

Dated : 31/08/2012

CIRCULAR No. 27/2012

Sub : Legal Action against criminal activity portrayed as Moral Policing –
instructions issued- reg.

In many parts of the state, self-proclaimed enforcers of personal codes of conduct commit crimes of intimidation, extortion, assault, hurt, murder etc; violate the privacy of the citizenry and impinge on the personal freedom of individuals. Described in common parlance as 'Moral Policing', the general characteristics of this illegal activity is an attempt by certain individuals and groups to enforce self proclaimed codes of morality and conduct. Very often, it is directed against women. Such conduct is neither moral, nor is it policing having the sanction of law. In fact, such conduct is appropriately termed as intimidatory, compulsive, conformity enforcement (ICCE).

It must clearly be understood, that in a democratic society, based on our collective standards of morality, law defines what appropriate behaviour is; and what constitutes an offence. The Constitution of India guarantees certain freedoms. When a citizen undertakes any activity, in exercise of that freedom; the determination of whether such activity is permitted under that freedom or not, is by law and law alone. No person or group can impose either his or the group's self proclaimed standards of morality, and proceed to impose it forcefully on individuals exercising their fundamental freedoms in a lawful manner. Such illegal interference would amount to criminal offences as defined in the Indian Penal Code and other laws.

It is important for Police officers, engaged in the enforcement of law, to distinguish between enforcing a Code of Laws, and enforcing a Code of Morals. Police enforce either laws enacted by the legislature, or laws as interpreted by the judiciary. Wherever there are enacted laws promulgated by due constitutional authority, the Police follow due procedure to enforce the law against those who break it.

Contrary to the above, any instance of intimidatory, compulsive, conformity enforcement (ICCE) has necessarily to be dealt with sternly. Police Officers must be properly aware about the dangers and implications of criminal activities described as 'moral policing'. They are clearly not innocent or naive acts indulged in, by individuals who adhere to a higher standard of morality than the rest of society. On the other hand, these activities are motivated by extreme anti-social tendencies, or narrow, communal and fundamentalist agendas which militate against basic constitutional values.

Whenever information on any such criminal activity is received by a Police Officer, a case must be registered promptly and investigated in a speedy and efficient manner. Suo-moto cases may be registered where appropriate, without waiting for a formal complaint. The cases registered must invoke the appropriate ingredients of criminal law, like criminal trespass (S.324), assault/ hurt (S.323-326)/ attempt to murder (S.307)/ murder (S.302), extortion (S.383), robbery (S.390), dacoity (S.395)etc. In circumstances where necessary ingredients are in place, use of S.153, 153-A, and 153-B must be resorted to. Under no circumstances, must there be any dilution in applying the provisions of criminal law. The criminal elements must be arrested and prosecuted effectively. Wherever justified, effective preventive legal action, including action under Kerala Anti Social Activities (Prevention) Act 2007 must be taken. Through stringent, effective, deterrent legal action Police must effectively tackle this menace to the society.

While applying so, it must be remembered that in the process of law enforcement, the general citizenry co-operates with the Police and law enforcement agencies by giving appropriate information at the appropriate time. They are also empowered to resort to acts in private defence of either person or property when no other recourse subsists. Citizens can even interpose in instances of grave criminal offences as defined by enacted laws. These are all activities permitted under law. Such lawful behaviour by citizens must be encouraged and the same should be clearly distinguished from intimidatory, compulsive, conformity enforcement (ICCE).

It is also important that Police officers do not themselves, fall into the trap of 'moral policing' and seek to enforce a nebulous 'Code of Morals' as against an enacted 'Code of Laws'. When a Police officer is confronted with any doubt as to whether an act in question should entail any action; the sole test that should be applied is to assess whether the alleged act would constitute an offence as defined in the Indian Penal Code or any other relevant criminal law.

State Police Chief

To

All Officers in List 'B'

Copy to: CAs to all officers in PHQ, Circular File.