OFFICE OF THE COMMISSIONER OF POLICE : DELHI
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CIRCULAR

No. 11 /2023

Subject:- Directions / Guidelines passed by the Hon'ble Supreme Court of India in Criminal Appeal No. 144-145 of 2004 in the matter of Jacob Mathew Vs State of Punjab & Anr.

The Hon'ble Supreme Court of India vide its Judgment dated 05.08.2005 passed in Criminal Appeal No. 144-145 of 2004 in the matter of Jacob Mathew Vs State of Punjab & Anr. has directed the following directions / guidelines for the safety and security of healthcare service providers at their work place:-

1. In case an FIR is registered against the doctor in medical negligence case or where an order of court under section 156(3) or 202(3) Cr.P.C. an investigation is carried out, the Investigating Officer shall before proceeding against the Doctor accused of rash or negligent act or omission, obtain an independent and competent medical opinion preferably from a Doctor in government service qualified in that branch of medical practice who can normally be expected to give an impartial and unbiased opinion applying Bolam's test to the facts collected during investigation. Bolam's test defines that:-

"a professional man should command the corpus of knowledge which forms part of the professional equipment of the ordinary member of his profession. He should not lag behind other ordinary assiduous and intelligent members of his profession in knowledge of new advances, discoveries and developments in his field. He should have such an awareness as an ordinarily competent practitioner would have of the deficiencies in his knowledge and the limitations on his skill. He should be alert to the hazards and risks in any professional task he undertakes to the extent that other ordinarily competent members of the profession would be alert. He must bring to any professional task he undertakes no less expertise, skill and care than other ordinarily competent members of his profession would bring, but need bring no more. The standard is that of the reasonable average. The law does not require of a professional man that he be a paragon combining the qualities of polymath and prophet"

2. A Doctor accused of rashness or negligence, may not be arrested in a routine manner (simply because a charge has been leveled against him), unless his arrest is necessary for furthering/proceeding with the investigation or for collecting evidence or unless there is an apprehension to the Investigating Officer that the doctor proceeded against would not make himself available to face the prosecution unless arrested, the arrest may be withheld.

3. In case of complaints received by the Healthcare Service Providers regarding cognizable offences i.e. assaulting/physical violence against them, FIR be registered without delay in the light of the directions issued by the Hon'ble Supreme Court of India in the matter of Lalita Kumari Vs State of Uttar Pradesh.

4. In case of any incident of violence reported against the health service providers/hospital authorities, the CCTV footage to be looked into during enquiry/investigation to corroborate/verify the facts for arriving at any conclusion. Sincere efforts be made by the Investigation Officers to seize the CCTV recording/footage without any delay so as to prevent any loss or tampering of data.

5. The concerned DCsP, ACsP and SHOs shall maintain regular liaison with the Medical Superintendents to ensure requisite safety tips for the hospitals, its doctors and health workers. Regular follow up meetings be held to address grievances if any.

The field formation officers be sensitized regarding the complaints of medical negligence against healthcare provider as well as regarding any complaint of assault/physical violence against them.

The compliance of the above directions be ensured meticulously and also disseminated amongst all SHOs/I.Os suitably for strict compliance.

This has the approval of Commissioner of Police, Delhi.

18/04

(HAREESH H.P.)
DEPUTY COMMISSIONER OF POLICE
LEGAL DIVISION: PHQ NEW DELHI

No. 1501-1650 /Record Branch/PHQ, dated Delhi, the 18/04/2023.

Copy forwarded to the:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi including Jt. Director, Delhi Police Academy, Delhi/New Delhi.
3. All Addl. Commissioners of Police, Delhi.
4. OSD to C.P., Delhi.
5. All Deputy Commissioners of Police, Districts/Units including PHQ, C.P. Sectt., FRRO and Deputy Director/Delhi Police Academy, Delhi/New Delhi.
6. DCP/HQ(IV)/PHQ with the direction to upload the Standing Order on Intra-DP
7. LA to CP and FA to C.P., Delhi.
8. All ACsP/Inspr./PHQ.
9. PS/Reader to C.P., Delhi.
10. HAR/PHQ.
11. Librarian/PHQ.