (13 of 1885)
91	Telegraph Wires (Unlawful Possession) Act, 1950 (74 of 1950).
92	Terrorist and Disruptive Activities (Prevention) Act, 1985 (31 of 1985) and Rules made there under.
93	Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987) and Rules made there under.
94	Transplantation of Human Organs Act, 1994 (42 of 1994).
95	Unlawful Activities (Prevention) Act 1967 (37 of 1967).
96	The Unlawful Activities (Prevention) Amendment Act, 2008 (35 of 2008)
97	The Unlawful Activities (Prevention) Amendment Act, 2012 (3 of 2013)
98	Wireless and Telegraphy Act, 1933 (17 of 1933).
99	Wealth Tax Act, 1957 (27 of 1957).
100	Section 51 of Wild Life (Protection) Act, 1972 (53 of 1972).
101	All cognizable offences under the Trade Marks Act, 1999 (46 of 1999).
102	Wild Life (Protection) Act, 1972 (53 of 1972)
103	The Wild Birds and Animals Protection Act, 1912 (8 of 1912).
104	The State Emblem of India (Prohibition of Improper Use) Act, 2005 (50 of 2005).

Offences Notified...

89	Section 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989).
90	Section 11 & 12 of the Territorial Waters Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976).
91	Telegraph Act, 1885 (13 of 1885)
92	Telegraph Wires (Unlawful Possession) Act, 1950 (74 of 1950).
93	Terrorist and Disruptive Activities (Prevention) Act, 1985 (31 of 1985) and Rules made there under.
94	Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987) and Rules made there under.
95	Transplantation of Human Organs Act, 1994 (42 of 1994).
96	Unlawful Activities (Prevention) Act, 1967 (37 of 1967).
97	The Unlawful Activities (Prevention) Amendment Act, 2008 (35 of 2008)
98	The Unlawful Activities (Prevention) Amendment Act, 2012 (3 of 2013)
99	Wireless and Telegraphy Act, 1933 (17 of 1933).
100	Wealth Tax Act, 1957 (27 of 1957).
101	Section 51 of Wild Life (Protection) Act, 1972 (53 of 1972).
102	All cognizable offences under the Trade Marks Act, 1999 (46 of 1999).
103	Wild Life (Protection) Act, 1972 (53 of 1972)
104	The Wild Birds and Animals Protection Act, 1912 (8 of 1912)
105	The State Emblem of India (Prohibition of Improper Use) Act, 2005 (50 of 2005).
106	The Emblems and Names (Prevention of Improper Use) Act, 1950 (Act 12 of 1950)
107	The Biological Diversity Act, 2002 (Act 18 of 2003)
108	The Forest (Conservation) Act, 1980 (Act No. 69 of 1980)

Offences Notified...

C	STATE ACTS
	Offences punishable under:-
1	Assam Opium Prohibition Act, 1947 (23 of 1947).
2	Assam Protection of Interests of Depositors (in Financial Establishment) Act, 2000 (XX of 2015)
3	Andhra Pradesh Control of Organized Crime Act, 2001 (42 of 2001).
4	Bombay Stamp Act, 1958 (LX of 1958).
5	Bihar and Orissa Excise Act, 1915 (2 of 1915).
6	Bihar Co-operative Societies Act, 1935 (6 of 1935).(notified in 2021)
7	(a) Sections 121, 161, 162, 163, 164, 165, 166, 167, 168, 169, 182, 193, 197, 198, 201, 204, 211, 218, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 246, 247, 248, 249, 250, 251, 252, 253, 254, 258, 259, 260, 261, 262, 263, 263-A, 341, 342, 363, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 392, 395, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 420-A, 465, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477-A, 489-A, 489-B, 489-C, 489-D, of Jammu and Kashmir State Ranbir Penal Code, 1989 Samvat and Jammu and Kashmir Act No. 12 of Samvat 1989).
8	Sections 302, 304, 304-A, 306, 307, 308, 309, 323, 324, 325, 326, 328, 330, 332, 333, 336, 337, 338, 343, 344, 346, 347, 352, 353, 354, 355, 363-A, 364, 365, 366, 367, 368, 376, of Ranbir Penal Code, Samvat 1989(II of 1989) (1932 A.D.),
9	Sections 452 of Ranbir Penal Code, Samvat, 1989 (II of 1989) (1932 A.D.)
10	Sections 341 and 427 of Ranbir Penal Code, Samvat, 1989 (II of 1989) (1932 A.D.)
11	Sections 223 & 224 of the J&K State Ranbir Penal Code Samvat, 1989 (11 of 1989).
12	Sections 147 & 511 of the J&K State Ranbir Penal Code Samvat, 1989(1932 A.D.)(XII of 1989)
13	Section 120-B of the J&K State Ranbir Penal Code Samvat, 1989(1932 A.D.)(XII of 1989)
14	(b) Jammu and Kashmir State Prevention of Corruption Act Samvat, 2006 (13 of Samvat 2006).
15	(c) Section 132, 133, 135, 136 of the Custom Act, 1962 (Jammu and Kashmir Act No. 52 of 1962).

