

No. C1/218/TC/2017

Transport Commissionerate, Kerala,  
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Dated. 03.06.2017

From

The Transport Commissioner,  
Thiruvananthapuram.

To 1) All Deputy Transport Commissioners,  
2) All Regional Transport Officers,  
3) All Joint Regional Transport Officers.

Sir,

Sub:- **Motor Vehicles Dept-** Launching of prosecution-directions  
reg.

Ref:- Nil.

As per section 213 (5) (e) of M.V Act and Rule 405 (2) any Officer of Motor Vehicles Department not below the rank of Assistant Motor Vehicle Inspector is empowered to launch prosecution in respect of any offence under this Act & to take a bond for ensuring the attendance of the offender before any court. Besides, the Kerala Motor Vehicles Manual, Volume II states as follows:

Every check report received in the Regional Transport Office shall be scrutinized as to whether the penalty imposed has been paid. In respect of every check report, the Regional Transport Officer concerned shall decide whether prosecution is to be launched or departmental action is to be taken. Then the Regional Transport Officer shall proceed to initiate either prosecution or Departmental action. The Departmental action is to impose punishment on the owner/permit holder/drivers of motor vehicles and conductors of stage carriages for offences under M.V.Act and Rules. Thus Departmental action includes revoking of driving license, disqualifying to hold/obtain a driving license or conductors license, suspending RC of a vehicle, suspending permit of a transport vehicle or compounding an offence. The Regional Transport Officer/Regional Transport Authority respectively is empowered to impose these punishments as provided in the M.V.Act and Rules. No punishment shall be imposed without giving reasonable opportunity to the person against whom the punishment is proposed to be imposed. Such punishment shall be imposed only after giving due notice and providing opportunity to file written representation within a specified period. After considering the representation, if any, the RTO/RTA shall pass



appropriate orders and communicate the same within three months of date of detention of the offence. Particulars of such cases shall be noted in the "Register of cases of Departmental action". Prosecution may normally be launched in respect of cases in which departmental action is not feasible.

As enforcement lies in the effective conduct of prosecution and securing conviction to the accused, in order to have a deterrent effect on the persons inclined to violate the M.V.Act and Rules, all the RTOs/Jt.RTOs shall take all necessary steps to either:-

- (i) finalize the Departmental Action initiated against drivers/owners/Permit Holders of Motor Vehicles and conductors of stage carriages for offences under M.V.Act and Rules within three months of date of detention of the offence; or
- (ii) to prosecute them for such offences.

Hence it is directed that in respect of cases in which Departmental action is not feasible or if the amount compounded is not remitted by the offender within the time given, especially in respect of offences and penalties prescribed in Chapter XIII of the M.V.Act, the RTO within whose jurisdiction, the offence was committed shall launch prosecution, along with Charge sheet duly countersigned including the details provided in the format attached and a sufficiently stamped envelop to be sent as registered post super scribing the address of the offender, before the concerned court i.e. the Judicial First Class Magistrate Court which has jurisdiction. The RTO shall keep a liaison with the concerned Assistant Public Prosecutor of the concerned Judicial First Class Magistrate Court and make necessary arrangements so that such cases relating to the Department are posted together on a particular day i.e. once or twice a month. An Officer not below the rank of L.D. Clerk shall be posted for court duty on that particular day on rotation basis. But on the day of trial, the concerned Officer who has detected the offence shall attend the Court for trial.

Yours faithfully,  
Sd/-  
Transport Commissioner

Approved for Issue,

  
3.6.2017  
Senior Deputy Transport Commissioner.

## Format of Complaint

Name of Court .....

District ..... Date.....20.....

Name, Designation and address of Complainant :

Name and address of Accused person :

Vehicle involved :

Manufacturer/Model :

Type of Vehicle :

### **The Complainant most humble submits as follows:**

Date of occurrence of incident : .....

Time of occurrence of incident : .....

Place of occurrence of incident : .....

**The accused has violated the following sections of MV Act:** .....

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Charge or information, Name of offence and circumstances connected with it in concise detail (a brief narration) with Sections of MV Act Charged

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Supporting documents: *(if any like camera report, weighing report, check report/notice etc.)*

Names of Witnesses :

Property found :

Therefore this Hon'ble Court may be pleased to take appropriate action and punish the accused for the aforesaid offences.

Despatched at ..... on ..... 20.....

Signature,

Name & Designation of

Complainant/Checking

Officer with ID No.

IL

MOTOR VEHICLES DEPARTMENT, KERALA