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### KSHRC NEED TO TAKE ACTION AGAINST SIRA TOWN POLICE INSPECTOR AND IO IN HRC 2925/10/20/2018(B-2) FOR VIOLATING APEX COURT ORDERS IN FILING 498A CASE



By: M.S.Yatnatti: Editor and Video Journalist Bengaluru: The Sira police station police inspector and SHO and IO has violated human rights of Sri Sreedhar and other three relatives by filing FIR on false compliant and by giving goby to all mandates of apex court, the investigating officer has straightaway registered the case FIR and as no cases are pending in any court wherefore The Karnataka State Human Rights Commission should take stringent action on the Sira police station police inspector and SHO and IO in HR 2925/10/20/2018(B-2). The Sira police station police inspector and SHO and IO has filed false FIR 275/2018 dated 12-07-2018 on false compliant of Sri Puttaraju of Sira Santhwana Kendara despite Sri Sreedhar and his wife had agreed to live together under separate house by resolving their family differences but in compliant to police Sri Puttaraju stated that both are not agreed to live together and asked police to take action on Sri Sreedhar and other three relatives at Sira police station Tumkuru District. The Karnataka State Human Rights Commission and Smt Neelamani N Raju Karnataka's first woman DG-IGP Karnataka and Smt Divya Gopinath SP Tumkuru are requested to take stringent action on Sira Town Police inspector and IO for registering FIR 275/2018 in violation of human rights and DG IGP standing orders and Apex court orders in respect of 498a and dowry cases and specially when both husband and wife had agreed in their statement to live together which is part of FIR copy submitted to court and court has recorded in its findings on that matter. In CRIL. MISC PET NO.698 OF 2018 dated this the 25<sup>th</sup> day of July, 2018 in the court of principal sessions judge at Tumakuru has passed serious strictures against Sira Town Inspector and IO and it is held that "after lodging the complaint, the investigating Officer has not referred the matter for mediation to the Family Welfare committee. It is mandatory for the Investigating Officer to refer the parties to Family Welfare committee and till then, the investigating Officer has no right to arrest the petitioners, which is mandate of the Hon'ble Apex court. But by giving goby to all these mandates, the investigating officer has straightaway registered the case and objections statement discloses that, there is preparation to arrest the petitioner. The contention of the complainant before Mahila Santhwana Kendra itself discloses her real intention". And it is held that "Further petitioner No.3 is the married sister and petitioner No.4 is the husband of petitioner No.3 and they were unnecessarily implicated in this case without there being any mediation. All these aspects discloses that, the investigating Officer has not even applied his mind." And "The allegations of the complaint disclose that, there was an assertion of ill-treatment demanding dowry and other grounds also. The complaint is neatly typed and it is lodged on 12-07-2018. The allegations are that, on 01-07-2018 at 1.00 pm, there was an assault on the complainant in her parental house and other allegation is that, on 18-06-2018 evening at 4.00 pm. She was being driven out of the house. But the complaint was not lodged immediately and there is delay in lodging the complaint. The records produced regarding Mahila Santhwana Kendra, the complainant has given a statement admitting lodging of the complaint and her condition was that, petitioner No.2 shall be kept separately and as the "Vaastu" of the house was not proper, she is not prepared to stay in the house. These are ridiculous conditions placed by the complainant. It is not under serious dispute that, petitioner No.2 is a destitute lady and she is under the care and custody of petitioner No.1. The complainant cannot object for her stay and if there is any negligence on the part of petitioner No.1 to take care of the complainant, that is something else. But the allegations are entirely different and the allegations before Mahila Santhwana Kendra disclose that, the complainant is interested in having separate house and she wanted to break the house. This attitude cannot be entertained. In view of court order passing strictures on Sira Town Police inspector and IO it is imperative for them to file B Report in FIR 275/2018.

The Sira police station police inspector and SHO and IO has filed false FIR 275/2018 dated 12-07-2018 on false compliant of Sri Puttaraju of Sira Santhwana Kendara despite Sri Sreedhar and his wife had agreed to live together under separate house by resolving their family differences but in compliant to police Sri Puttaraju stated that both are not agreed to live together and asked police to take action on Sri Sreedhar and other three relatives at Sira police station Tumkuru District. The Sira police station SHO and IO violated Apex court guidelines and DGP and IGP standing orders in respect of 498a and Dowry complaints thus violated Apex court order by directly registering FIR 275/2018 dated 12-07-2018 without referring the matter to welfare committee. Supreme Court of India has issued new set of directions to prevent the misuse of Section 498A of Indian Penal Code. A two Judge Bench of Justices AK Goel and UU Lalit observed that Section 498A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of the Act 46 of 1983. Note No Automatic Arrest in 498-A Cases, SC Issues Strict guidelines to Police and Magistrates, Non Compliance will Attract Disciplinary & Contempt Proceedings [Read the Judgment Criminal Appeal in 1265 Of 2017]. I have filed RTI Appeal making PIO and Police Inspector, Sira Police Station as respondent as he had provided false information to my RTI applications as respondent. He filed FIR 275/2018 dated 12-07-2018 against Sreedhar and his three relatives in violation of Apex court orders and DGP standing orders in respect of Dowry and 498A cases and despite the fact that both husband and wife had agreed to each other to live happily under separate house as per the statement available with FIR in Tumkuru court. Now both cannot withdraw these statements as they have become part of court proceedings and court order in Misc No 698/2018 dated 25-07-2018 and court has categorically stated that complainant attitude cannot be entertained so Sira Police Station is barred from filing charge sheet in violations of court orders. I have requested appellate authority to hear RTI Appeal at the earliest and issue suitable orders to file B report in FIR 275/2018 dated 12-07-2018 as both husband and wife statements are part of FIR submitted to court and court has taken note of it and both are barred to give fresh statements before police as court has taken note of it in Tumkuru Session Court order.

