OFFICE OF THE COMMISSIONER OF POLICE : DELHI

CIRCULAR

Circular No. 12 /2018

Subject:- Guidelines of Hon'ble Supreme Court of India in W.P.(C) No. 73/2015 – Social Action Forum for Manav Adhikar and Anr. Vs. Union of India, Ministry of Law and Justice & Ors. regarding action by police in the cases registered u/s 498-A IPC.

The Hon'ble Supreme Court of India, vide judgment delivered on 14.09.2018 in the above captioned matter, has partially modified the guidelines earlier formulated vide judgment dated 27.07.2017 delivered in W.P.(C) No. 1265/2017 - Rajesh Sharma & Ors. Vs State, as under :–

1. **Family Welfare Committee** : The Hon'ble Supreme Court of India, vide para-19 (i) of judgment dated 27.07.2017, in "Rajesh Sharma & Ors.", had provided that one or more Family Welfare Committee(s) will be constituted by District Legal Services Authority. Now, the Hon'ble court, in its above judgment in WP (C) No. 73/2015, has held that the constitution of Family Welfare Committee in terms of para 19 (i) of the judgment in Rajesh Sharma is impermissible and not in accordance with the statutory framework.

2. **Designated Investigating Officers** : The Hon'ble Supreme Court of India, vide para-19 (ii) of the Judgment dated 27.07.2017 (Rajesh Sharma & Ors.) had provided that the complaints under section 498-A IPC and other connected offences may be investigated only by a designated Investigating Officer of the area and such Officers may be required to undergo appropriate training. Now, the Hon'ble court, vide its judgment dated 14.09.2018 delivered in above WP (C) No. 73/2015, has laid down that the Investigating Officers, who are in charge of investigation of cases of offences under Section 498-A IPC and other connected offences, should be imparted rigorous training with regard to the principles relating to arrest as prescribed in its judgements in "***Joginder Kumar***", "***D.K. Basu***", "***Lalita Kumari***" and "***Arnesh Kumar***".

3. **Impounding of passports or issue of Red Corner Notice** : The Hon'ble Supreme Court of India, vide para-19 (v) of Judgment in "Rajesh Sharma & Ors." had prescribed that impounding of passports or issuance of Red Corner Notice should not be a routine in respect of persons residing out of India. Now, the Hon'ble court, vide its judgment in above WP (C) No. 73/2015, has laid down that Red Corner Notice should not be done in a routine manner, in case any accused of matrimonial/family offence does not join the investigation, only the competent court will take an appropriate decision to direct the concerned authorities to issue Red Corner Notice, on merit of each case.

The above instruction should be brought to the notice of all concerned for meticulous compliance. The non-compliance of these instructions will be viewed seriously.

This is in supersession of order issued by Joint C.P./SPUWAC vide No.159-189/SO-Joint CP/SPUWAC, PTS Malvia Nagar, New Delhi dated 22.08.2017.

This has the approval of C.P., Delhi.

(RAJESH DEO)
DEPUTY COMMISSIONER OF POLICE
LEGAL CELL, PHQ : DELHI.

No. 1801-1950 /Record Branch/PHQ, dated, Delhi, the 20-11-2018

Copy forwarded for information and necessary action to the :-

1. All Special Commissioners of Police, Delhi.
2. Special Commissioner of Police, Training with the request to include the above instructions in the training programme.
3. All Joint Commissioners of Police, Delhi.
4. All Addl. Commissioners of Police, Delhi.
5. All Dy. Commissioners of Police, Districts/Units, Delhi.
6. DCP/SPUWAC, Delhi w.r.t. to his office order No. 159-189/SO-Joint CP/ SPUW AC PTS Malvia Nagar, New Delhi dated 22.08.2017
7. DCP/IT Centre, Delhi with the request for uploading on Intra DP Net.
8. SO to C.P., Delhi.
9. All ACsP/Insprs./PHQ, Delhi.
10. Record Keeper/Court Cell to place a copy of the order in place of file of Rajesh Sharma.