Offences Notified...

16	(d) Energy Agents ordinance of Samvat, 2005 issued by Government of Jammu and Kashmir.
17	The Karnataka Control of Organised Crime Act, 2000 (1 of 2002).
18	The Karnataka Forest Act, 1963 (5 of 1963).
19	The Karnataka Stamp Act, 1957 (34 of 1957).
20	The Karnataka Land (Restriction on Transfer) Act, 1991 (17 of 1992).
21	Karnataka Protection of Interests of Depositors in Financial Establishment Act, 2004 (30 of 2005).
22	The Kerala Forest Act, 1961 (4 of 1962).
23	Kerala Police Act, 2011 (State Act No. 8 of 2011). (notified in 2021)
24	Maharashtra Control of Organised Crime Act, 1999 (30 of 1999).
25	Sections 11 and 13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 (XXXVI of 1981).
26	Section 7 of the Nagaland Security Regulation, 1962 (5 of 1962).
27	Punjab Special Powers (Press) Act, 1956 (38 of 1956).
28	Section 124 of the Punjab State Election Commission Act, 1994 (19 of 1994).
29	The Goa Children's Act, 2003 (18 of 2003).
30	The [Madhya Pradesh] Recognized Examinations Act, 1937 (X of 1937).
31	The Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997 (XLIV of 1997).
32	Section 4 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992.
33	Section 3 and 5 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992.
34	Section 4 of Tamil Nadu Prohibitions of Harassment of Women Act, 1998 (44 of 1998).
35	Tripura Protection of Interests of Depositors (in Financial Establishments) Act, 2000 (6 of 2000) as amended by the Tripura Act, 2011.
36	Uttar Pradesh Indian Medicines Act, 1939 (10 of 1939).

Offences Notified...

37	Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 (7 of 1986).
38	West Bengal Security Act 1950 (19 of 1950) as re-enacted by the West Bengal Security (re-enacted and validation) Ordinance, 1966.
39	The Wild Life Protection (Assam amendment) Act, 2009 (31 of 2010).
40	The Jammu and Kashmir Forest Act, 1987 (State Act II of 1987)
41	The Jammu and Kashmir Electricity Act, 1997 (State Act XIV of 1997)
42	The Jammu and Kashmir Electricity Act, 2010 (State Act XIII of 2010)
43	The Jammu and Kashmir Control of Building Operations Act, 1988 (State Act XV of 1988)
44	The Jammu and Kashmir Registration of Tourist Trade Act, 1978 (State Act IX of 1978)
45	The Jammu and Kashmir Water Supply Act, 1963 (State Act XXI of 1963)
46	The Jammu and Kashmir Water Resources (Regulation & Management) Act, 2010 (State Act XXI of 2010)
47	The Jammu and Kashmir Land Revenue Act, 1996 (State Act XII of 1996)
48	The Haryana Development and Revolution of Urban Areas Act, 1975 (Haryana Act No.8 of 1975) - Notified by DoPT vide Notification No. 228/73/2022-AVD.II dated 29.12.2022.

DSPE Act...

Director of SPE appointed on the recommendation of the Committee consisting Prime Minister (PM), Leader of Opposition (LoO) and Chief Justice of India (CJI) or Judge of the Supreme Court nominated by CJI
[Sec.4A]

DSPE Act...

- Powers & jurisdiction of members of DSPE can be extended to any area (including Railway areas) in a State by a Notification by Central Government [Sec.5(1)]**

DSPE Act...

- DSPE members get the powers of the State Police [Sec.5(2)]
- SI and above of DSPE can exercise such powers [Sec.5(3)]

DSPE Act...

- Consent of State necessary for the members of DSPE to exercise their powers within the State (not being a UT or Railway area) [Sec.6]**

DSPE Act...

