

IN THE HIGH COURT OF TRIPURA

AGARTALA

Case No. Cont. Cas (C) 31 of 2015

IN THE MATTER OF:

Court on its own motion

Vs,

Sri Sunil Kumar Das, O/C..... Respondent.

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*Olc
Filed on
08/9/2015
By Q&P, Tripura*

Submitted through

Tapas Datta Majumder,
Advocate

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[Signature]
Director General of Police,
Tripura.

IN THE HIGH COURT OF TRIPURA

AGARTALA

Case No. Cont. Cas (C) 31 of 2015
Category Code :-

To

The Hon'ble Shri Deepak Gupta, B.A., LL.B.
Hon'ble the Chief Justice of the High Court of Tripura.

A N D

His Lordship's companion Justices of the said High
Court.

A N D

IN THE MATTER OF :

An affidavit preferred by the Director General
of Police, Tripura pursuant to the direction of the
Hon'ble High Court dated 16-6-2015 in Cont. Cas(C) 31
of 2015.

A N D

IN THE MATTER OF :

Court on its own motion

Vrs

Sri Sunil Kr. Das, Officer in Charge,.....Respondent

AFFIDAVIT

I, Sri K. Nagaraj, S/o. Sri K Subramanyam, resident of Quarter No. Type-VI/3 Kunjaban Township P/O, Kunjaban-799006 P.S. New Capital Complex, Agartala aged about 56 years, by occupation Government Service and a Citizen of India do hereby solemnly affirm and declare as follows :-

1. I am holding the post of Director General of Police, Tripura and as such I am competent to affirm this affidavit as the direction is upon the Director General of Police.

2. I beg to submit that I have received the Notice No.F.40 (14)-HCT/Bench/CRP/2015/8405 dated 27th August, 2015 in contempt case No. Cont. Cas(C) No.31 of 2015 on 28-8-2015 and upon perusal of the same I become conversant with the fact and circumstances of the case.

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3. That it is necessary to submit that I have received earlier a notice No. 40 (4)-HC/AGT/B/CRL/2015 / 5300 dated 22-06-2015 on 23-06-2015, in my office which I had perused and I replied the same to the Register (Judicial) with an expectation that the same will be placed before the Hon'ble Court. A copy of the said reply No.1552/R-82/DGP/LC/2015 dated 27/06/2015 is enclosed herein and is marked as Annexure R/1 of this affidavit.

4. That, I was completely mistaken to understand that the order directing me to inform this Hon'ble Court as to whether the direction issued by this Hon'ble Court in Sri **Mrinal Bhowmik and another Vs. The State of Tripura (Crl A. (J) 04 of 2010 and Sri Jhunu Das Vs. the State of Tripura (Crl A. 33 of 2010)** were actually circulated among the police officials and along with the records of such circulation, was in fact a judicial order therefore, I ought to have

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submitted reply to this before this Hon'ble Court by way of affidavit.

I beg apology for such mistaken understanding of the notice dated 22.6.2015.

5. That, I beg to submit that after receipt of the judgment and order dated 18-4-2013 passed by the Hon'ble High Court of Tripura in case No. Cri. Appl.(J)-04 of 2010 (Sri Mrinal Bhowmik and another - Vs - The State of Tripura) the directions contained in the said Judgment and order were circulated to District SPs North/Unakoti/Dhalai/Khowai/West/Sepahijala/Gomati/ South and CID with copy to IGP(L/O). IGP (Int) Dy.IGP (SR/NR) and others with instruction to circulate the direction of the Hon'ble Court to all O/C PSs, IOs and SDPOs under their jurisdiction vide this office letter No.418-32/R-33/DGP/LC/2013 dated 29-04-2013 for strict compliance of the direction of the Hon'ble Court, a

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copy of the above letter is already enclosed in Annexure-1
of Annexure-R/1 of this affidavit.

6. I further submit that following the above judgment and order dated 18-04-2013 passed by the Hon'ble High Court of Tripura, the Chief Secretary, Tripura communicated the Guidelines for implementing the judgment and order dated 18-04-2013 with regard to handling medico legal cases by Government Hospital and recording of FIR by Police under section 154 Cr.P.C vide order No.F.13(19)/PD/13 dated 02-05-2013.

The direction of the Hon'ble High Court and the order dated 02-05-2013 of the Chief Secretary as above have been circulated to all O/C, PSs and SDPOs District S.Ps with copy to IGP(L/O), IGP (Int.) Dy. IGP (SR/NR), SP (CID) and others vide this office letter No.462-567/R-33/DGP/LC/2013 dated 3-05-2013 for strict compliance, a copy of the office letter No.462-

b (152)

567/R-33/DGP/LC/2013 dated 3-05-2013 is enclosed as **Annexure 2** of Annexure R/1 of this affidavit.

