

**OFFICE OF THE SENIOR SUPERINTENDENT OF POLICE (L&O)
PUDUCHERRY**

No. B3/SSP(L&O)-RD/2022- 65

Dated: 03.03.2022

C I R C U L A R

Sub: Recording of Statement u/s 164 Cr.P.C. by the Magistrate in the offences of 'sexual assault' – Instructions – Issued.

Ref: Standing Order No. 01/2020, dated 22.01.2020 regarding 'SOP/Guidelines for Police Response & Investigation in cases of sexual offence'.


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A detailed 'Standard Operating Procedure/Guidelines for Police Response & Investigation in cases of sexual offence' was issued vide Standing Order No. 01/2020, dated 22.01.2020 by the Director General of Police, Puducherry, citing various statutes and directions of the Hon'ble Courts, which need to be followed while responding to and investigating sexual assault cases. However, the Guidelines (as mentioned at Para. IX of the above SOP) are reiterated as follows, which shall be scrupulously followed by the Officers in letter & spirit, without fail :

RECORDING OF STATEMENT BEFORE MAGISTRATE :

1. It has also been mandated by the Hon'ble Supreme Court in the case titled "**Attorney General Vs. Shiv Kumar Yadav**", Manu/SC/0997/2015 and "**State of Karnataka Vs. Shivanna**", 2014(8) SCC 816 that the statement of the prosecutrix in case of rape and sexual assault must be recorded u/s 164 Cr.P.C within 24 hours of the registration of FIR and at that time, medical report of the prosecutrix must be before the Ld. Magistrate recording statement of victim u/s 164 Cr.P.C.
2. In the event of the victim being admitted in the hospital, the concerned Magistrate shall be requested to record the statement of the victim in the hospital.
3. The child victim shall not be separated from his or her parents or guardian nor taken out from his or her environment on the ground of "ascertaining voluntary nature of statement" unless the parent or guardian is reported to be abusive or the Magistrate thinks it appropriate in the interest of justice.

4. Wherever possible, the IO shall ensure that the statement of the victim is also video recorded as per Section 26 (4) of POCSO Act.
5. The Hon'ble Supreme Court in SLP (Crl.) No. 5073/ 2011 titled '**State of Karnataka by Nonavinakere Police Vs. Shivanna @ Tarkari Shivanna**' vide its order dated 25.4.2014 held that " ... the Investigating Officer shall not disclose the contents of the statement of the victim under section 164 Cr.P.C. until a charge sheet is filed to anybody other than those connected with the investigation of the case either in the capacity of supervisory officer or the Prosecutor."
6. The Investigation Officer shall take the victim to the competent Judicial Magistrate within 24 hours for recording the statement. If it exceeds 24 hours, the Investigation Officer must record the reasons for the same in the case diary and hand over a copy of the same to the Magistrate.
7. The section 164-A Cr.P.C. imposes an obligation on the part of the IO to get the victim of rape medically examined within 24 hours. A copy of the report of such medical examination should be immediately handed over to the Magistrate, who recorded the statement of victim u/s 164 Cr.P.C.


(DEEPIKA, IPS)
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Distribution:

All SDPOs, CIs & SHOs in Puducherry Dt.

Copy submitted for kind info. to :

1. The Director General of Police, Puducherry.
2. The Addl. Director General of Police, Puducherry.
3. The Dy. Inspector General of Police, Puducherry.