The CIC observed in a RTI Case: Passing orders in first appeal without hearing or sending hearing notice is illegal and will render the order invalid. The Commission has set aside the order of First Appellate Authority for breach of natural justice. The Right to Information Act, 2005 already provides for imposition of penalty and recommendation of disciplinary action by the Central Information Commission/State Information Commission, as the case may be, against the Public Information Officer who has knowingly given incorrect, incomplete or misleading information under the RTI Act. The CIC/SICs have been imposing such penalties and also recommending disciplinary action against such Public Information Officers and directions issued to all the departments to fix responsibility and take action under the Government Employees Conduct Rules 1957. Giving Knowingly false information and forged information attracts IPC 464 Making a false document and IPC 468. Forgery for purpose of cheating.—Whoever commits forgery, intending that the [document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine. Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable. Section 166 of IPC : Public servant disobeying law, with intent to cause injury to any person : Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. Most importantly in cited case law by Karira, the Commission themselves have invoked Section 166 of IPC (but have not initiated any action), which further strengthens this line of argument. The relevant extract from the said Order of the CIC is reproduced below; 10. On perusal of this correspondence the Commission is constrained to conclude that Dr. S.K. Sarkar, Joint Secretary (AT&T) has obstructed, and Ms Anuradha Chagti and the DoPT as a public authority have knowingly violated and disobeyed the orders passed by the Commission knowing that the directions given by this Commission under Section 19(8) read with Section 19(7) are binding under the law. By their conduct, they have therefore committed offences punishable under Sections 166, 187 and 188 of the Indian Penal Code. Hence, if proved, the possibility of action under Section 166 of IPC cannot be ruled out. RTI is a total problem solving mechanism and poor man's tool to solve his problems and not just record providing tool RTI Act is not just 2(f). It provides transparency under 2(f) and 4(1) (a) (b) (c) and Accountability under 4(1) (d). 4(1) (d) is check on whether public authority function under and as per 4(1) (a) (b) (c). RTI is a total problem solving mechanism and not just record providing tool. RTI will provide transparency and Accountability and this reduces the corruption. This information and reasons need to be provided to me as per Guide on RTI to Information Act 2005 published by the Government of India Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training (available here : <http://rti.gov.in/RTICorner/Guideonrti.pdf>) on page 12 and Para 9, following is stated: Providing Reasons for Decisions: The public authorities take various administrative and quasi-judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication. Attention is also invited towards the thread 'Affected Person' under RTI ACT. In fact, it can be said that "Affected" refers back to an action. The "Affected Persons" are the ones who are affected by that action. The reasons need to be given to affected person and copy of that can be given to me under 2 f of RTI Act. The Co-Operation Department is THE PUBLIC AUTHORITY under obligation to provide information "PUBLICLY" under section 4(1) (a) (b) (c) (d).