7. I beg to submit further that directions of the Hon'ble High Court as circulated vide this office letter No. 462-567/R-33/DGP/LC/2013 dated 3-05-2013 to all concerned were again circulated to the District SsP vide this office letter No.1211-26/R-42/DGP/LC/1999 dated 01-06-2015 for strict compliance along with other orders of the Home Department a copy of the above letter is already enclosed as **Annexure -3** of Annexure R/1 of this affidavit.

8. That in compliance of the Judgment and Order dated 06-06-2014 passed by the Hon'ble High Court of Tripura in case No. Crl. Apl. - 33 of 2010 (Shri Jhunu Das Vs-The State of Tripura), a circular has been issued containing the direction of the Hon'ble Court to the District SsP North / Unokoti / /Dhalai/Khowai/West/Sepahijala/Gomati/ South SP

(GRP) & SP(CID) including all O/C PSs and SDPOs with copy to all concerned for strict compliance of the directions of the Hon'ble High Court in regard to mandatory registration of FIR by Police in all cases where a cognizable offence is disclosed through circular No.1165-1282/R.75/DGP/LC/2014 dated-26.06.2014 , a copy of which is already enclosed as Annexure-4 of Annexure-R/1 of this affidavit.

9. That, Judgment & Order dated 06-06-2014 passed by the Hon'ble High Court of Tripura in case No. Crl.Appl.-33 of 2010 (Jhunu Das -Vs -The State of Tripura) as circulated vide Circular No. 1165-1282/R-75/DGP/LC/2014 dated 26-06-2014 was again circulated vide this office letter No. 1560-75/R-28/DGP/LC/2014 dated 30-06-2015 to the District SsP, West /Khowai /Sepahijala /Gomati/ South/ Unakoti/ North/ Dhalai/ CID/GRP /EB Tripura along with another order of the Hon'ble High Court with copy to IGP(L/O), DIGP(S/R), DIGP(N/R) and others to ensure that

directions of the Hon'ble High Court of Tripura contained in the enclosed circular and Memorandum are complied by the subordinate officers including O/C PSs under their respective jurisdiction in letter and spirit. Besides the above mentioned Circular and Memorandum also uploaded in the Tripura Police Website and Tripura Police Knowledge Network. A copy of circular dated-30.6.2015 is enclosed herein and is marked as Annexure R/2 of this affidavit.

10. That, I crave leave for making further appropriate submission at the time of hearing of the petition .
11. That the Annexure made in the affidavit are true copies of original which I verily believe to be true and correct.
12. That, in the fact and circumstances I pray that your lordship would be kind enough to accept this affidavit as may compliance of the direction of the Hon'ble High Court.

13. That the statement made in Para 1 to 3 and 4 are true to my knowledge, those made in Para 5 to 8 and 9 are my information derived from official records which I know to be true and correct and rest is humble submission before the Hon'ble Court.

In acknowledgement where of I sign this affidavit before the Commissioner of Affidavit, the High Court of Tripura at Agartala on this the 8th September' 2015.

I identify the deponent.

Deponent.

Government of Tripura
Office of the Director General of Police
Legal Cell: PHQ

No. 1552 /R-82/DGP/LC/2015.

Dated 27 June, 2015.

To
The Registrar (Judl),
Hon'ble High Court of Tripura,
AGARTALA

Reference:- Hon'ble High Court of Tripura Notice dated 22.06.2015 in connection with case No - A.B - 40 of 2015 (Anar Das - Vs- the State of Tripura as communicated vide No-F.40 (4)-HC/AGT /B/CRI./2015/5300 dt 22.05.15.

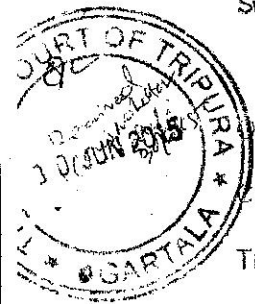
Subject:- Report regarding circulation of the directions issued by the Hon'ble High Court of Tripura in Sri Mrinal Bhowmik & Anr. -Vs - The State of Tripura (Crl Appl.(J) - 04 of 2010) and in Jhunu Das -Vs -The State of Tripura (Crl.A-33 of 2010).

Sir,

In this regard it is submitted that after receipt of the Judgment and order dated 18-04-2013 passed by the Hon'ble High Court of Tripura in case No. Crl Appl.(J) - 04 of 2010 (Sri Mrinal Bhowmik & Anr. -Vs - The State of Tripura) from the Registry of the Hon'ble High Court of Tripura, the directions contained in the said Judgment and Order were circulated to District SsP North / Unakoti / Dhalai / Khowai / West / Sepahijala / Gornati / South & CID with copy to IGP (L/O), IGP (Int), Dy IGP (SR/NR) and others with instruction to circulate the directions of the Hon'ble Court to all O/C PSs, IOs and SDPOs under their Jurisdiction vide this office letter No-418-32/R-33/DGP/LC/2013 dated 29.04.2013 for strict compliance of the direction of the Hon'ble Court (Annexure-1).

