

HIGH COURT FOR THE STATE OF TELANGANA :: HYDERABAD

R.O.C.NO. 1970/SO/2022

DATED:16.11.2022

CIRCULAR NO:28/2022

SUB: Recording of Statements of victims in rape cases under Section 164 Cr.P.C – Instructions - Issued.

REF: Order dated 25.04.2014, in SLP (Criminal) No.5073 of 2011 on the file of the Hon'ble Supreme Court of India.

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It is brought to the notice of the High Court that certain Judicial Magistrate of First Class, are not recording the statement of the victim in rape case immediately when produced by the investigation officers.

Attention of the Judicial Officers in the State is invited to the orders of the Hon'ble Supreme Court dated 25.04.2014, in SLP (Criminal) No.5073 of 2011, where-in the following directions were issued to all the police stations in-charge in the country:

10. On considering the same, we have accepted the suggestion offered by the learned counsel who appeared before us and hence exercising powers under Article 142 of the Constitution, we are pleased to issue interim directions in the form of mandamus to all the police Station-in-charge in the entire country to follow the directions of this Court which are as follows:
 - 10.1 Upon receipt of information relating to the commission of offence of rape, the investigating officer shall make immediate steps to take the victim to any Metropolitan / preferably Judicial Magistrate for the purpose of recording her statement under Section 164 Cr.P.C. A copy of the statement under Section 164 Cr.P.C., should be handed over to the investigating officer immediately with a specific direction that the contents of such statement under Section 164 Cr.P.C., should not be disclosed to any person till charge-sheet / report under Section 173 Cr.P.C., is filed.
 - 10.2 The investigating officer shall as far as possible take the victim to the nearest Lady Metropolitan / preferable Lady Judicial Magistrate.
 - 10.3 The investigating officer shall record specifically the date and the time at which he learnt about the commission of the offence of rape and the date and time at which he took the victim to the Metropolitan / preferably Lady Judicial Magistrate as aforesaid.

- 10.4 If there is any delay exceeding 24 hours in taking the victim to the magistrate, the investigating officer should record the reasons for the same in the case diary and hand over a copy of the same to the Magistrate.
- 10.5 Medical examination of the victim: Section 164-A Cr.P.C., inserted by Act 25 of 2005 in Cr.P.C., imposes an obligation on the part of investigating officer to get the victim of the rape immediately medically examined. A copy of the report of such medical examination should be immediately handed over to the Magistrate who records the statement of the victim under Section 164 Cr.P.C.

The High Court hereby directs that whenever a rape victim is produced by the Investigation Officer in-charge of the Crime:

1. The Magistrates concerned (Lady), nearest lady Metropolitan / lady Judicial Magistrate, shall record the statement of such victim under Section 164 Cr.P.C., immediately, without adjourning the matter for further date.
2. Such lady Magistrate shall handover a copy of the statement recorded under Section 164 Cr.P.C to the Investigating Officer with a specific direction that the contents of such statement under Section 164 Cr.P.C., shall not be disclosed to any person till the charge sheet / report under Section 173 Cr.P.C, is filed.
3. Such lady Magistrate shall further insist the Investigating Officer to handover a copy of the Case Diary and if there is any delay exceeding 24 hours in producing the victim before the said magistrate, the reasons therefore.
4. Such lady Magistrate shall take the copy of Medical Examination Report of the victim, after her medical examination from the investigating officer concerned.

All the Unit Heads are directed to issue necessary instructions to the Judicial Magistrate of First Class / Metropolitan Magistrates in the State working under their control to follow the above said instructions strictly.


REGISTRAR GENERAL

To

- 1) All the Unit Heads in the State of Telangana (with a request to communicate the circular to all the Judicial Officers working under their control.)
- 2) All the Registrars, High Court for the State of Telangana.
- 3) The Director, Telangana State Judicial Academy, Secunderabad.
- 4) The Section Officers:
 - a) O.P.Cell Section and b) E Section, High Court for the State of Telangana.