OFFICE OF THE COMMISSIONER OF POLICE : DELHI :

CIRCULAR

No. 71 /2012. **Delhi Police**

Subject: - Invoking additional charges against rape accused suffering from life threatening sexually transmitted diseases and their medical examination in this regard.

Detailed guidelines have already been issued by PHQ through S.O. No. 303/2009 and Circular Nos. 38/10, 12/11, 44/11 & 01/12 on various precautions to be taken during investigation of rape cases as per the provisions of law as well as instructions of various courts issued from time to time.

In a recent judgment, the Hon'ble Court of Addl. Session Judge Rohini Courts, while pronouncing judgment in a rape case in which a minor girl was sexually abused by an accused who was a patient of HIV and Pulmonary Koch's Tuberculosis; observed that all such cases of rape or sexual assault where the offender is aware of his sexually transmitted disease/ sexually transmitted infection status, while committing the offence, involve an additional charge as well as punishment and directed that urgent steps are required to be taken by both the Administration and the Investigating Agency so as to ensure that in all cases of sexual assault the Medical examination of the accused is not only confined to examining his sexual capability but also to ascertain as to whether he is suffering from any sexually transmitted disease (STD) or sexually transmitted infection (STI).

When a person, being aware and knowing his HIV status, has unprotected sex with another, it is to be treated as an act of attempt to endanger the life of another, by exposing such other sexual partner to the danger of being infected with this deadly disease, whether or not the disease is actually transmitted to the other sexual partner. This act is to be counted as an act done with such intention or knowledge and under such circumstances, that if, he by that act, can cause death, he would be guilty of murder and as such in all such cases section 307 IPC should be added.

In case the act is done negligently knowing it to be likely to spread infection of any disease dangerous to life, Section 269 IPC is attracted and if the act is done malignantly (with a desire to cause harm) known to be likely to spread infection of any disease dangerous to life, this act attracts the offence punishable u/s 270 IPC.

Cases where the victim actually gets infected by an STD of a deadly nature such as HIV which not only affects the quality of his/her life but also its duration and span or where death is a direct consequence thereof, then the person infecting the other is liable for homicide under Section 304 of IPC.

In the light of the above, all Addl. CsP/DCsP of Distts./Units & Crime Branch are hereby directed that all investigating as well as supervisory officers shall be properly briefed to ensure that the medical examination of the accused should include examination of any Sexually Transmitted Disease or Sexually Transmitted Infection, with which he might be suffering, so that the accused can be charged with appropriate sections mentioned above, and also to provide necessary treatment to the victim at the earliest, against any sexually transmitted disease or sexually infectious disease.

(**ANIL SHUKLA**) IPS
ADDL. COMMISSIONER OF POLICE
POLICE HEADQUARTERS: DELHI.

No. 9238-9458/Record Branch/PHQ, dated Delhi, the 25/10/2012.

Copy to:-

1. All Special Commissioners of Police, Delhi.
2. All Joint/Addl. Commissioners of Police, Delhi.
3. All Dy. Commissioners of Police, Districts/Units Delhi, including FRRO, IGIA & Spl. Cell, Delhi/New Delhi.
4. SO to CP & LA to CP Delhi.
5. DCP/Legal Cell/PHQ, Delhi.
6. All ACsP/PHQ, Delhi.
7. All SHO's in Delhi.
8. I/C Library, PHQ, Delhi with 5 spare copies.
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