

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**  
**PRESENT**  
**THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**  
Friday, the 20<sup>th</sup> day of May 2022 / 30th Vaisakha, 1944  
**WP(C) NO. 22276 OF 2021**

**PETITIONER:**

XXX X

**RESPONDENT:**

1. STATE OF KERALA, REPRESENTED BY ADDITIONAL CHIEF SECRETARY, HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
2. COMMISSIONER OF POLICE, OFFICE OF THE COMMISSIONER OF POLICE, ABDUL KALAM MARG, MARINE DRIVE, ERNAKULAM - 682011.
3. ASSISTANT COMMISSIONER OF POLICE, ASSISTANT COMMISSIONER POLICE OFFICE, THRIKKAKARA, KAKKANAD, ERNAKULAM - 6820221.
4. STATION HOUSE OFFICER, THRIKKAKARA POLICE STATION, THRIKKAKARA, EDAPPALLY, ERNAKULAM - 682030.
5. GIREESH, CIVIL POLICE OFFICER, THRIKKAKKARA POLICE STATION, THRIKKAKARA, EDAPPALLY, ERNAKULAM - 682030.
6. YYY YYY

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the 4th respondent and his police men not to harass the petitioner and further to direct the 2nd respondent to give adequate police protection to the petitioner, during the pendency of this Writ Petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 04.02.2022 and upon hearing the arguments of M/S.C.DHEERAJ RAJAN & ANAND KALYANAKRISHNAN, Advocates for the petitioner, GOVERNMENT PLEADER for R1 to R4 and of M/S R.RENJITH & M.T.SURESHKUMAR Advocates for R6, the court passed the following:

**DEVAN RAMACHANDRAN, J.**

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**W.P. (C)No.22276 of 2021**

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**Dated this the 20<sup>th</sup> day of May, 2022**

**ORDER**

As I have indicated in the earlier orders, the primary objective of keeping this matter pending is to have certain general guidelines formulated, so that the victims of sexual offenses and child abuses - be that a man, women or a child - is able to live life with dignity, without being re-traumatized, subsequent to the horrendous event.

2. Though I do not propose to speak in detail about the various facets of the psychological distress of a victim of sexual abuse and such other at this time - which I will do in the judgment, it will be suffice to say that unless he/she is saved from further trauma on account of the investigative and litigative processes, the trust of the citizens on the system would fail.

3. With the afore in mind, I had earlier suggested that the State think about introducing a 'Toll Free Number' into which a victim can call in strict confidentiality, so that a First Information Statement (FIS) or a First Information Report (FIR) can be registered in terms of the Code of Criminal Procedure (Cr.P.C). It was also suggested by this Court that, either on the obtention of the information from the victim or on the registration of the FIR,

as the case may be, a Victim Liaison Officer be immediately assigned, who will literally act as his/her next friend and advice him/her as to the future course, without being subjected to any harassment in the processes.

4. I must say with great pleasure that on the exhortation of this Court, the Bar rose to the occasion and the learned Senior Counsel Smt.V.P.Seemanthini, and Smt.Parvathy Menon - learned counsel - both involved with the Victims Rights Centre (VRC), an initiative of the Kerala State Legal Services Authority (KELSA) - voluntarily appeared and made submissions, which has been of great assistance to this Court.

5. Adv.Smt.Sandhya Raju, representing the Centre for Constitutional Rights and Sri.Dheeraj Rajan, learned counsel for the petitioner, also provided incisive inputs, which impelled a meaningful debate and discussion at the Bar every time this matter was taken up.

6. Smt.Parvathy Menon, learned counsel, has filed interim reports and statements before this Court, wherein, she has provided detailed information regarding the 'One Stop Crisis Centres' - which is a programme of the Government of India, executed by the Government of Kerala and which is operating in every District. She

submitted that if the said Centres along with the 'VRC' is offered a role in the case of victims who require assistance, it would be a paradigm shift in the manner in which the system works because then it would become properly accounted. She illustratively submitted, without going into the details, that in the case of a victim who found it difficult to get an adequate response from the Police Authorities, the intervention of the 'VRC' made sure that all measures and steps under the Cr.P.C were initiated without any delay thereafter.

7. Sri.Dheeraj Rajan, learned counsel for the petitioner, has filed detailed Argument Notes, in which he has also made certain suggestions. He urged that immediate and urgent intervention is required because, on account of the inherent mistrust of victims in the present policing system - which may or may not be justified - very many times they are reluctant to invoke their legitimate remedies.

8. Smt.Sandhya Raju made submissions with respect to the Juvenile Justice (Care and Protection of Children) Act, 2015 and in particular child victims, and tried to impress upon this Court the deplorable pressure some of them face while they are dragged into the process of litigation for no fault of theirs.

9. I have recorded the afore in brief because, as I have already said above, the intent of this Court is to ensure an effective systemic response to a victim who is already severely traumatized.

10. As regards the requirement of a Toll Free Number is concerned, Smt.Parvathy Menon today made a submission that the Government of Kerala has established a victim 'Emergency Response Support System' (ERSS) exclusively for victims of sexual abuse and child abuse as '**112**' and therefore, that the suggestion of this Court for such a number has already been taken care of. She, however, expressed doubt as to whether the processes within this number are effective and therefore, left it to this Court to make further provisions.