2. Following the above judgment and order dated 18.04.2013 passed by the Hon'ble High Court of Tripura, the Chief Secretary, Tripura Communicated the Guidelines for Implementing the judgment and order dated 18.04.2013 with regard to handling medico legal cases by Government Hospital and recording of FIR by Police u/s 154 Cr P.C vide order No-F.13 (19)/PD/13 dated 02.05.2013.

Contd P/2



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(-2-)

The direction of the Hon'ble High Court and the order dated 02.05.2013 of the Chief Secretary, Tripura have been circulated to all O/C PSs, SDPOs, District SsP with copy to IGP (L/O), IGP (Int), Dy IGP (SR/NR), SP (CID) and others vide this office letter No-462-567/R-33/DGP/LC/2013 dated 03.05.2013 for strict compliance (Annexure-2).


3. The directions of the Hon'ble High Court as circulated vide this office letter No-462-567/R-33/DGP/LC/2013 dated 03.05.2013 to all concerned were again circulated to the District SsP vide this office letter No-1211-26/R-42/DGP/LC/1999 dated 01.06.2015 for strict compliance along with other orders of the Home Department (Annexure-3).

4. In compliance of the Judgment & Order dated 06-06-2014 passed by the Hon'ble High Court of Tripura in case No. CrI.Appl.-33 of 2010 (Jhunu Das - Vs -The State of Tripura) a circular has been issued containing the directions of the Hon'ble Court to the District SsP North / Unakoti / Dhalai / Khowai / West / Sepahijala / Gomati / South, SP(GRP) and SP(CID) including all O/C PSs and SDPOs with copy to all concerned for strict compliance of the directions of the Hon'ble High Court in regard to mandatory registration of FIR by police in all cases where a cognizable offence is disclosed through circular No. 1165-1282/R-75/DGP/LC/2014 dated 26-06-2014 (Annexure-4).

This is for kind information of the Hon'ble High Court of Tripura.

Yours faithfully,

Enclos: As stated.


(K. NAGARAJ) 11/01/15
Director General of Police
Tripura.

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ANNEXURE-I

Government of Tripura
Office of the Director General of Police
Tripura :: Agartala.
(Legal Cell)

No. 418-32 /R- 33/DGP/LC/2013,

Dated, the 29th, April, 2013.

To
The District Superintendent of Police,
~~North / Unakoti / Dhalai / Khowai West /~~
~~Sepahijala / Gomati and South Tripura.~~
The Superintendent of Police (CID),
Tripura :: Agartala.

Subject:- Judgment dated 18-04-2013 passed in Case No. Criminal Appeal (J) – 04 of 2010 (Shri Mrinal Bhowmik & Anr. – Vs – State of Tripura).

Please find enclosed photo-copy of judgment dated 18-04-2013 passed in Case No. Criminal Appeal (J) – 04 of 2010 (Shri Mrinal Bhowmik & Anr. – Vs – State of Tripura), contents of which are self explanatory.

2. In the judgment at Para – 20 and 23, the following directions are given by the Hon'ble Division Bench which required to be complied with by the Police and Health Department respectively.

PARA – 20.

- (i) That the in-charge of the police station shall himself record or cause to be recorded the First Information Report as soon as such information is brought to his notice in relation to a cognizable offence.
- (ii) No police official shall, compel the complainant to file a complaint in writing.
- (iii) The provisions of sections 154 and 157 shall be complied with and the copy of the FIR should be sent to the Magistrate immediately after recording the same.

PARA – 23.

- (i) *As soon as a person is brought to the hospital in a condition wherein it is apparent that he or she has suffered injuries which may be the result of use of violence, whether accidental or by the person himself or caused by any other person, it shall be the duty of the doctor to report the matter immediately to the police.*
- (ii) *We make it clear that treatment of the patient shall not be delayed to await the police, and the doctor is duty bound to first treat the patient but must simultaneously make arrangements to inform the police.*

Contd. P/2

(iii) Once the information is given to the police, the police official must visit the hospital and ascertain from the doctor whether the victim is in a condition to make a statement or not.

(iv) If the victim is in a position to make statement then the police official should record the statement and try to associate independent witnesses with the recording of the statement. In case the victim is a lady as far as possible one lady police official must be present when the statement is recorded.

(v) The statement should be recorded in the local language and dialect of the victim and translation can be made later on.

(vi) If the statement so recorded discloses the commission of a cognizable offence the FIR shall be recorded immediately without waiting for any formal written complaint.

(vii) In case the doctor declares a person unfit to make a statement then the police official should make an effort to repeatedly visit the hospital and find out from the doctor when the patient is fit to make the statement.

(viii) Even the medical officer should maintain a record that a request for recording the statement of the victim has been made and as soon as the victim is in a fit condition to make the statement, the medical officer should inform the concerned police official about this fact and thereafter the police official can record the statement of the victim.