- In the absence of consent by State u/s. 6 of DSPE Act, CBI can investigate cases within Railway area in that state (WPA 10457/2020 Anup Majee Vs. Union of India and others. Order dated 03.02.2021 of the High Court of Calcutta)

Consent

- When State Government conveys its consent for the members of CBI to exercise police powers within the state specifying of nature/class of offences and type of persons against whom CBI can proceed, it is General Consent.
- When General Consent is there in a State, CBI can proceed in accordance with the consent.
- When State Government requests specific case or group of cases to be investigated by CBI.

Consent

- When State Government requests specific case or group of cases to be investigated by CBI, then specific consent is conveyed in respect of such case(s).
- When General Consent is withdrawn, CBI has to seek consent of State on a case to case basis.
- Even in the absence of consent, CBI can proceed with a case which is entrusted to it by the Constitutional Courts.

Consent withdrawn States

- Kerala
- Punjab
- Jharkhand
- Meghalaya
- Tamil Nadu
- Telangana
- West Bengal

**In all other states,
General Consent is available**

Transfer of case to CBI

Factors normally considered by Constitutional Courts while order transfer of case to CBI :

Transfer of case to CBI

While in exercise of powers u/s. 482 Cr.P.C.

- To give effect to the order of the Court ;**
- To prevent abuse of the process of court ; and**
- To otherwise secure the ends of justice.**

**Divine Retreat Centre Vs. State of Kerala & Ors.,
(2008) 3 SCC 542**

Transfer of case to CBI

**While in exercise of powers under
Article 226 of the Constitution**

—Continuing Mandamus

Registration of Case by CBI

- Commission of cognizable offence ;
- Offences notified u/s. 3 of DSPE Act ;
- Consent available u/s. 6 of DSPE Act ;
- Consent notified u/s. 5 of DSPE Act ;
- Alleged offence pertain to Central Government employee/PSU/etc ;
- Amount involved is beyond the prescribed threshold in respect of economic offences ;
- Branch has jurisdiction ;
- Competent authority in CBI approved.

How cases taken up ?

- On the orders of the Constitutional Courts ;
- On a reference received from Lokpal, CVC, etc. ;
- On the request of State Government and approved by the Central Govt.;

How cases taken up ?

- On complaint of Govt. department/PSU, etc.;
- Suo-moto, based on source information gathered internally ;
- On complaint of private person regarding specific instance of corruption against a public servant of Central Govt./PSU, etc.;

How cases taken up ?

- As an outcome of preliminary enquiry (PE) conducted by CBI ;
- In any case, on the orders of the competent authority within CBI, as prescribed in the Crime Manual and as notified from time to time ;
- The competency operated till disposal of the case.

Glimpse of competency

Director/CBI (DCBI)

Serving Public Servant

- Of the Level 16 and above in the Pay Matrix ;
- Lt. General in army and their equivalent in Navy & Air Force ;
- CMD/CEO of Public sectors under Schedule A & B;
- Persons in the public life i.e. Ministers in Central / State Governments & others holding high public office ;
- CBI personnel ;

Glimpse of competency

Director/CBI...

Type of Cases

- Bank frauds of Rs.500 crores and above ;
- Other than bank frauds above Rs.100 crores ;
- Offences involving National Security, Terrorism and important matters of international ramifications ;
- Cases in which investigation monitored by the Hon'ble Supreme Court ;

Glimpse of competency

Director/CBI...

To be brought to prior knowledge in respect of

– Cases to be registered on the reference received from

- Hon'ble Supreme Court ;
- Lokpal ;
- Prime Minister's Office
- Cabinet Secretariat
- Ministry of Home Affairs (MHA)
- Department of Personnel & Training (DoPT)
- Chief Ministers (CM) of State Governments
- Lt. Governors, Administrators and CMs of Uts
- Constitutional/Statutory Bodies including CVC

Glimpse of competency

Special/Additional Director/CBI (SDCBI/ADCBI)

Public Servant

- Of the Level 14, 15 in the Pay Matrix ;
- Major General in army and their equivalent in Navy & Air Force ;
- CMD/CEO of Public sectors under Schedule C & D, Level E-8 of and above level offices of PSUs in Schedule A & B ;
- Chief General Manager/Executive Director/Dy. Genl. Manager and Board level appointees of public sector banks and financial institutions ;
- Former officers/persons in part 1 (i to iv) of powers of DCBI ;

Glimpse of competency

SDCBI/ADCBI ...

