

NR 603 UR 400(2P)

No.U6- 96410/2014/PHQ,
Police Headquarters,
Thiruvananthapuram,
Dated, 28-01-2019.

Circular No. 04 /2019

Sub:- Decriminalisation of section 377 of the Indian Penal Code, 1860 - Transgender persons to be treated with respect and dignity by the Police - instructions - reg.

Ref: - 1. Judgment of the Hon'ble Supreme Court dated 06-09-2018 in *Navtej Singh Johar Vs. Union of India* [W.P. (Criminal) No.76 of 2016].
2. Circular No.27/2018 dated 25-09-2018 of State Police Chief.

Hon'ble Supreme Court vide judgment 1st cited had upheld the constitutional rights of transgender persons. Section 377 of the Indian Penal Code, in so far as it criminalises consensual sexual conduct between adults of the same sex, was held to be unconstitutional. Members of the transgender community are entitled, as all other citizens, to the full range of constitutional rights including the liberties protected by the Constitution. Consequent to the legal recognition of the transgender persons, necessary instructions as regards Under Investigation cases involving section 377 IPC have also been issued vide reference 2nd cited for strict compliance. However, in recent times, a few incidents evidencing humiliation and insult to the transgender persons have been reported and such incidents are to be prevented to the maximum by the police.

02. Transgender persons are entitled to be treated in society as human beings without any stigma being attached to any of them. They are entitled to the benefit of equal protection of laws guaranteed by the Constitution.

03. The identity of a transgender as to their sexual orientation -whether male, female or neutral- is self declared by the transgender persons themselves. Till the Parliament brings in appropriate legislation, such self declaration by a

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transgender is to be accepted by the Police in any situation including arrest of a transgender. Hence harassments by the public as well as by the Police to reveal their identity/sexual orientation is improper and against the constitutional rights of transgender community. It is, therefore, instructed that all members of the Police Force shall treat transgender persons with dignity and respect their rights in society even when effecting an arrest.

04. In recent times, some instances of mob attack on transgenders and police assault and misbehavior on transgender people have been reported. The following facts may be borne in the mind of every police official:

A. The transgender personality is now legally recognised and protected under our Constitution, and they cannot be prosecuted u/s 377 IPC so long as they are having consensual sex.

B. Mob violence and abuse against transgenders can be prevented only if the police are treating them with human dignity and respect to which they are legally entitled.

C. It is instructed that every effort shall be made by all officers concerned to prevent crimes and mob violence against transgenders.

05. The content of this Circular is to be intimated and explained to all police officials irrespective of ranks.

W 28/1/2019
Loknath Behera, IPS,
Director General of Police &
State Police Chief.

To

1. All SHOs of all Police Stations.
2. All Officers in List B- for information and urgent necessary action.
3. CAs to all Officers in PHQ (Hard Copy)
4. DD, PR for information & n/a
5. SP ICT/System Admin.

Copy to: Circular Register, Kerala Police Website.

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