

Circular No.10/2014

Sub:- Criminal Activities of Moneylenders - Exorbitant Levy of Interest
- Modified instructions issued-

Read: 1. PHQ Circular No.15/87.
2. Executive Directive No.08/2005
3. PHQ Circular No. 52/09.

1. Detailed instructions were issued vide circulars above regarding the provisions of the existing laws to curb charging exorbitant rate of interest and using the support of anti social elements and criminals by money lenders. In the circular 3rd cited detailed instructions were issued to apply the relevant sections of Kerala Money Lenders Act 1958 (KMLA) and the Indian Penal Code whenever the SHOs notices any illegal or Criminal action by a money lender and to curb such criminal activities.
2. In order to release the general public from the difficulties being experienced by them by falling prey to the money lenders charging exorbitant interest, the Government of Kerala has enacted a new legislation viz, "The Kerala Prohibition of Charging Exorbitant Interest Act 2012"(KPCEI Act).
3. The Circular No. 52/2009 is modified by including the relevant sections of 'The Kerala Prohibition of Charging Exorbitant Interest Act 2012'also along with the Section of Kerala Money Lenders Act 1958 (KMLA) and the Indian Penal Code regarding the nature of offence and sections of law applicable.
4. Illegal modes of money lending are known by different names-

'daily vatti' (means interest on daily basis), 'hourly vatti' (means interest on hourly basis), 'meter vatti', one-month loan, hundred-days loan etc. They create social problems by usurious rates of interest. They resort to criminal practices to get back the money, leading to unbearable mental torture and even murders and suicides. They are not paying any kind of taxes like income tax though they are handling huge amounts every day or license fees or registration fees. They evade all due procedures, creating false documents and cheating the Government.

5. They advance loans to borrowers and unlawfully collect blank cheques, signed blank papers, title deeds etc as security. Often they force sales of property for a meager consideration. There will be no documents to indicate the amount of advance, rate of interest, term of loan repayment, and the consequences of belated repayment, default or failure to repay. When the borrowers fail to pay the exorbitant rates of interest, the illegal lender proceeds against the borrower by using the documents which are manipulated without the proper consent of the affected person. They also use different kinds of pressure tactics to get back the money. As such illegal businesses are promoting criminal activities and disturbing the peaceful life of common citizens, effective measures to deal with the menace are highly essential.

6. Whenever any station house officer notices any illegal or criminal action by a moneylender, the matter shall be enquired into properly. To curb the criminal activities of such moneylenders, the relevant sections of Kerala Money-Lenders Act 1958 (KMLA) , The Kerala Prohibition of Charging Exorbitant Interest Act 2012 and the Indian Penal Code shall

be applied as detailed below:-

Sl. No	Offence	Charge	Section	Cognizable/ Non Cognizable
1	Carrying on money lending business without license or by violating conditions of license.	KMLA	17 of KMLA	Cognizable
2	Charging interest exceeding 2% above the maximum charged by Commercial Banks.	KMLA	17 of KMLA R/w Sec.4 of KPCEI Act	Cognizable
3	Doing money lending business without exhibiting lender's Name (in regional language).	KMLA	17 of KMLA	Cognizable
4	Obstructs or uses violence or intimidates or interferes with any property owned or used by the borrower or annoys or intimidates the family of the borrower.	Molestation	13 of KMLA R/w Sec.4 of KPCEI Act	Cognizable
5	Using signed blank cheques/Papers/Sale Deed etc. to force the borrower to repay.	Forgery	471 IPC	Cognizable
6	Obtains blank cheques and documents from borrower, knowing that he cannot repay the loan with interest and later fills the cheques by himself at own choice, with fraudulent intention at the inception itself.	Cheating & Forgery	420 IPC 468 IPC	Cognizable
7	Using blank cheque/other documents etc entrusted to the moneylender for a different purpose by filling them up by himself or by altering contents without permission of maker of the document.	Criminal Breach of Trust	406 IPC 467IPC 468IPC	Cognizable
8	Defrauding the borrower, by filling up documents with an amount much higher than the actual, causing the belief that, the borrower himself had written the amount or date in the cheque/documents.	Forgery	465 IPC 467 IPC 468 IPC 471IPC	Non-Cognizable Non-Cognizable Cognizable Cognizable
9	When the borrower fails to repay the amount, the moneylender with the help of documents in hand, molest the borrower to extort money by threats.	Extortion	384 to 389 IPC	Cognizable
10	When the moneylender takes away any movable property like valuable documents, electronic items, vehicles etc without the borrower's consent, using violence. If five or more persons conjointly commit such action.	Theft	379 IPC	Cognizable
		Robbery	392 IPC	Cognizable
		Dacoity	395 IPC	Cognizable
11	Where a debtor or any member of his family commits suicide and it is proved that immediately prior to such suicide, the debtor or any member of his family was subjected to molestation by any person, the person who has	Abetment of suicide	306 IPC	Cognizable

advanced the loan shall, unless the contrary is proved, be deemed to have abetted the commission of such suicide. (Sec.9 of KPCEI Act 2012)

All CPs of Cities and SPs of Districts are directed to list out all the persons involving in money lending business criminally in their jurisdiction. They must take lawful action against the offenders who conduct such business criminally against the law. The Unit Officers concerned should send the details of action taken to the Range IGP, giving circle wise details of persons involved in such criminal activities.

8. The IGPs concerned will monitor the work and ensure that prompt and effective lawful measures are taken against criminal activities of moneylenders.

9. It is brought to the notice of all that repeated and habitual offenders in this matter can be brought under the purview of the Kerala Anti Social Activities Prevention Act, 2007 also.


State Police Chief

To

All Officers in list 'B'

CAs to all Officers in PHQ

Circular Book.

Operations Cell, Records.