

No. T9-37176/2018/PHQ  
Police Headquarters, Kerala  
Thiruvananthapuram-695010  
Dated: 07/02/2019

**Executive Directive No.04/2019**

Sub: Action against Cyber harassment – Standard Operating Procedure – Reg.

Read: 1. Executive Directive No.08/2014 dated 23/05/2014.  
2. Executive Directive No.01/2015 dated 22/01/2015.  
3. Circular No.36/2015 dated 10-09-2015.

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Hate speech amounting to expressions which are abusive, insulting, intimidating, harassing or which incites violence, hatred or discrimination against persons, public servants and groups are being spread through social media at an alarming rate day by day. Such hate speech usually targets persons on the basis of race, religion, place of birth, residence, region, language, caste or community, sexual orientation or personal convictions. People from all walks of life get affected by such abusive posts in the Social Media resulting in filing of petitions before Police. Online hate speech has the potential to incite violence or lead to commission of a cognizable offences. Sometimes law and order situations also develop due to online hate speech and criminal acts are committed. The defamatory and abusive hate speech which expressly lead to incitement to violence or the commission of a cognizable offence have to be contained effectively by the police.

**02.** The present protocol is that whenever any such post contains material which reveals an intention to:-

- i) commit a crime, or
- ii) incite communal passions, or
- iii) is detrimental to National Security or Internal Security, or friendly relation with another country, or
- iv) contains obscene materials,

criminal law is set in motion against the offenders.

03. Apart from this derogatory and denigrating communications containing materials or imputations intended to demoralise and shame individuals in their personal and private life also are transmitted and broadcast using Social Media platforms. However, after the repealing of Section 66 A of the Information Technology Act, 2000 and section 118(d) of the Kerala Police Act, 2011 by the Hon'ble Supreme Court in the case *Shreya Singhal Vs. Union of India* [AIR 2015 SC 1523], it has become legally impossible for the Police to invoke cyber law provisions in situations where citizens are harassed online through defamatory and abusive hate speech. It has already been instructed vide reference 3<sup>rd</sup> cited that even when Section 66 A of the Information Technology Act, 2000 and section 118(d) of the Kerala Police Act, 2011 have been annulled by the apex court, it is to be examined whether parallel criminal law and special law provisions can be applied to a given situation. However, in many of such instances, the victims tend to seek their own means to settle scores since criminal law remedies are not readily available and defamation procedures are felt to be cumbersome. This has led to law and order situations.

04. In this context, considering that prevention of cognizable offences is one of the basic mandates of Policing, there is an urgent need to intervene in the situation, legally, so that cognizable offences arising from such Cyber intrusions are prevented and perpetrators are made to account for their actions.

05. Therefore all SHOs are instructed to:-

- a) Register all complaints of Cyber harassments, which do not involve any of the actionable elements mentioned above (in para 2) **as Petitions**, and take them up for enquiry. Petition enquiry has a legal mandate in our state and all Police Stations do petition enquiries.
- b) Proper enquiries should be conducted on such posts and the perpetrators should be contacted confronted with their misdeeds and should be made aware of the distressing consequences of their acts.
- c) During such enquiry, if any criminal element or intent is revealed, action under relevant provisions of Criminal Law or Special Law, as the case may be, should be taken without any delay;

06. In other cases, a suitable resolution should be ensured for the issue, which will ensure stoppage of such harassment and prevent further harassment and ultimately prevent a crime & prevent a law and order situation from developing.

07. In a nutshell, information or complaints about Cyber harassment which are *prima facie* not actionable under criminal law or special law provisions are to be treated as Petitions before a Police Officer and action taken.

08. Entries shall be made in the Petition Register for these petitions as also their disposal as in the case of normal petitions.

  
**Loknath Behera** IPS  
DGP & State Police Chief

Distribution: **All Officers in List 'D'** [Up to SHO level]

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