

F. No. 15011/190/2020-SC/ST-W

Government of India
Ministry of Home Affairs
(Women Safety Division)

2nd Floor, MDC National Stadium,
New Delhi – 110001,

Date: 9th October, 2020.

To,

Chief Secretaries/ Advisors to Administrators
(All States and UTs)

Subject: Mandatory action by police in cases of crime against women - reg.

- Reference:**
- (i) MHA advisory dated 16th May, 2019 on a "Failure to record information under sub-section (1) of Section 154 of Cr.P.C. punishable under Section 166A of IPC".
 - (ii) MHA advisory dated 05th December, 2019 regarding timely and pro-active action by police in cases of crimes against women.
 - (iii) Standard Operating Procedure (SOP) for Investigation and Prosecution of Rape against Women issued by BPR&D
 - (iv) Distribution of Sexual Assault Evidence Collection Kits to States/UTs by BPRD, and MHA letter dated 5 October 2020

Sir/Madam,

I am directed to refer to the above mentioned subject and references and to state that Government of India has taken steps to strengthen legislative provisions to deal with incidents of sexual offences against women and girls. Government of India has also issued various advisories to the States/ Union Territories from time-to-time emphasizing the strict actions to be taken by the police in cases of crime against women, including in cases of sexual assault which includes registration of FIR, collection of evidence for forensic examination and use of Sexual Assault Evidence Collection (SAEC) Kit, completion of investigation in sexual assault cases in two months, use of National Database on Sexual Offenders for identifying and tracking repeat sexual offenders etc. Copies of these advisories are enclosed.

2. It is again brought to your attention that criminal laws relating to sexual offences against women provide, inter-alia, for the following actions to be taken by the Police in such cases:

- (i) Compulsory registration of FIR in case of cognizable offence under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 (CrPC). The law also enables the police to register FIR or a "Zero FIR" (in case the crime is committed outside the jurisdiction of police station) in the event of receipt of

information on commission of a cognizable offence, which includes cases of sexual assault on women.

(ii) Section 166 A(c) of the Indian Penal Code 1860 (IPC) provides for punishment to a public servant for failure to record FIR in relation to cognizable offences punishable under section 326A, Section 326B, Section 354, Section 354B, Section 370, Section 370A, Section 376, Section 376A, Section 376AB, Section 376B, Section 376C, Section 376D, Section 376DA, Section 376DB, Section 376E or Section 509 in IPC.

(iii) Section 173 of CrPC provides for completion of police investigation in relation to rape in two months. In order to facilitate the State police to monitor compliance, in this regard MHA has provided an online portal called Investigation Tracking System for Sexual Offences (ITSSO) for monitoring the same. This is available exclusively to law enforcement officers.

(iv) Section 164-A of CrPC provides that in rape/sexual assault investigation the victim shall be got examined by a registered medical practitioner under consent within twenty-four hours from the time of receiving the information relating to the commission of such offence.

(v) Section 32 (1) of the Indian Evidence Act, 1872, provides that the statement, written or verbal, by a person who is dead shall be treated as relevant fact in the investigation when the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death. Hon'ble Supreme Court in its order dated 7th January 2020, in the matter of Criminal Appeal Nos. 194-195 of 2012 in the case of Purshottam Chopra & Anr. v. State (Govt. of NCT Delhi), directed that a particular statement, when being offered as dying declaration and satisfies all the requirements of judicial scrutiny, cannot be discarded merely because it has not been recorded by a Magistrate or that the police officer did not obtain attestation by any person present at the time of making of the statement.

(vi). The Directorate of Forensic Science Services (DFSS) under the MHA has issued Guidelines for collection, preservation & transportation of forensic evidence in sexual assault cases for Investigation Officers and Medical Officers. In order to facilitate the State Police, Bureau of Police Research and Development (BPR&D) has issued Sexual Assault Evidence Collection (SAEC) Kits to every State/UT. It is necessary to use these SAEC kits in every case of sexual assault reported. MHA advisory dated 5th October 2020 in this matter may be referred. BPR&D and LNIN National Institute of Criminology and Forensic Sciences (NICFS) have been regularly conducting Training and Training of Trainers (ToT) programmes on procedure for collection, preservation and handling of forensic evidence for Police/Prosecutors and Medical Officers respectively.

3. However, even with stringent provisions in law and several capacity building measures undertaken, any failure of police to adhere to these mandatory

requirements may not augur well for the delivery of criminal justice in the country, especially in context of women safety. Such lapses, if noticed, need to be investigated into and stringent action taken immediately against the concerned officers responsible for the same.

4. It is requested that States/ UTs, may suitably issue instructions to all concerned to ensure strict compliance with the provisions in the law, as mentioned above. It is also requested to monitor the cases on ITSSO to ensure that suitable follow up action is taken for charge-sheet of the guilty in a timely manner as required in the law.

Encl: as above

Yours faithfully,



(Pawan Mehta)

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Copy to:

1. DsGP/IsGP (all States and UTs).
2. Principal Secretary/ Secretary, Home Department (All States & UTs),
3. Commissioner of Police, Delhi.