Type of Cases

- Bank frauds of Rs.150 crores to Rs.500 crores ;**
- Other than bank frauds of Rs.50 crores to Rs.100 crores ;**
- Cases wherein high quality Fake Indian Currency Note (FICN) is involved ;**
- Cases in which investigation monitored by the Hon'ble High Court(s) ;**

Glimpse of competency

SDCBI/ADCBI...

To be brought to prior knowledge in respect of

—Cases to be registered on the reference received from

- Hon'ble High Court(s) ;**
- State Governments ;**

Glimpse of competency

Joint Director/CBI (JD)

Public Servant

- Of the Level 13, 13A in the Pay Matrix ;
- Brigadier, Colonel & Lt. Colonel in army and their equivalent in Navy & Air Force ;
- Scale-IV (Chief Manager) to Scale VII (General Manager) in PSU banks/FIs ;
- E-4 to E-7 officers in other PSUs ;
- Cases only against unknown public servants ;
- Cyber Crime Cases not failing in the competencies of DCBI/SDCBI/ADCBI ;
- Former officers/persons in part 1 (i to iv) of powers of SDCBI/ADCBI;
- Persons in public life such as MPs/MLAs/MLCs/other elected representatives such as Councilors ;

Glimpse of competency

Joint Director (JD) ...

Type of Cases

- Bank frauds of Rs.30 crores to Rs.150 crores ;
- Other than bank frauds of above Rs.10 crores but less than Rs.50 crores ;
- Cases wherein value of Fake Indian Currency Note (FICN) is more than Rs.30 lakhs ;
- Registration & Disposal of Source Information Reports (SIRs) against the officers otherwise of the competence of Head of Branch (HoB) to be approved ;

Glimpse of competency

Head of Branch (HoB) / SP

Public Servant

- Of the Level 12 and below in the Pay Matrix ;
- Major and below in the army and their equivalent in Navy & Air Force ;
- Scale-III (Senior Manager) and below in PSU banks/FIs ;
- E-3 and below officers in other PSUs ;

Type of Cases

- Bank frauds upto Rs.30 crores ;
- Other than bank frauds upto Rs.10 crores ;
- Cases wherein value of Fake Indian Currency Note (FICN) is upto Rs.30 lakhs ;

Glimpse of competency

- No officer below the rank of SP/HoB can register or dispose off cases ;
- Permission is taken from the competent authority pertaining to that case for
 - Conducting searches
 - Effecting arrest
 - Recording confessional statement u/s. 164 Cr.P.C.
 - Conducting Test Identification Parade
 - Taking an accused as approver, etc.

Decision Making Process

- On completion of investigation, Investigating Officer (IO) submit a report along with the evidence gathered ;
- A law officer of CBI scrutinizes the report of IO and gives his comments ;
- SP/HoB gives comments/orders depends on the competency ;

Decision Making Process...

- Every Executive comment, if requires approval of a higher executive is scrutinized by another level of law officer upto Director of Prosecution (DoP)/CBI ;
- Further course of action is taken as per the orders passed by the competent authority ;

Further Course

- On the final orders of the competent authority as prescribed in the Crime Manual ;
- Report mentioning result of investigation is sent to Ministry/Departmental authorities:
 - Seeking sanction for prosecution ;
 - For obtaining complaint, as required under relevant provisions of certain Acts ;
 - Recommending Disciplinary Action against public servants for their lapses in performing duty as public servant ;
 - For taking Action as deemed appropriate in respect of other instances ;

Further Course...

- Final Report is filed u/s. 173 Cr.P.C., as per the final order of the competent authority ;
- If any Further Investigation is continued u/s. 173(8) Cr.P.C., such further investigation is also completed and disposed as per the final orders of the competent authority prescribed in the Crime Manual.

Investigatory Lapses

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Special Investigation through High Court (SIT)

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Arrest & Bail

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CBI Manual Vs. Cr.P.C.

