

CIRCULAR

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Subject : Guidelines laid down by Hon'ble High Court of Delhi in Case of a child to sexual abuse (Crl.W.P.930/07)

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OFFICE OF THE COMMISSIONER OF POLICE : DELHI

CIRCULAR -23/07

Subject: Guidelines laid down by the Hon'ble High Court of Delhi In Case of a child subjected to sexual abuse .(Crl.W.P.No. 930/07- Court on its own motion Vs State).

Case FIR No 374/07 of Police Station -Samai Pur Badali was registered in connection with the Rape case of a 7 years old minor girl. The concerned Metropolitan Magistrate was requested by the I.O of the case to record her statement U/S 164 Crpc. The matter was adjourned several times and the victim was made to wait through out the day with out her statement being recorded. A communication to this effect was moved to Hon'ble High Court through e-mail which revealed instances of insensitivity on the part of various authorities while dealing with the case of children subjected to sexual abuse. The same was suo -motu treated as Crl.W.P No 930/07- Court own its on motion Vs. State and the notices were issued to the N.H.R.C, State, Concerned concerned M.M etc. in order to lay down some guidelines to facilitate the concerned authorities to take appropriate steps. While hearing the matter on 14/8/2007, the Hon'ble High Court observed that "the children by reason of their physical and mental status need special safeguards and care, child victim of sexual abuse are to be treated with compassion and dignity. All concerned associated with Criminal Justice System need to be sensitized about their protective role to prevent further victimization of child victim , To secure this end it is rendered imperative of lay down certain guidelines , which we do and direct as follows :-

POLICE

1. On a complaint of a cognizable offence involving a child victim being made concerned police officer shall record the complaint promptly and accurately
2. The investigation of the case shall be referred to an officer not below the rank of Sub- inspector , preferably a lady officer , sensitized by imparting appropriate to deal with child victims of sexual crime
3. The statement of the victim shall be recorded verbatim
4. The officer recording the statement of the child victim should not be in police uniform.
5. The statement of child victim shall be recorded at the residence of the victim or at any other place wherein the victim can make a statement freely without fear.

6. The statement should be recorded promptly with out any loss of time.
7. The parents of the child or any other person in whom the child reposes trust and confidence will be allowed to remain present.
8. The investigation Officer must ensure that at no point should the child victim come in contact with the accused.
9. The child victim shall not be kept in the police station overnight on any pretext whatsoever, including medical examination.
10. The investigation officer recording the statement of the child victim shall ensure that the victim is made comfortable before proceeding to record the statement and that the statement carries accurate narration of the incident covering all relevant aspects of the case.
11. In the event the investigation officer should so feel the necessity, he may take the assistance of a psychiatrist.
12. The investigation officer shall ensure that the child victim is medically examined at the earliest preferably within twenty four hours [in accordance with Section 1664 A CrPC at the nearest government hospital recognized by the government.
13. The investigation officer shall ensure that the investigation team visits the site of the crime at the earliest to secure and collect all incriminating evidence available
14. The investigation officer shall promptly refer for forensic examination clothing's and article necessary to be examined, to the forensic laboratory, which shall deal with such cases on priority basis to make its report available at an early date.
15. The investigation of cases involving sexually abused child may be investigated on a priority basis and completed preferably with in ninety days of the registration of the case. The investigation shall be periodically supervised by the senior officers.
16. The investigation officer shall ensure that the identity of the child victim is protected from publicity.

MEDICAL EXAMINATION

- 1 In the event the child victim is brought to a private/nursing home, the child shall in case of a girl child victim the medical examination shall be conducted preferably by a female doctor.
- 2 In so far as it may be practical , psychiatrist help be made available to the child victim before medical examination at the hospital itself,
- 3 The report should be prepared expeditiously and signed by the doctor conducting the examination and a copy of medical report be provided to the parents /guardian of the child victim.
- 4 In the event results of examination are likely to be delayed, the same should be clearly mentioned in the medical report.
- 5 The parents /guardian/person in whom child have trust should be allowed to be present during the medical examination.
- 6 Emergency medical treatment wherever necessary should be provided to the child victim.
- 7 The child victim shall be afforded prophylactic medical treatment against STDs.
- 8 In the event the child victim is brought to a private/nursing home, the child shall be afforede immediate medical attention and the matter be reported to the nearest police station.

RECORDING OF STATEMENT BEFORE MAGISTRATE

1. The statement of the child victim shall be recorded promptly and at

the earliest by the concerned Magistrate and any adjournment shall be avoided and in case the same unavoidable, reason to be recorded in writing.

2. In the event of the child victim being in the hospital, the concerned Magistrate shall record the statement of the victim in the hospital.

3. To create a child friendly environment separate rooms be provide within the Court precincts where the statement of child victim can be recorded.

4. The child victim shall not be separated from his /her parents /guardians nor taken out from his her environment on the ground of "Ascertaining voluntary nature of statement unless the parents /guardian is reported to be abusive or the Magistrate thinks it appropriate in the interest of justice.

5. Wherever possible, the IO shall ensure that the statement of the child victim is also video recorded.

6. No child shall detain a child in an institution meant for adults.

TRIAL COURT

1. It shall be endeavour of the court to create a child friendly atmosphere while conducting its proceeding in respect of a sexually abused child.

2. Proceeding shall be conducted in camera and appropriate measures taken to ensure that the child victim is not confronted with the accused and the direction in this regard given by the Supreme Court in 2004 (5) SCC 518 Sakshi Vs Union of India are enforced .

3. Wherever possible the court may resort to the recording of statement through video conferencing.

4. The court may if it so thinks fit direct that the question to be put by the accused in cross examination to the child victim be given in writing to the presiding officer of the Court , who may in turn put the same to the victim in a language which is neither embarrassing nor confusing

5. The Committal Court shall commit such cases to the Court of Session preferably within fifteen days after the filling of the charge sheet.

6. The concerned authorities are directed to inform themselves of the guidelines laid down by the supreme Court in 1995 (1)SCC 14'Delhi Domestic Working Women's Forum Vs. Gurmeet Singh & Ors as also 2004 (5) SCC 518' Sakshi Vs. Union of India & Ors.

In view of above, it may be ensured that above guidelines are followed meticulously by all concerned while dealing with the case of a child victim of sexual abuse. Ruling out any of these guidelines will be viewed seriously. Copy of these guidelines may be also be displayed at the Instruction / Notice Board of every police station or concerned installation i.e.CAW Cells etc.

[S.B.K.Singh]ADDL.C.P/P.H.Q.
For Commissioner of Police Delhi

No- 61221-329/C7T/AC-V/PHQ,Dt. Delhi the 3/9/2007

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