

LAHORE HIGH COURT, LAHORE

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No. 22325/HC/DDJ/DRIT
Dated 17/October, 2017

From

The Director General,
Directorate of District Judiciary,
Lahore High Court, Lahore.

To

All the District & Sessions Judges,
In the Punjab.

Subject: - **GUIDELINES TO BE FOLLOWED IN CASES OF GENDER BASED VIOLENCE (GBV)**

Dear Sir,

I am directed to refer to the subject cited above and to inform that Hon'ble the Chief Justice has been pleased to approve guidelines to be followed in cases of Gender Based Violence (GBV) in the light of **Salman Akram Raja Case (PLJ 2013 SC 107)**.

2. You are, therefore, requested to circulate these guidelines among all respected Judges working on Criminal side under your kind control, to comply with in letter and spirit.

Yours faithfully,

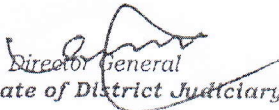


MUHAMMAD AKMAL KHAN
Director General
Directorate of District Judiciary

NUMBER & DATE EVEN

Copy is forwarded for kind information to: -

- i. Principal Staff Officer to Hon'ble Chief Justice, Lahore High Court, Lahore.
- ii. Private Secretary to Hon'ble Justice Ayesha A. Malik, Judge, Lahore High Court, Lahore.
- iii. Staff Officer to Registrar, Lahore High Court, Lahore.



Director General
Directorate of District Judiciary

**GUIDELINES TO BE FOLLOWED IN CASES OF GENDER BASED VIOLENCE (GBV)
IN THE LIGHT OF PLJ 2013 SC 107 (SALMAN AKRAM RAJA CASE)**

1. And Whereas there is a need to build upon the directives given by the Supreme Court in Salman Akram Raja vs. The Government of Punjab through Chief Secretary, Civil Secretariat, Lahore and others¹ in respect of victims and vulnerable witnesses in rape trials, and extend them with suitable adaption to apply to women complainants, victims and vulnerable witnesses, such as women , children or persons with disabilities who are giving evidence in cases of violence;
2. The Lahore High Court, Lahore shall prioritize the gender-based violence cases. The courts shall conduct trials in a gender-sensitive manner and incorporate the directions of the Supreme Court in Salman Akram Raja vs. The Government of Punjab through Chief Secretary, Civil Secretariat, Lahore and others², Section 13 of the Criminal Law (Amendment) (Offences related to Rape) Act 2016³. The international best practices shall be followed in dealing with gender-based violence cases, such as a courtroom set-up responsive to the needs of women and other vulnerable witnesses. In particular, the courts shall act upon the guidelines issued by Lahore High Court, Lahore, as follows:

- 1) *The magistrate unless there are compelling reasons shall record the statement of the Victim under Section 164, Cr.P.C. in the day on which the application is moved by the Investigation Officer. The Magistrate before proceeding to record the statement shall ensure that the victim (child, women or any vulnerable person) is made comfortable and he/she is free of any extraneous pressure.*
- 2) *If the victims of rape are reluctant to appear before a male magistrate as they cannot express their agony appropriately before them, therefore if requested the statement of victim be recorded before female Magistrate, where ever is available.*
- 3) *An endeavor shall be made to commit such cases of offence to the Court of Sessions expeditiously and preferably within 15 days.*

¹2013 SCMR 203.

¹ See note 9.

¹ Section 13 provides:

"13. Amendment of section 352, Act V of 1898.-In the Code, in section 352, the existing provision shall be re-numbered as sub-section (1) of that section and after sub-section (1) re-numbered as aforesaid, the following new sub-sections shall be inserted namely:-

(2) Notwithstanding anything contained in sub-section (1), the trial of offences under section 354A, 376, 376A, 377 and 377B of the Pakistan Penal Code, 1860 (Act XLV of 1860) shall be conducted in camera;

Provided that the Presiding Officer, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the Court.

(3) Where any proceedings are held under sub-section (2), the Government may adopt appropriate measures, including holding of the trial through video link or usage of screens, for the protection of the victim and the witnesses.


(4) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish or broadcast any matter in relation to any such proceedings, except with the permission of the Court."

- 4) In such cases where a victim shall be given an opportunity to have a state counsel and in cases where a victim has a private lawyer, she may be allowed to retain the private lawyer.
- 5) That as far as possible Chief examination and cross-examination of the victim must be conducted on the same day.
- 6) The Court shall maintain a panel of psychiatrists, psychologists and experts in sign language etc. who would assist in recording the statement of victim are vulnerable as and when requested by the Sessions Court.
- 7) If it is brought to the notice of the Court from a support person/advocate/victim/Police/Prosecution department regarding threats received by the victim or his/her family members to compromise the matter, the Court shall immediately direct the Assistant Superintendent of Police to look into the matter and provide an action taken report before the Court within 2 days. The Court must ensure that protection is provided to the victim and her family.
- 8) In cases in which the witness is sent back unexamined and is bound down, the Court shall ensure that at least the travelling expenses for coming to and from for attending the Court are paid.
- 9) At the time of recording of evidence of the victim or vulnerable witness irrelevant persons be excluded from the Court. This may include an order that the accused is to be excluded from the court provided that the accused shall be able to see and hear the evidence given.
- 10) The proceedings of such cases be conducted in camera.
- 11) Conducting a trial after regular court hours where appropriate.
- 12) Where possible evidence of victim of violence should be recorded through video conferencing so that the victims do not need to be present in the Court
- 13) Availability of screens, one-way glass, or other arrangements such as closed circuit television so that a victim does not have to see the accused person in court when giving evidence.
- 14) Questions put in cross-examination on behalf of accused should be given in writing to the Presiding Officer who should put them to the victim or to a vulnerable witness in a language which is clear and not degrading.

There are certain other international best practices and guidelines to be incrementally introduced into the courts: -

- 1) A supportive person/Advocate may be allowed to the victim/survivors or witness' choice to be present while evidence is being given.
- 2) To make adjustments to the proximity of lawyers the dock and the witness box to the witness giving evidence in
- 3) Examination and cross examination of the victim/survivor are restricted to issue relevant to the case and are not frivolous or for the purposes of embarrassing or humiliating the victim/survivor including through the introduction of evidence of victim/survivor's past sexual behavior, history, or reputation.

- 4) To develop practice guideline for the examination and cross-examination of such a witness to help ensure that questions are asked to the victim/witness using appropriate language manner and content.
- 5) Witness Care Video Link Rooms may be established to record evidence of the victim or vulnerable witness so that they feel comfortable in recording of their statement at a place where there is no physical interaction with the accused.
- 6) An audio-visual pre-recording of a statement or evidence of the victim may be allowed, either in part or in whole, to be replayed and admitted as their evidence at the trial. Such pre-recording can include the whole of the evidence of the victim; their evidence in chief cross examination, and re-examination.
- 7) Other procedural or practice guidelines to be developed where women or their relatives and representatives indicate their wish not to proceed with a case of violence or witnesses resile from their earlier statements;
- 8) Such other procedural or practical guidelines for other issues which ever so to overcome or remove constraints and barriers to women's access to justice in cases of gender-based violence.


MUHAMMAD AKMAL KHAN
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