

CIRCULAR

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12/2011	25/02/2011	JOINT COMMISSIONER OF POLICE	Police Head Quarters	RECORD BRANCH

Subject : Importance of proper linking of exhibits like clothes worn by the prosecutrix in rape cases at the time of the incident (V/O NO. 1401-1500)

Contents

OFFICE OF THE COMMISSIONER OF POLICE, DELHI

No.12/2011

C I R C U L A R

Subject: - Importance of proper linking of exhibits like clothes worn by the prosecutrix in rape cases at the time of the incident.

Detailed guidelines have been issued vide Standing Order No. 303/2009 on various precautions to be taken by the police while investigating cases of rape as per requirements of law and instructions of various Courts issued from time to time. Apart from these requirements that need to be specifically followed in the investigation of rape cases, the Investigating Officer cannot overlook the other basic tenets of investigation like proper lifting of scientific evidence from the scene of crime, linking of all the evidence to the accused, preparation of seizure memos correctly etc.

2. In a recent judgment dated 14.01.2011, delivered by the Hon'ble Court of Shri Sanjay Kumar, Addl. Sessions Judge-I (NW) Rohini Courts in a dacoity-cum-gang rape case vide FIR No.97/2005 U/s 395/376G/412 IPC, PS Bawana, the accused persons have been acquitted of the charge of gang rape, despite the matching of DNA of one of the accused with the semen stains found on the clothes of the prosecutrix, because the prosecution could not link the said clothes to the prosecutrix.

3. In the judgement, the Hon'ble Court has observed that -

"However, a very astonishing fact emerges out from these circumstances that as per the testimony of PW-7 prosecutrix, at the time of incident she was wearing saari. This fact is corroborated by PW3 complainant Ram Prasad Adhikari as well. But for DNA analysis one shirt and salwar were sent. Prosecution is silent on this aspect as to how shirt and salwar came into the picture and sent for DNA analysis....The MLC of prosecutrix also not mentioned that at her medical examination her shirt and salwar were seized. Further more these two exhibits i.e. shirt and salwar of prosecutrix were not shown to her during her examination. Even the doctor who seized these two exhibits i.e. shirt and salwar also not proved that these clothes were worn by prosecutrix when she was produced in the hospital just after the incidence. These two exhibits were never proved by the prosecution".

4. The Hon'ble Court has observed that the investigation regarding the clothes of prosecutrix was thus done unscientifically, negligently and carelessly due to which very crucial evidence was lost and the prosecution could not prove its case.

5. The Court has further directed that the clothes of any victim, injured or a dead person seized by the doctor are very crucial evidence, specially in heinous cases and therefore, it is incumbent on the doctor to take photographs of the clothes of such victim and submit the same with the MLC with investigation officer or the Court. Casting similar duty upon the persons who analyze such clothes at FSL Laboratories, the Court has further directed that the Doctor, FSL shall take photographs of the clothes or any other exhibit after opening their seal and along with the FSL report, photographs of the clothes or any other exhibit shall also be filed. The Court has directed Secretary (Health) and Secretary (Home), GNCT to issue written directions to their respective subordinates to follow this procedure.

6. Henceforth, therefore, the investigating officers/supervisory officers should be careful and ensure compliance of the above directions in respect of proper seizure, investigation and linkage of victim's clothes and other such evidences, specially in heinous cases like rape.

Additional CsP/DCsP Districts shall also liaise with all Chief Medical Officers of Hospitals and also Forensic Science Laboratories, in the light of the orders of the Hon'ble Court.

Sd/-

(KEWAL SINGH)

Jt. Commissioner of Police,
Police Hdqrs., Delhi

No.1401-1500/Record Branch/PHQ, dated Delhi the 25.2.2011

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