11. The learned Special Government Pleader - Smt.Ambika Devi, was in full support of the suggestions of this Court, but sought time to obtain specific responses to various queries made by me at the Bar. She offered that she will come back to this Court with full details on such issues by the next posting date.

12. I must upfront remind everyone that even though this matter commenced on the complaint of the petitioner against certain police officers, its scope has now been widened, fortified by the various inputs chronicled above.

13. The imperative requirement for the victim of child abuse or sexual abuse being secured and protected at every stage can never be overstated and unless the systems that we have put in place act proactively and sensitively, everything on paper will remain as such - on paper.

14. There are at least two circulars issued by the State Police Chief - one of the year 2012 and the other of the year 2017 - wherein, the concept of a Victim Liaison Officer has been explained in detail. If everything stated in these circulars are actualised, certainly, many of the aspects I have endeavoured to address in this proceedings would stand answered already.

15. Alas, practically, it has been far from this.

16. I am also aware that there is a further circular dated 13.11.2020 issued by the State Police Chief, relating to the mandatory action by the Police in cases of crime against women. The various enumerated measures therein are certainly laudable, but again one fails to gather whether this has really been effectively implemented.

17. The growing number of cases of hapless victims being driven to stages of despondency, often reported in the Press, bear great testimony to the afore suspicion.

18. To come back to the focal issue, it is only if a victim of sexual violence or child abuse is able to confidently call upon the system for redressal, with strict confidentiality and assurance of preservation of his/her dignity, will the first step in the process be ever satisfactorily commenced.

19. For this purpose, surely, the presence of a Toll Free Number would go a long way and if an information received by the said response system triggers certain specified consequential actions, without the victim having to run behind it, certainly the endeavour of this Court will bear some fruit.

20. In the afore perspective, I direct the Government to consider whether the following steps, which have been gathered from the discussions at the Bar, as well as from the various materials on record, can be effectively implemented, so that this Court can then deliver judgment finally:

a) The Government must take steps to publicize the Toll Free Number '112' as an Emergency Response Support System, to be known to every citizen, so that a victim of a child abuse or a sexual violence can access it as and when required.

b) On any information reaching the Toll Free Number, or the Number '100' - which is the Police Control Room number, it must be

fed into a digital system, or Register which will then be relayed as fast as possible to the jurisdictional Police Station or the nearest Control Room.

c) The call made to the aforementioned Toll Free Number of '112' will be attended by well sensitised and trained personnel, who will also make sure that the victim is given sufficient support, as is required, from the time when the call is made.

d) On the information of a sexual violence or child abuse being received by the Police Control Room or the jurisdictional Police Station as afore, immediate steps will be taken, if possible, within an hour or so, to contact the victim either personally or through phone, without however, summoning him/her to the Police Station in any manner whatsoever.

e) The competent officer will thereupon record the statement of the victim appositely, thus leading to registration of FIR under Section 154(1) of the Cr.PC.

f) While taking the statement of the victim, the mandatory proviso to Section 157(1) of the Cr.PC, namely that the same be recorded at his/her residence or in the place of his/her choice and as far as practical by a Police Officer in the presence of his/her parents/guardian/near relatives or social worker, shall be

scrupulously complied with.

g) On the FIR being so registered and not later than 24 hours thereafter, the Investigating Officer must assign a Victim Liaison Officer in terms of the aforementioned circulars, who shall then contact the victim immediately thereafter, so that he/she will feel safe and protected, knowing of such support.

h) This Court also suggests that simultaneous to the registration of the FIR, or at the time when the Victim Liaison Officer is assigned, the Investigating Officer will disclose to the victim the numbers of the 'One Stop Crisis Centre' and that of the 'VRC', so that they can then step in and ensure that the victim goes through no further traumatization and is offered the psychological support and succour which is *sine qua non* for the reparatory process of the victims' psychological trauma.

i) The victim shall have constant access to the Victim Liaison Officer and/or to the 'One Stop Crisis Centre/VRC', as the case may be and the Government shall ensure that such access is available 24 hours a day and at any time the victim requires such during his/her difficult times.

j) The 'One Stop Crisis Centre/VRC' will offer not merely psychological assistance, but also legal support as may be required

to the victim and will work in promoting his/her return to normal life, through every facilitation as may be necessary. This shall continue as long as the victim requires or at least until such time as the Trial is completed.

The afore are only preliminary suggestions of this Court, which I leave it to be considered and fine tuned by the Government, so that their response can then lead me to deliver final judgment.

I am offering this opportunity to the Government because, whatever be the orders that this Court may eventually issue, it will be the system which will have to rise up to the occasion and I therefore, recognise that their inputs in this matter is also very relevant.

Civilized societies are built on empowerment of citizens - women and children being the most important. It is only if the constitutionally protected requisites of safety and dignity are ensured to the hapless victims of sexual and child abuse, can one ever hope India to achieve the status of being a premier democracy in the world. I am certain that the Government is also well aware of this and that it is for them to make sure that all the various initiatives - which have already been taken - or to be taken, are effectively implemented in this direction.

I leave it at this now to await the response of the Government in this regard, which they shall do by the next posting date.

I hope that the Press will publicise the Toll Free Number '112' effectively since they are one of the pillars of democracy and because such information requires to be mandatorily made known to all citizen. For this purpose, I direct the Registry to release a copy of this order to the Press/Media.

Post on 08.06.2022 at 01.45 P.M.

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**Sd/-  
DEVAN RAMACHANDRAN  
JUDGE**