

POLICE HEADQUARTERS
Kerala, Thiruvananthapuram

No.D4/74502/2008.

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CIRCULAR NO.14/2009.

**Sub:-Protection of Women from Domestic Violence – Role of
Police - Instructions issued - Regarding.**

The Protection of Women from Domestic Violence Act, 2005 is an Act to make home safe for women. Domestic Violence is something that many women face in some form, be it physical, emotional or psychological. But most of these incidents are not reported. This Act specifically protects women from being abused in any form by their husbands or male live-in partners. Government have issued Protection of Women from Domestic Violence Rules of 2006 on 14.02.2007.

02. It is noticed that Police are mechanically registering crime cases immediately on receipt of complaints of domestic violence U/s.36 and 37. They submit FIR to the Court, without following any of the provisions for immediate relief to the victims of domestic violence as envisaged in the Act. This defeats the spirit of the Act.

04. The basic functions under the Protection of Women from Domestic Violence Act-2005 are vested in the “**Protection Officers**” designated by the Government in each District, the **Judicial Magistrate** designated by notification of Government to exercise jurisdiction under this Act and the **Service Providers** (a voluntary agency registered under the Societies Registration Act) nominated by the Government.

05. The role of Police is explained in section 5 of the Domestic Violence Act, 2005 and is as follows:-

As soon as the complaint is received, Police must inform the aggrieved person

(a) Of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

- (b) Of the availability of services of service providers;
- (c) Of the availability of services of the protection officers;
- (d) Of her right to free legal services under the Legal Services Authority Act, 1987;
- (e) Of her right to file a complaint under section 498-A of the Indian Penal Code, wherever relevant.

It is also mentioned in Section 41, that this Act is not in derogation of any other law and that the provisions of this Act shall be in addition to, not in derogation of the provisions of any other law, for the time being in force. This means that, even if a Case under 498 (A) had previously been registered or needed to be registered if the victim has suffered bodily injuries, then too, the police after explaining the provisions can direct the victim to the Protection Officer/Service Provider to get relief under the Protection of Women from Domestic Violence Act.

05. Further, if from the content of the complaint, ingredients of a cognizable offence under IPC or any other Act are revealed, then police shall inform her right to initiate criminal proceedings by lodging FIR.

06. The Police on receipt of complaints of Domestic Violence should also simultaneously direct the victim to the Protection Officer after informing her of the rights and reliefs available under the Act which ensures relief in the briefest possible time to her. The Protection, Officer will prepare a Domestic Incident Report (DIR) and then will file an application before the Magistrate to issue a **Protection Order**. The Magistrate may issue notice to both the parties to appear within 3 days and consider issuing of Protection Order for a fixed period.

07. Breach of Protection Order is a cognizable and non bailable offence. **Aggrieved person or Protection Officer may report the breach of protection order to Police for initiating action U/s 31/32 {Rule (15)} and for registration of F.I.R. The Offence is Cognizable and non-bailable one.**

08. On receiving complaints about breach of Protection Orders at Police Stations, it may be appropriate to inform the victim that an FIR can be registered. It is also possible to give a report to the Judicial Magistrate for taking immediate action.

09. In complaints of domestic violence, if grave physical injuries of the victim are brought to light, then the Police can register FIR under 498 (A) IPC. But the Protection of Women from Domestic Violence Act is applicable to 'live-in' relationships also where 498 (A) is not applicable and in such cases such causing of grave physical injuries will be dealt by the police as per various provisions of IPC, in addition to the procedures under the Domestic Violence Act.

10. Police also should –

(a) Assist the victim in making Domestic Incident Report (D.I.R) in the prescribed form and forward it to the Magistrate through Protection Officer (P.O), or service provider or victim can directly represent to Magistrate for passing appropriate Protection Order as prayed for or as deemed fit by the court. (Protection Officer means an Officer appointed by the State Government under Sub-Section (1) of Sec.8)

(b) Forward the victim to hospital for proper medical aid, if necessary.

11. **Protection to Victim:** The Police shall provide protection to the aggrieved person if so directed by the Court (S.19)

Assistance in Implementation: The Police shall assist in the implementation of the Protection Order if directed by the Court (S.19)

12. In emergency cases, if Protection Officer (P.O) feels the necessity of Police assistance, then Police shall visit the place of occurrence and render all possible help in recording the Domestic Incident Report (DIR) (Rule 9).

13. Protection Officer can seek the assistance of Police in confiscating the weapon used by respondent in the act of domestic violence (Rule 10 (f))

14. If Domestic Incident Report (DIR) is made by Protection Officer he/she shall forward copies there to the officer in-charge of the Police Station within the local limits of whose jurisdiction the act of domestic violence is alleged to have been committed. (Sec.9)

15. Protection Officer means an Officer appointed by the State Government under Sub-Section (1) of Sec.8. In Kerala the District Probation Officer has been designated as Protection Officer (Govt. Notification No.S.R.O.408/2007)

16. The Protection Officer will be issuing DIRs with DIR number and the Magistrate will be giving Domestic Violence Case Number. APPs will be appearing for aggrieved person.

17. It is to be noted that the Act is basically of a Civil nature and is intended to render quick civil reliefs like Protection Order, Residence Order, Monetary Relief Order, Custody Order and Compensation Order. The breach of Protection Order is a Cognizable & Non-bailable Offence.

18. However, strictly speaking, this does not preclude the Police from initiating legal action as in all Cognizable Offences. But, in addition to the investigation of an incident involving a cognizable offence, action under Domestic Violence Act also must be initiated.

19. This Circular is to be explained to all SHOs, CIs, Dy.SPs and CI of Vanitha Cells by the SP/CP concerned. SP, State Vanitha Cell will be the Nodal Officer for proper implementation of the provisions of this Act and the Rules. District SsP/CsP/SP Vanitha Cell will arrange classes for officers at all District Headquarters during which the Act, Rules and prescribed Forms will be made known to all officer.

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SALIENT FEATURES OF
'PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005'

- Any harm, injury to health, safety, life, limb or well-being or any other act or threatening or coercion etc, by any adult member of family, constitutes domestic violence.
- Any Woman who is, or has been in a domestic or family relationship, if is subjected to any act of domestic violence can complain.
- Aggrieved or affected woman can complain to the concerned Protection Officer, Police Officer, Service Provider or Magistrate.
- Aggrieved woman has right to be informed about the available services and free legal services, from the protection officer etc.
- Shelter-home and medical facilities can be provided to aggrieved woman.
- Interim compensation can be available to aggrieved woman.
- Proceedings of the complaint can be held in camera
- Every aggrieved woman has right to reside in shared household.
- Protection order by Magistrate can be given in favour of aggrieved woman.
- Monetary relief can be given to aggrieved woman to meet expenses or losses
- Appeal can be made to sessions Court within 30 days from the order of concerned Magistrate
- Imprisonment up to 1 year or a fine up to Rs. 20,000 or both for breach of protection order by the opposite party.
- Protection officer can be prosecuted up to 1 year imprisonment or with a fine up to Rs. 20,000 or both for failure of his duties.