OFFICE OF THE COMMISSIONER OF POLICE, DELHI

C I R C U L A R

No. 06 /2018

Subject: - THE CRIMINAL LAW (AMENDMENT) ORDINANCE-2018.

The Hon'ble President of India in exercise of the powers conferred by Clause (1) of Article 123 of the constitution of India has promulgated vide dated 21st April 2018 "The Criminal Law (Amendment) Ordinance-2018".

The ordinance seeks to brings amendment to the Indian Penal Code, the Evidence Act, the Code of Criminal procedure and the Protection of Children from Sexual Offences (POSCO) Act.

The salient features of the ordinance are mentioned below: -

(I) INDIAN PENAL CODE-1860

1. The ordinance amends Section 376 of Indian Penal Code. The amended provision has increased the minimum sentence of rape from 7 to 10 years.

2. **Section 376 (3)** shall be incorporated, which provides that whoever commits rape of woman **below 16 years** age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years but which may extend to imprisonment for life, which shall mean imprisonment for the **remainder of the person's natural life, and shall also be liable to fine**.

3. **Section 376AB** shall be inserted which provides that whoever commits rape of woman **below 12 years** of age shall be punished with rigorous imprisonment for

a term which shall not be less than twenty years but which may extends to imprisonment life, which shall mean imprisonment for the **remainder of the person's natural life and with fine or with death**.

4. After **section 376D** of the Penal Code new **section 376DA** and **section 376DB** shall be inserted.

5. The **section 376DA** prescribes "Where a woman under **sixteen years** of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of the person's natural life and with fine.

6. The **section 376DB** prescribes "Where a woman under **twelve years** of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of the person's natural life and with fine **or with death**.

(II). INDIAN EVIDENCE ACT-1872

1. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter reffered to as the Evidence Act), for the words, figures and letters " section 376A, section 376B, section 376D, the words, figure, and letters "Section **376A, 376AB, 376B, 376C, 376D, and 376DA, 376DB"** shall be substituted.

2. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "Section **376A, 376B, 376C, 376D"** the words, letters and figures **"Section 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB"** shall be substituted.

(III). CODE OF CRIMINAL PROCEDURE -1973.

1. With intent to ensure speedy investigation of cases, Section 173 (1A) Cr.P.C. has provided time limit for investigation of all cases of rape. The amended provision provides as under

"An offences under Section 376, 376A, 376AB, 376B, 376C, 376D, and 376DA, Section 376 DB of the Indian Penal Code shall be completed within two months".

2. In section 438 of the Code of Criminal Procedure, after sub-section (3) , the following sub-section shall be inserted , namely :-

"(4)Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA and section 376DB of the Indian Penal Code."

3. In subsection (1) of Section 439 Cr.PC a new proviso shall be inserted as under:

"Provided, further that the High Court or the Court of Session, before granting bail to a person who is accused of an offence traible under Sub-section (3) of Section 376 or Section 376AB or Section 376DA or Section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of 15 days from the date of receipt of the notice of such application".

5. After sub-section (1), the following sub-section shall be inserted namely –

"(1A) The presence of the informant or any person authorized by him shall be obligatory at the time of hearing of the application for bail to the person

under sub-section (3) of Section Section 376 or Section 376AB or Section 376DA or Section 376DB of the Indian Penal Code"

(IV). PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT-2012

1. The only Section of the Criminal Law Ordinance-2018 which affects the POCSO is Section 42. The Ordinance states that, "In Section 42 of Protection of Children from Sexual Offenses Act, 2012, for the figures and letters," 376A, 376C, 376D", the figures and letters, "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB", shall be substituted.

All Districts DCsP are hereby directed to brief the ACsP/SHOs/IOs of their respective districts to follow the aforesaid provisions meticulously while investigating rape cases.

Non compliance of the circular will be viewed seriously.

(**RAJESH DEO**) DCP/LEGAL CELL
For COMMISSIONER OF POLICE,
DELHI.

No. 751-900 /Record Branch/PHQ, dated, Delhi the 27/04 /2018

Copy forwarded for information and necessary action to the:-

1. All Special Commissioners of Police, Delhi.
2. All Joint Commissioners of Police, Delhi.
3. Addl. Commissioner of Police including Principal / PTC, Delhi.
4. All Deputy Commissioners of Police of Districts / Units including FRRO, Delhi/ New Delhi.
5. SO / PA to Commissioner of Police, LA to Commissioner of police, Delhi.
6. All ACsP in PHQ.
7. DCP/I.T. Centre with the direction to upload the Circular in Intra DP Net.
8. All ACsP/Sub – Division.
9. All SHOs, Delhi.
10. Librarian/ PHQ.
11. SI/ Record Branch/ PHQ with 5 spare copies