

In Dilip vs. State of Madhya Pradesh, Criminal Appeal No. 1156 of 2010, decided on 16.4.2013, the Hon'ble Supreme Court directed that trial Courts should show sensitivity while trying cases of sexual assault. A victim of sexual assault requires a totally different kind of treatment not only from the society but also from the State authorities. Certain care has to be taken by the Doctor who medically examine the victim of rape. It was further held as under:

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**SUPREME COURT OF INDIA**

**Bench**

Hon'ble Dr Justice B.S. CHAUHAN and  
Hon'ble Mr Justice FAKKIR MOHAMED IBRAHIM KALIFULLA, JJ.

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“17. Before parting with the case, we would like to express our anguish that the prosecution could have been more careful and the trial Court could have shown more sensitivity towards the case considering its facts and circumstances. In **Delhi Domestic Working Women's Forum v. Union of India & Ors., (1995) 1 SCC 14**, this Court found that in the cases of rape, the investigating agency as well as the Subordinate courts sometimes adopt totally a indifferent attitude towards the prosecutrix and therefore, this court issued following directions in order to render assistance to the victims of rape:

“(1) The complainants of sexual assault cases should be provided with legal representation. It is important to have someone who is well-acquainted with the criminal justice system. The role of the victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for

example, mind counselling or medical assistance. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represent her till the end of the case.

(2) Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.

(3) The police should be under a duty to inform the victim of her right to representation before any questions were asked of her and that the police report should state that the victim was so informed.

(4) A list of advocates willing to act in these cases should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable.

(5) The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victims were questioned without undue delay, advocates would be authorised to act at the police station before leave of the court was sought or obtained.

(6) In all rape trials anonymity of the victim must be maintained, as far as necessary.

(7) It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too traumatised to continue in employment.

(8) Compensation for victims shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result of the rape.”

18. Undoubtedly, any direction issued by this Court is binding on all the courts and all civil authorities within the territory of India. In addition thereto, it is an obligation on the part of the State authorities and particularly, the Director General of Police and Home Ministry of the State to issue proper guidelines and instructions to the other authorities as how to deal with such cases and what kind of treatment is to be given to the prosecutrix, as a victim of sexual assault requires a totally different kind of treatment not only from the society but also from the State authorities. Certain care has to be taken by the Doctor who medically examine the victim of rape. **The victim of rape should generally be examined by a female doctor.** Simultaneously, she should be provided the help of some psychiatric. The medical report should be prepared expeditiously and the Doctor should examine the victim of rape thoroughly and give his/her opinion with all possible angle e.g. opinion regarding the age taking into consideration the number of teeth, secondary sex characters, and radiological test, etc. **The Investigating Officer must ensure that the victim of rape should be handled carefully by lady police official/officer, depending upon the availability of such official/officer.** The victim should be sent for medical examination at the earliest and her statement should be recorded by the I.O. in the presence of her family members making the victim comfortable except in incest cases. Investigation should be completed at the earliest to avoid the bail to the accused on technicalities as provided under Section 167 Cr.P.C. and final report should be submitted under Section 173 Cr.P.C., at the earliest. We request the learned Chief Secretary of the State of M.P. to examine the aforesaid observations made by us and issue comprehensive guidelines in these regards, at the earliest. ..

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