(ix) In cases of dying declaration relating to serious offences like the present one, the police official if time is available, must make an effort to associate a Judicial or Executive Magistrate with the recording of the statement.

3. At Para - 24 and 25 of the judgment, directions have also been given upon the Director General of Police, Tripura to the effect that after compliance of the above instructions, he shall have to file an affidavit personally before the court within 06-05-2013 besides other dignitaries / high officials, if any doctor or police officials violates the directions given by the Hon'ble Division Bench is liable for disciplinary action and also liable to face action under Contempt to Court Act.

4. In view of the above, it is, requested to circulate the instructions / directions of the Hon'ble Division Bench to all the Officer-in-Charge of the Police Stations including I/Os and SDPOs under their jurisdictions and send compliance report to PHQ, Legal Cell by 29-04-2013 through special messenger for further action.

Matter may please be treated as High Court Priority.

Encl:- As stated.

(Gourab Chakraborty)
Asstt. Insp. Genl. of Police(Pers),
For Director General of Police.
Tripura.

Contd.P/3.

Copy along with its enclosures to:-

- ✓(i) The Inspr. Genl. of Police(L/O), Tripura, Agartala for information please
- ✓(ii) The Inspr. Genl. of Police (Int), Tripura, Agartala for information please.
- ✓(iii) The Dy. Inspr. Genl. of Police, Range(SR/NR), Tripura for information and necessary action please.

Copy also to:-

- ✓(iv) The Chief Secretary, Government of Tripura
- ✓(v) The Secretary, Home Deptt. Govt. of Tripura.
- ✓(vi) The Principal Secretary, Health Deptt., Govt. of Tripura.

..... for information please.

(Gourab Chakraborty)
Asstt. Inspr. Genl. of Police(Pers),
For Director General of Police.
Tripura.

Government of Tripura
Office of the Director General of Police
Tripura :: Agartala.
(Legal Cell)

No. 462-567 /R- 33/DGP/LC/2013,

Dated, the 3rd May, 2013.

To
The District Superintendent of Police,
North / Unakoti / Dhalai / Khowai / West /
Sepahijala / Gomati and South Tripura.

SDPOs Sadar, Mohanpur, Jirania, Khowai, Teliamura, Bishalgarh, Sonamura, Jampajjala, Udaipur, Amarapur, Ompi, Karbook, Belonia, Shantirbazar, Sabroom, Ambassa, Kamalpur, Manu, Longtharai Valley, Gandacherra, Dharmanagar, Kanchanpur, Panisagar, Kailashahar, Kumarghat.

O/C, P.Ss. R.K. Pur, Killa, Kakraban, Women P.S. R.K. Pur, Birganj, Nutanbazar, Ompi, Taidu, Karbook, Shilachari, Belonia, P.R. Bari, Shantirbazar, Baikhora, Sabroom, Manubazar, Bishalgarh, Bishramganj, Sonamura, Jatrapur, Kalamchoura, Melagarh, Takarjala, West Agartala, East Agartala, Agartala Women P.S., Airport, Sidhai, Lefunga, Jirania, Ranirbazar, Mandai, Amtali, Srinagar, Radhapur, Bodhjungnagar, Teliamura, Kalyanpur, Mungiakami, Khowai, Champahowar, Kanchanpur, Vangmun, Anandabazar, Khedacherra, Damcherra, Panisagar, Churaibari, Dharmanagar, Kadamtala, Kailashahar, Kumarghat, Pecharthal, Kamalpur, Salema, Kachucherra, Ambassa, Gandacherra, Ganganagar, Raishyabari, Manu, Chamanu, Chailengta, Nepal Tilla, Manikpur, Dhumacherra.

Subject- Judgment dated 18-04-2013 passed in Case No. Criminal Appeal (J) - 04 of 2010 (Shri Mrinal Bhowmik & Anr. - Vs - State of Tripura).

Hon'ble High Court of Tripura while hearing the appeal in case CrI. A. (J) No. 04 of 2010 (Shri Mrinal Bhowmik & Anr. -Vs - the State of Tripura) wherein one Ms. Shipra Das (Bhowmik) died due to serious burn injuries in the G.B.P. Hospital, Agartala, has made certain important observations in the judgement dated 18-04-2013 on handling of medico-legal cases and steps to be taken by police for recording FIR under Section of 154 Cr.P.C.

2. Following this judgment the Chief Secretary, Tripura communicated the enclosed order vide his instructions dated 2nd May, 2013, the operational part of which is reproduced below. A copy of his order is also enclosed for ready reference.

Category - A: Recording of FIR and application of Section 154 and 157 Cr.P.C.

