

**These are the Myths and Truths about some of main points on
NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT 1985,**

Sl.No.	Myths	Truths
1	Police only need to detect and search and seize the illegal cultivation, possession, transport of NDPS.	<p>But includes</p> <p>i) Search of any document or other article which may furnish evidence of the commission of such offence or</p> <p>ii) Any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed.</p>
2	The permission of Gazetted Officer is must before conducting raid.	<p>NO.</p> <p>The Officer of and above PSI are Authorised Officers by State Govt. Hence permission is not required to raid. (see Section 41 of NDPS and Notification of GOVERNMENT OF KARNATAKA NO: HD214 EDC 85 dated 11/09/1986)</p> <p>But, Recording information in dairy and forwarding the copy of it to the immediate senior Officer is must. (See Sec. 41 and 42)</p>
3.	Warrant is required before the search and seizure.	Not necessary. But the raiding Officer shall prepare Demanding Search Letter before carrying on search and be served on the person in possession of the premises or conveyance.
4	Search and seizure must be done in the presence of a Gazetted Officer	Not necessary.
5	Permission is required to search and seizure in Public Place.	Not Necessary. But recording information is must and forwarding recorded information to immediate Officer is must.

6	Personal search means search in the bags, or vehicles of the accused.	No. If any bags, vehicles, are to be searched it is not called personal search. It includes, search of back pack or hand bag held by accused.
7	Personal search can be done before Gazetted Officer of any Department.	No. Only before the Gazetted Officers of three Departments. Police, Excise and Drugs and Cosmetics Departments, i.e. Notified Officers Gazetted officers of respective Department only.
8	Prior to Personal search the notice need not be given to accused understandable to him to seek his consent to be searched before Gazetted Officer or not.	It's mandatory to give Notice and make him conversant with the contents of the notice and get the statement of the accused before the personal search.
9	The witnesses for search and seizure need be carried along with raiding team from police station or from information received place.	No. The witnesses must be called on going nearby search place with order to come as witness for search. (See Sec. 100 Cr.P.C.)
10	On Mahazar the signatures of occupant and accused is not necessary to be taken.	No. On each Mahazar the signatures of occupant and accused is necessary to be taken with witnesses and copy of the Mahazar be delivered to accused and occupant of the searched premises or conveyance.
11	On crime scene the samples need not be drawn as sample would be drawn before Magistrate during certification of Inventory.	No. On the spot samples be drawn in the presence of Witnesses. (See Standing Instruction No. 1/88.) During certification of inventory again the SHO can get the sample from residual seized NDPS.
12	Only one sample is enough to draw.	No. Minimum two samples be drawn (minimum Quantity 24 Grms in Ganja and 05 Grams in other NDPS)

		(See Standing Instruction No. 1/88.)
13	Test Memo need not be prepared at spot.	No. Test Memos be prepared at crime Scene by the raiding Officer. (See Standing Instruction No. 1/88.)
14	Marking Seals need not be given to Independent witnesses after sealing the samples.	Just after sealing, the marking seals be given to independent witnesses and those marking seals be collected by SHO and be sent to FSL with samples.
15	FIR is must before raid	Not necessarily in all cases. But recording of Information in diary about possible crime and actions indented to be taken is must including forwarding the copy of the diary to immediate superior officer. in consequences of the raid if crime is detected then,FIR could be registered on the information of Raiding Officer by SHO.
16	The SHO on receiving all seized materials need not put his signature and seal on them.	The SHO need to put his separate marking seal and signature on the seized NDPS, produced before him by the raiding Officer with Mahazar. Further mention all these details in Malkhana Register specifically.
17	The samples and Test memos may be sent during investigation at any time.	Within 72 hours from seizure time the samples and Test Memos be sent to FSL by the IO.
18	Inventory certification can be done at later stage of Investigation.	As per Govt. Notification within 30 days from the date of receipt of FSL report the inventory must be certified. But in view of direction of the Apex Court in MohanLal Case the Inventory Report be submitted for certification as soon as possible on receiving seized NDPS from the Raiding Officer. (See Specification of Narcotic Drugs and Psychotropic Substances (Notification No. G.S.R. 38(E) dated 16/01/2015)

19	Disposal of residual seized NDPS is to be done only after the Judgment of the Case by Court order.	No. Just after certification of Inventory , the residual seized NDPS must be submitted before District Disposal Committee and collect the destruction Certificate. But samples be destroyed only on disposal of Cases as per Court direction.
20	Reports under section 42, 57 and 57A may be submitted at later stage.	No. I) The Report under Section 42 must be forwarded to Superior Officer within 72 hours from seizure by raiding Officer. II) The Report under Section 57 be forwarded within 48 hours from the time of arrest to superior officer. III) Report of seizure of property of the person arrested by the notified officer as per Sec. 57A.
21	Police have no power to summon any person connected or suspected to furnish details and documents.	No. 67. Power to call for information, etc ,-Any officer referred to in section 42 who is authorized in this behalf by the Central Government or a State Government may, during the course of any enquiry in connection with the contravention of any provisions of this Act- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provision of this Act or any rule or order made there under; (b) require any person to produce or deliver any document or thing useful or relevant to the enquiry; (c) examine any person acquainted-with the facts and circumstances of me case,

22	In commercial quantity cases Police custody is only for 15 days	No. It is 30 days
23	In commercial quantity cases the charge sheet must be submitted within 90 days when accused is in judicial custody	No. It is 180 days and it can be extended up to 360 days by order of the Special Court by filing an application by Public Prosecutor.
24	The chain of custody of seized properties need not be shown.	The chain of custody of seized properties must be shown specifically shown through evidence from the time of seizure to disposal including receipt of samples from FSL and receiving back with Report and submitting the same with Charge Sheet to Court.
25	The Raiding Officer can be Investigation officer.	The Raiding Officer can't be the Investigation Officer.

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