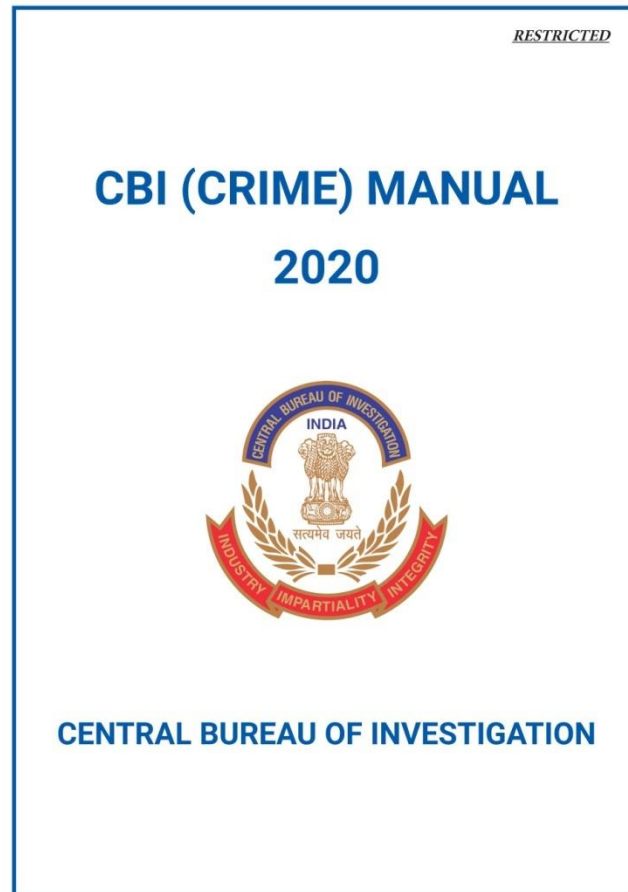
- All the amendments in Cr.P.C. regarding arrest have been incorporated in the Crime Manual of CBI ;

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CBI Crime Manual



Chapter 1

- **Establishment of CBI**
- **Historical Evolution**
 - **Setting up of SPE**
- **Role and Functions**
 - **Enquiry and Investigation of Cases**

Chapter 1...

- **Investigation of cases**
 - **Notified u/s.3 DSPE Act**
 - **Entrusted by Constitutional Courts**
 - **Entrusted by Lokpal or CVC**
- **Prosecution of cases investigated by CBI**

Chapter 1...

- Preventive Vigilance
- NCB - India
- Coordination, Training & Research (elaborated)

Chapter 1...

- **Jurisdiction of CBI**
 - **DSPE viz-a-vis State Police**
 - **Extension of power and jurisdiction of SPE to areas other than Union Territories**

Chapter 1...

- **Impartial and effective functioning of CBI**
 - **Appointments in CBI**
 - **Appointment of Director, CBI**
 - **Terms and Conditions of service of Director**

Chapter 1...

- **Impartial and effective functioning of CBI....**
 - **Appointments for posts of SP and above**
 - **Appointment & Tenure of DoP**
 - **Administration of CBI**

Chapter 1...

- **Impartial and effective functioning of CBI....**
 - **Superintendence over CBI**
 - **Liaison with Ministries/Deptt. of Govt. of India**

Chapter 1 - Annexures

- **Annexure 1-A : MHA Resolution dated 04.04.1963**
- **Annexure 1-B : DSPE Act**
- **Annexure 1-C : List of offences notified u/s. 3 of DSPE Act**

Establishment

- MHA Resolution
- Enlarged charter of functions from DSPE
- Establishment of DSPE

Enquiry & Investigation

- **Notified Offences**
- **Entrusted by Courts**
- **Entrusted by Lokpal/CVC**

Notified Offences

- Concurrent and co-extensive powers, duties, privileges and liabilities in UTs
- Offences should be notified u/s. 3 of DSPE Act Annex 1-C
- Suo-moto investigation only in UTs

Notified Offences...

- Concurrent and co-extensive powers in state subject to
 - Consent u/s. 6 of DSPE Act
 - Notification u/s. 5 of DSPE Act
- Jurisdiction in state will depend on wordings in the consent

Consent ...

- Concurrent and co-extensive powers in State, in the absence of consent, is limited to railway area
 - Judgment dated 03.02.2021 of High Court of Calcutta.
 - Anup Majee Vs. Union of India & others (WPA No. 10457/2020)

Entrusted by Courts

- Only constitutional courts can entrust CBI Vs. State of Rajasthan (AIR 2001 SC 668, Cr.L.J. 2001 page 968)
- Investigation/Enquiry, New or transfer
- Sec.3, 5, 6 of DSPE Act or 17A of PC Act are not pre-requisite.