- (i) The in-charge of the police station shall himself record or cause to be recorded the First Information Report as soon as such information is brought to his notice in relation to a cognizable offence.
- (ii) No police official shall, compel the complainant to file a complaint in writing.
- (iii) The provisions of sections 154 and 157 shall be complied with and the copy of the FIR should be sent to the Magistrate immediately after recording the same.

Contd. P/2.


(16) (150) (50)

Category – B: Handling of Medico-Legal Cases.

As soon as a person is brought to the hospital in a condition wherein it is apparent that he or she has suffered injuries which may be the result of use of violence, whether accidental or by the person himself or caused by any other person, it shall be the duty of the doctor to report the matter immediately to the police. Further, in all such cases, the following procedure shall be followed by Medical Officers / Hospitals and Police:-

- (i) *The treatment of patient shall not be delayed to await the police and the doctor is duty bound to first treat the patient. However, the Medical Officer concerned must simultaneously make arrangements to inform the police.*
- (ii) *Once the information is given to the police, the police official must visit the hospital and ascertain from the doctor whether the victim is in a condition to make a statement or not.*
- (iii) *If the victim is in a position to make statement then the police official should record the statement and try to associate independent witnesses with the recording of the statement. In case the victim is a lady as far as possible one lady police official must be present when the statement is recorded.*
- (iv) *The statement should be recorded in the local language and dialect of the victim and translation can be made later on.*
- (v) *If the statement so recorded discloses the commission of a cognizable offence the FIR shall be recorded immediately without waiting for any formal written complaint.*
- (vi) *In case the doctor declares a person unfit to make a statement then the police official should make an effort to repeatedly visit the hospital and find out from the doctor when the patient is fit to make the statement.*
- (vii) *The medical officer should maintain a record that a request for recording the statement of the victim has been made and as soon as the victim is in a fit condition to make the statement, the medical officer shall inform the concerned police official about this fact and thereafter the police official can record the statement of the victim.*
- (viii) *In cases of dying declaration, if time is available, the police official(s) must make an effort to associate a Judicial or Executive Magistrate with the recording of the statement.*

4. All District SsP, SDPOs and Os/C P.Ss. are advised to carefully note for strict compliance the instructions issued by the Chief Secretary which have been made following the order of Division Bench headed by Hon'ble Chief Justice of the High Court of Tripura in the aforesaid judgment.


(SANJAY SINHA)
Director General of Police.
Tripura.

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(Page No. - 3)

Copy to:-

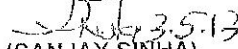
- (i) The Insp. Genl. of Police(L/O), Tripura, Agartala.
- (ii) The Insp. Genl. of Police (Int), Tripura, Agartala.
- (iii) The Dy. Insp. Genl. of Police, Range(SR/NR), Tripura.
- (iv) The Supdt. of Police(CID), Tripura.

.....for information and necessary action.

Copy also to:-

- (v) The Chief Secretary, Government of Tripura
- (vi) The Secretary, Home Deptt. Govt. of Tripura

.....for information please.


(SANJAY SINHA)
Director General of Police.
Tripura.

Government of Tripura
Office of the Director General of Police
Tripura : Agartala.
(Legal Cell)

(AS)

(SS)

ANNEXURE-3

No. 12-11-26/R-42/DGP/LC/99

Dated, the 18th June 2015.

To
The Superintendent of Police,
West / Khowai / Shephijala / Gomati
/ South / Unakoti / North and Dhalai District,
Tripura.

The Superintendents of Police (CID) / (GRP)
Tripura, Agartala.

Subject:- Re-circulation of the Memorandum / Orders issued from the Home Department in pursuance of Hon'ble High Court's judgment and order.

Please find enclosed photo copy of the following Memorandum / Orders issued from the Home Department, Government of Tripura from time to time in pursuance of Hon'ble High Court's judgment and orders, which are self explanatory

Sr No	Rel Case No.	Date on which order / judgment passed.	Name of the Court	Subject	Ref No of the Memorandum / Order issued in compliance to High Court order
1	Criminal Appeal (J) No.01 of 2011 (Sri Joydeb Ghosh & Anr-Vs-the State of Tripura)	06.05.2014	Hon'ble High Court of Tripura	Recording dying declaration	No-1331-1441/R-77/DGP/LC/14 dated 04.07.14
2	Cri Appeal (J) No-04 of 2010 (Sri Minal Bhowmik & Anr-Vs- the State of Tripura)	18.04.2013	-do-	Recording of FIR by police u/s 154 Cr.P.C in Medico Legal Case	No-462-567/R-33/DGP/LC/13 dated-03.05.13.
3	Criminal Appeal (J) No-04 of 2010 (Sri B. S. Choudhury & D/Barma Vs- the State of Tripura)	19.08.2013	-do-	Investigation & conducting trail of criminal cases, especially in heinous crimes like murder, rape etc.	No-528-40/R-142/DGP/LC/13 dated-18.03.14
4	Writ petition(C) (PIL) No-02 of 2015 (Smt Sujata Deb (Gupta)-Vs-the State of Tripura & Ors)	19.10.2012	Guwahati High Court, Agartala Bench.	Accident information report and compliance of Sub Section (6) of Section 158 of MV Act, 1988.	No.1475-1554/R-26/DGP/LC/12 dated 02.11.12.
5	Writ petition(C) (PIL) No-03 of 2013 (Court on its own Motion-Vs-State of Tripura)	20.01.2014	Hon'ble High Court of Tripura	Hon'ble High Court of Tripura direction to comply with the provisions of the (Regulation & Control) Rules, 2000	No-218-28/R-2/DGP/LC/14 dated-29.01.14

Contd.....P-2.

