

S. S. Hussain I.A.S. (Ex)

Chief Executive Officer

Ref. No. MCHI/CEO/16-17/047

August 12, 2016

Sub: Police Circular dated 01.07.2016 issued by the Special Inspector General of Police (Law & Order).**Ref:** (1) Supreme Court Order in Criminal Appeal No. 1277/2014 arising out of SLP No. (Crl) No.9127/2013.

(2) MCHI-CREDAI Letter dt. July 08, 2016 under Ref No. MCHI/PRES/16-17/007.

Dear

This is in continuation to our above referred letter and our previous discussions with your goodself and MCHI-CREDAI Core Committee Members, MCHI-CREDAI would like to apprise you of a Supreme Court Order in Criminal Appeal No 1277 of 2014, wherein the Court has held that for all offences punishable with imprisonment under 7 years, Police cannot arrest the offenders directly or Magistrates cannot detain a person unnecessarily.

It has come to our knowledge, that the, Hon. Joint Secretary, Ministry of Home, Govt of India, by his letter dated. 11th July 2014, has issued directives from Supreme Court, to all Chief Secretaries of all State Governments to instruct the police officers accordingly and also give them a copy of the Supreme Court judgement for their record. However, it is found that Maharashtra Government has not yet issued these directives to the police officers, whereby causing the hardship to the Developers/Builders. On the contrary the DG Office has issued Circular referred above directing CPs & SPs of the state to file FIR against Builders/Developers under various sections of MOFA.

The Order clearly states that the said directives shall be applicable for all offences punishable with imprisonment under 7 years. All MOFA offences fall in this category and hence builders/Developers, fall under this ambit. And therefore the Police Officers cannot directly take a cognizance and directly arrest the

Builder/Developer. This may lead to contempt of court and the police officer become liable for a departmental enquiry.

In view of the above said facts, you are requested to kindly examine the issue in a larger context and take suitable necessary action by directing your officers as per the Supreme Court orders.


Your cooperation and support in this matter shall be highly appreciated and MCHI would be grateful!

Yours



(S. S. Hussain)

To,
Shri K. P. Bakshi (I.A.S.)
Additional Chief Secretary
Home Department,
Government of Maharashtra
Mantralaya, Mumbai

लिपिक 
अपर मुख्य सचिव (गृह) सचिवालय
गृह विभाग, महाराष्ट्र सरकार, मुंबई