Entrusted by Lokpal

- Lokpal may order CBI to do conduct
 - Preliminary Inquiry to ascertain any prima facie case exist
 - Investigation, if prima facie case exist
- (Sec.20 of Lokpal ad Lokayuktas Act, 2013)

Entrusted by CVC

- CVC may cause CBI to conduct Enquiry of Investigation on a
 - Reference made by Central Government
 - Complaint against officials falling within its jurisdiction
 - Allegation under PC Act or other offences along with PC Act
- (Sec.8(1)(a) of CVC Act, 2003)**

Prosecution of Cases

- Legal Division vested with the responsibility
- Gives advice to the Investigating Officers (Ios) and Supervisory Officers (Sos) during
 - Investigation
 - Trial
 - Feasibility of filing Appeal/Revision

Directorate of Prosecution (DOP)

- Constituted by DoPT OM dated 09.07.2001 in pursuance of Vineet Narain Vs. Union of India (1998) 1 SCC 226)

Functions of DOP

- a) Conducting, monitoring and prosecution of cases ;
- b) Tendering Legal Advice ;
- c) Appointment of Retainer Counsels (RCs) / Special Counsels (SCs) ;

Functions of DOP...

d) Processing matters relating to Cr.P.C. notification

- **Sec. 24(2) - Appointment of PP**
- **Sec. 24(8) - Appointment of Spl. PP**
- **Sec. 25(1-A) - Appointment of APP**

Functions of DOP...

- e) Legal matters pertaining to conference and meetings
- f) Interpretation of laws, statutory rules and regulations and amendments there of ;

Functions of DOP...

g) Notification under DSPE Act

- **Section 3** – Notification of offences
- **Section 5(1)** – Notification regarding extension of powers of members of DSPE in a state
- **Section 6** – Consent of State

h) Examination of Letters Rogatory (LRs)

NCB INDIA

- Director, CBI is the ex-officio Head of National Central Bureau (NCB) of India
- To facilitate international Law Enforcement Agency (LEA) cooperation
- Transmit information of criminal justice, humanitarian and LE matters between domestic LEA and foreign LEA among INTERPOL member countries
- To coordinate and integrate information in investigation of an international nature

NCB INDIA...

- Maintains 24x7 communication network
- Issue of Red Corner Notice (RCN) and other such INTERPOL notices
- Processing requests from LEA of different countries through their NCBs & Police Liaison Officers (PLOs)
- Support to MHA/MEA regarding incoming and outgoing LR/MLAT requests
- Support in negotiation of MLAT and Extradition Treaties with other countries

CBI vis-à-vis State Police

- Cases, essentially against Central Govt/PSU employees, to be done by CBI. Otherwise by State agency.
- In addition to cases involving Central Govt/PSU employees, CBI is authorised to investigate
 - Cases in which Central Govt. or PSU interests are involved
 - Cases relating to breach of Central laws, the enforcement of which is with the Govt. of India
 - Big cases of fraud, cheating, embezzlement
 - Cases having interstate and international ramifications

State Police may

- Take action on the complaint of demand of bribe of Central Govt./PSU employee and sufficient time not available to contact the CBI counterpart.
- Where there is likelihood of destruction or suppression of evidence, to take up the case and hand over to CBI.
- Information about cases involving Central Govt./PSU employees should be sent to respective CBI branch
- Cases requiring SO against Central Govt/PSU employee should be directly referred to the competent authority with intimation to CVC.

Appointments

- **Director/CBI (DCBI) is appointed by a Committee consisting**
 - **Prime Minister**
 - **Leader of Opposition in the Lok Sabha**
 - **CJI or Judge nominated by CJI**

Appointments

- **DCBI has a tenure of 2 years, extendable by 1 year at a time subject to a maximum of 5 years and subject to recommendation of the Committee**
- **SP and above are appointed by government, on the recommendation of a committee consisting**
 - **Chief Vigilance Commissioner**
 - **Vigilance Commissioners**
 - **Secretary, Ministry of Home Affairs**
 - **Secretary, Department of Personnel & Training**
- **Central Govt. appoints DOP – tenure 2 years**

Others

- **Administration**
- **Superintendence over CBI**
 - Vests with CVC regarding cases under PC Act (Sec.4 of DSPE Act)
 - Vests with Lokpal regarding matters referred by it
- **Powers of superintendence of CVC and Lokpal over CBI does not enable them to require CBI to investigate or dispose off any case in a particular manner**
 - Sec.25(1) of Lakpal and Lokayuktas Act, 2013.
 - *Sec. 4(1) of DPSE Act, Sec. 8(1)(d)(b)(e)(f) of CVC Act, 2003.*

Thank You !!!