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All these Memorandum / Orders were circulated earlier vide this office letter no. (1) No-1331-1441 / R-77 / DGP / LC / 14 dated 04.07.14 in c/w case no - Criminal Appeal (J) No.01 of 2011 (Sri Joydeb Ghosh & Anr-Vs-the State of Tripura), (2) No-462-567 / R-33 / DGP / LC / 13 dated 03.05.13 in c/w case no-Crl. Appeal (J) No-04 of 2010 (Sri Mrinal Bhowmik & Anr-Vs- the State of Tripura), (3) No-528-40 / R-142 / DGP / LC / 13 dated 18.03.14 in c/w case no-Criminal Appeal (J) No-04 of 2010 (Sri Barun Kr. D/Barma-Vs-the State of Tripura), (4) No1475-1554/R-26/DGP/LC/12 dated 02.11.12 in c/w case no-Writ petition(C) (PIL) No-02 of 2015 (Smt Sujata Deb (Gupta)-Vs-the State of Tripura & Ors) and (5) No-218-28/R-2/DGP/LC/14 dated 29.01.14 in c/w case no-Writ petition(C) (PIL) No-03 of 2013 (Court on its own Motion-Vs-State of Tripura) for strict compliance by all concerned.

It is therefore requested to re-circulate the above Memorandum / Orders of Home Department to all SDPO's and all O/C PsS for strict compliance.

Encl:- As stated.



(Lalhminga Darlong)
Asstt. Insp. Genl. of Police(Crime),
For Director General of Police.
Tripura.

Copy along with its enclosures to:-

1. The Insp. Genl. of Police (L/O), Tripura.
2. The Dy. Insp. Genl. of Police(S/R), Tripura. | ...for information please
3. The Dy. Insp. Genl. of Police(N/R), Tripura. |
4. The Under Secy. (Home), Govt, of Tripura for information please. This has refer to Home Department letter No-F.13 (96)-PD/14/1620 dated 11.05.2015.

Copy also to:

5. The I/C TPKN, PHQ with a request to upload the following memorandum / Order's on Tripura Police Knowledge Network.
6. The I/C E-Governance cell, PHQ with a request to upload the following memorandum / order's on Tripura Police Website


(Lalhminga Darlong)
Asstt. Insp. Genl. of Police(Crime),
For Director General of Police.
Tripura.



ANNEXURE-4.

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Government of Tripura
Office of the Director General of Police
Tripura :: Agartala.
(Legal Cell)

//CIRCULAR//

The Hon'ble High Court of Tripura in a Judgment passed on 06-06-2014 in CrI.A -33/2010(Jhunu Das -Vs- The State of Tripura) has directed to circulate the directions of recent Constitution Bench Judgment of the Apex Court in (Lalita Kumari -Vs- Government of U.P and Ors.) (AIR 214 SC 187) given in para 111 of the Judgment and the directions of the Hon'ble High Court of Tripura given in CrI.A(J)-04/2010 (Sri Mrinal Bhowmik & Anr. Vs. The State of Tripura) regarding mandatory registration of FIR by police in all cases where a cognizable offence is disclosed.

2. Hon'ble Constitution Bench of the Apex Court of India, in its Judgment passed on 12-11-2013 in Writ Petition(CrI) No. 68 of 2008 (lalita Kumari -Vs- Government of U.P and Ors.) with SLP(CrI) No. 5986 of 2006, SLP(CrI) No. 5200 of 2009, CrI.A No. 1410 of 2011, CrI.A No. 1267 of 2007 contempt petition(C) No. D.26722 of 2008 in WP(CrI) No. 68 of 2008 issued the following directions in para 111 of the Judgment regarding registration of FIR relating to Commission of a cognizable offence U/S 154 of Cr.P.C, 1973.

- o/c
- (i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
 - (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
 - (iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
 - (iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
 - (v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

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(26)

- (vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:
- (a) Matrimonial disputes/ family disputes
 - (b) Commercial offences
 - (c) Medical negligence cases
 - (d) Corruption cases
 - (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.
- (vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.
- (viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

3. The directions given by the Hon'ble High Court of Tripura in CrI.A(J)-04/2010 (Sri Mrinal Bhowmik & Anr. Vs. The State of Tripura) regarding mandatory registration of FIR by police in all cases where a cognizable offence is disclosed. These directions of the Hon'ble Court circulated earlier vide this office letter No. 418-32/R-33/DGP/LC/2013 29-04-2013 and No. 462-567/R33/DGP/LC/2013 dated 03-05-2013 to all O/C, SDPOs, SsPs for strict compliance and the same is once again circulated with further directions for strict compliance.

- (i) As soon as a person is brought to the hospital in a condition wherein it is apparent that he or she has suffered injuries which may be the result of use of violence, whether accidental or by the person himself or caused by any other person, it shall be the duty of the doctor to report the matter immediately to the police.
- (ii) We make it clear that treatment of the patient shall not be delayed to await the police, and the doctor is duty bound to first treat the patient but must simultaneously make arrangements to inform the police.
- (iii) Once the information is given to the police, the police official must visit the hospital and ascertain from the doctor whether the victim is in a condition to make a statement or not.

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- (iv) If the victim is in a position to make statement then the police official should record the statement and try to associate independent witnesses with the recording of the statement. In case the victim is a lady as far as possible one lady police official must be present when the statement is recorded
- (v) The statement should be recorded in the local language and dialect of the victim and translation can be made later on.
- (vi) If the statement so recorded discloses the commission of a cognizable offence the FIR shall be recorded immediately without waiting for any formal written complaint.
- (vii) In case the doctor declares a person unfit to make a statement then the police official should make an effort to repeatedly visit the hospital and find out from the doctor when the patient is fit to make the statement.
- (viii) Even the medical officer should maintain a record that a request for recording the statement of the victim has been made and as soon as the victim is in a fit condition to make the statement, the medical officer should inform the concerned police official about this fact and thereafter the police official can record the statement of the victim.
- (ix) In cases of dying declaration relating to serious offences like the present one, the police official if time is available, must make an effort to associate a Judicial or Executive Magistrate with the recording of the statement.

4. All O/C PSs/PS level Officers/SDPOs are hereby directed to comply the above mentioned directions of the Hon'ble Apex Court as well as Hon'ble High Court of Tripura in letter and spirit.

5. Failure to comply with the above mentioned directions by concerned O/C PSs/Field level Officers of PSs/ SDPOs shall apart from rendering him liable for departmental action, the concerned officials also be liable for contempt of Court. District SsPs and SP(GRP) are directed to ensure strict compliance of the above directions by O/C PSs and other Officers of PS and SDPOs posted under them.

6. Now, considering the latest directions of the Hon'ble Supreme Court of India and the Hon'ble High Court of Tripura, copy of this circular should be provided by concerned SsPs to all officers posted under them and brief them about these directions of mandatory registration of FIR by Police in all cases where a cognizable offence is disclosed during monthly crime conference/periodically meetings/ Visit of PSs. This circular is issued in compliance of the Judgment dated 06-06-2014 passed by the Hon'ble High Court of Tripura in CrI A-33/2010 (Sri Jhunu Das -Vs- The State of Tripura).

C. Balasubramanian
(C. Balasubramanian)
Director General of Police.
Tripura

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26/6/14

Memo No. 1165-1282 /R-75/DGP/LC/2014. Dated, 26 th, June, 2014.

Copy to:-

01-71 O/C PSs, West Agartala/East Agartala/Women P.S East Agartala/Women P.S West Agartala/Airport/Sidhai/Lafunga/Jirania/Ranirbazar/Mandai/Amtali /Srinagar /Radhapur/Budjungnagar/NewCapitalComplex/A.DNagar/Bishalgarh/Takarjala/Bishramganj/Melagarh/Sonamura/Jatrapur/Kalamchoura/R.KPur/Women PS Udaipur/Killa/Kakraba/Birganj/NatunBazar/Ompi/Taidu/Karbook/Silachari/Belonia /P.R Bari/Shantir Bazar/Baikhura /Sabroom/ManuBazar/Teliamura/Kallanpur /Mungiakami/Khowai/Champahaur/Kamalpur/Salema/Kachucherra/Ambassa/Ganganagar/Gandacherra/Raisyabari/Manu/Chwmanu/Chailengta/Nepaltila/Manikpur/Dhumachherra/Kailashahar/Kailashahar women, P.S/Kumargath/Pacherthal/ Irani/Kanchanpur/Vangmun/Anandabazar/Khedacherra/Damcherra/Panisagar /Churaibari/Dhar-managar/Kadamtala for information and strict compliance of the above directions.

72-76. O/CPSs, GRP Agartla/Teliamura/Ambassa/Manu/Dharmanagar for information and strict compliance of the above directions.

77-103.All SDPO's Sadar/ NCC/Amtali/Jirania / Mohanpur / Khowai / Teliamura/ Bishalgarh / Sonamura / Jumpajala / Udaipur / Amarpur / Karbook / Ompi / Shantirbazar / Sabroom / Belonia / Ambassa / Kamalpur / Gandacherra / Langtharai Valley / Manu / Kailashahar / Kumarghat / Kanchanpur / Damcherra / Dharmanagar, Tripura through their respective District SsP for information and strict compliance of the above directions.

104-111.The District SsP West/Khowai/Shephijala/Gomati /South/Unokoti/ North/ Dhalai, Tripura for information and strict compliance of the above directions.

112. The Superintendent of Police, GRP, Tripura for information and strict compliance of the above directions.

Copy also to:-

113 The Inspr. Genl of Police (L/O), Tripura for information please.

114 The Dy Inspr. Genl. of Police (S/R), Tripura for information please

115. The Dy. Inspr. Genl. of Police (N/R), Tripura for information please

116. The Addl. Secy(Home) for information please.

117. Crime Section, PHQ.

118. Case file/Circular file of PHQ, Legal Cell.

C. Balasubramanian
26/6/14
(C. Balasubramanian)
Director General of Police.
Tripura.

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ANNEXURE-R/2

Government of Tripura
Office of the Director General of Police
Tripura :: Agartala.
(Legal Cell)

No. 1560-75/R-28/DGP/LC/2014

Dated, the 30 th, June, 2015

To
The Superintendent of Police,
West / Khowai / Shephijaia / Gomati
/ South / Unakoti / North and Dhalai District,
Tripura.

The Superintendents of Police (CID) / (E/B)/(GRP)
Tripura, Agartala.

Subject:- Re-circulation of the Memorandum / Circular issued in pursuance of Hon'ble High Court of Tripura judgment and order.

Reference:- Circular No. 1165-1282/R-75 / DGP / LC / 2014 dated 26.06.2014 and
Memorandum No. 1806-1931 / R-28 / DGP / LC / 2014 dated 23.08.2014

This office has circulated the directions of the Hon'ble High Court of Tripura vide No. 1165-1282/R-75/DGP/LC/2014 dated 26.06.2014 following the Judgment and Order dated 06-06-2014 in Criminal Appeal - 33 of 2010 (Jhunu Das - Vs- The State of Tripura) and Memorandum No. 1806-1931 / R-28 / DGP / LC / 2014 dated 23.08.2014 following the Judgment and order dated 26-06-2014 in Criminal Appeal No.103 of 2007 (Sri Prabir Debroy & Anr-Vs-the State of Tripura) to District SsPs, SDPOs and O/C RPs/Court Inspectors with copy to all concerned for strict compliance of directions of the Hon'ble High Court of Tripura passed in the above mentioned cases in later and spirit.

2. The above mentioned circular dated 26-06-2014 and Memorandum dated 23-08-2014 are again circulated for strict compliance by all concerned. SsPs should provide copies of these circular and Memorandum to all subordinate officers including O/C RPs/Court Inspectors for strict compliance.

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23/06/15



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SsPs shall ensure that directions of the Hon'ble High Court of Tripura contained in the enclosed circular and Memorandum are complied by the subordinate officers including O/C PSs under their respective jurisdiction in letter and spirit. (Copy of circular dated 28-06-2014 and Memorandum dated 23-08-2014 are enclosed).

Action taken in this regard shall be intimated to PHQ, Legal Cell within a week

Encls:- As stated.

(Lalhminga Darlong)
Asstt. Insp. Genl. of Police(Crime),
For Director General of Police,
Tripura.

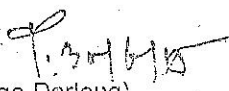
Copy along with its enclosures to:-

1. The Insp. Genl. of Police(L/O), Tripura.
2. The Dy. Insp. Genl. of Police(S/R), Tripura.
3. The Dy. Insp. Genl. of Police(N/R), Tripura.

.....for information please

Copy also to:

4. The I/C TPKN, PHQ with a request to upload the above Memorandum / Circular on Tripura Police Knowledge Website.
6. The I/C E-Governance cell, PHQ with a request to upload the following Memorandum / Circular on Police Website


(Lalhminga Darlong)
Asstt. Insp. Genl. of Police(Crime),
For Director General of Police,
Tripura.

To
Mr S. Kar Bhowmik
Ld. Amicus Curie.
High Court of Tripura.
Agartala.

Ref :- Cont. Cas (C) 31 of 2015

IN THE MATTER OF:

Court on its own motion.
Vs.


Sri Sunil Kumar Das, O/C

Sir,

Please find enclosed a copy of the affidavit submitted preferred by Sri K.Nagaraj, DGP, Tripura pursuant to the direction of the Hon'ble Court which will be submitted shortly before the Hon'ble High Court.

Kindly acknowledge the receipt of the same.

Yours faithfully,


Tapas Datta Majumder,
Advocate.

Received copy,

(Ld. Advocate for the Amicus Curie)