Public authorities cannot take excuse of "missing files" for denying information under the RTI Act as such claims have no legality under the transparency law for withholding records, the Central Information Commission has held. "Unless proved the record was destroyed as per the prescribed rules of destruction/retention policy, it is deemed that record continues to be held by the public authority," Information Commissioner Sridhar Acharyulu said in his order. The case came before the CIC after one Om Prakash sought to know information from Land and Building Department of Delhi Government regarding allotment of alternative plot in lieu of his land acquired by the Government. The Department admitted before the Commission that the relevant file is missing and it could not be traced even though the officers personally inspected room of the Land and Building Department after receiving the RTI application. The official representing the department said there is no possibility of retrieving the missing record. In a terse order, the Commissioner said loss of records that are required to be kept and maintained permanently, if considered as evidence in a case, should invite criminal complaint against officials under section 201 of Indian Penal Code (punishable with imprisonment which is directly proportional to seriousness of offence charged from seven years to 10 years and for life.) "Claim of file missing or not traceable has no legality as it is not recognised as exception by the RTI Act. By practice "missing file" cannot be read into as exception in addition to exceptions prescribed by RTI Act. "It amounts to breach of Public Records Act, 1993 and punishable with imprisonment up to a term of five years or with fine or both," Mr. Acharyulu said. The Commissioner also issued a show cause notice to the Land and Building Department official asking why maximum penalty of Rs 25,000 be not levied upon him. Mr. Acharyulu recommended to the public authority to consider the issue "seriously" as the Commission has been hearing excuse of missing files on many occasions and also to initiate action under Public Records Act, 1993 against responsible persons. "The public authority also has a duty to designate an officer as records officer and protect the records. A thorough search for the file, inquiry to find out public servant responsible, disciplinary action and action against under Public Records Act, reconstruction of alternative file, relief to the person affected by the loss of file are the basic actions the public authority is legitimately expected to perform," he said. He said, prima facie, public authority cannot deny the right of the appellant by putting forward an excuse of the missing file. "If the file is really not traceable, it reflects the inefficient and pathetic management of files by the Public Authority. If the file could not be traced in spite of best efforts, it is the duty of the respondent authority to reconstruct the file or develop a mechanism to address the issue raised by the appellant," he said. The all PAs has to publish every year the work they carry out or the information they create under 4(1) (a) (b) (c) every day, but it did not published all the work carried out by the DC under section 4(1) (a) (b) (c) (d) of RTI Act 2005 and it has not provided citizens and opportunity to ask the reasons under section 4(1) (d). This information and reasons need to be provided to everybody as per Guide on RTI to Information Act 2005 published by the Government of India Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training (available here : <http://rti.gov.in/RTICorner/Guideonrti.pdf>) on page 12 and Para 9, following is stated: Providing Reasons for Decisions: The public authorities take various administrative and quasi-judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication. Attention is also invited towards the thread 'affected person' under rti act. In fact, it can be said that "Affected" refers back to an action. The "Affected Persons" are the ones who are affected by that action. The reasons need to be given to affected person and copy of that can be given to me under 2 f of RTI Act. The KSOU office is THE PUBLIC AUTHORITY under obligation to provide information "PUBLICLY" under section 4(1) (a) (b) (c) (d). The state government and all its departments need to publish everything they do in year as per RTI Act 2005 and this need to be published every year and applicant asking information becomes easier to provide also to the applicant and Government becomes transparent.

Citizens can force every PA to create information every day strictly as per the system and procedure as per listed Acts and rules regulations listed under 4(1) (a) (b) (c) every day and that can be cross checked by applicant by asking reasons under 4(1) (d) by the affected person and copy of the same can be given to any applicant under 2(f) of RTI Act. Promote transparency and accountability in the working of every public authority. Policy on Prevention, Detection, and Remediation of Fraud and Corruption by government is must and a major element of good governance is the control of corruption. For that reason, controlling corruption has been a key indicator. Good governance is a keystone of government. UPA government has given you RTI Act: Use It optimally :All opposition parties should use RTI optimally. Let them create booth



wise RTI activists among their members or cadets and give them training and set of questions and gather that booth level information to perform better as opposition parties .Prime Minister should listen to opposition parties as they are voice of 66% voters. All responsible citizens should send RTI Question to each MP and each Minister and Prime Minister and get to know every day what they are doing and what they are performing and keep check on their performances and give them clear indication that India is awakened and want responsible Government which listens citizens.. All MLAs and 543 MPs are public servants : After election are over all MLAs are public servants and they are MLA for all the constituency .All MLAs should chalk out their plans for development of their constituencies irrespective of who voted for them or who is not voted for them . THE RIGHT TO INFORMATION ACT, 2005 is an Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.RTI Act provides transparency under Section 3 and 4(1) (a) (b) (c) and 2(f) of RTI Act 2005 and accountability under 4(1) (d) RTI Act 2005 as the PA will create information; or to interpret information; or to solve the problems raised by the applicants under the system and procedure as per listed Acts and rules regulations listed under 4(1) (a) (b) (c) every day and that can be cross checked by applicant by asking reasons under 4(1) (d) by the affected person and copy of the same can be given to any applicant under 2( f) of RTI Act .RTI is a total problem solving mechanism and not just record providing tool.RTI will provide transparency under 4(1) (a) (b) (c) and 2(f) of RTI Act 2005 every day and Accountability can be ensured under 4(1) (a) (b) (c) (d) and 2(f) of RTI Act 2005 and this will reduces the corruption in every public authority . RTI Act is an Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. The information under RTI Act is defined in, Section 2(f) of the RTI Act, which defines "information" under this Act, unless the context otherwise requires,- .(f) "information" means any material in any form, including records, documents, memos, e- mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;". This act can be called as the "law of transparency and accountability" which acts as the citizen's weapon to question and get information related to the government's functioning so that they can analyze its performance, and act accordingly.Every PA must understand that "information" is not created in "Paraloka" or "Swargaloka" or in "CIC "or "SIC" which will be given by PA under Section 2(f) of the RTI Act.It is PA which creates the information every day 4(1) (a) (b) (c) and the "information" in any form, including records, documents, memos, e- mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form need to be created as per 4(1) (a) (b) (c) reasons under 4(1) (a) (b) (c) (d) need to be given by PA to the affected person and copy of the same can be given to any applicant under 2( f) of RTI Act .The PA should be forced to function and create information strictly as per under 4(1) (a) (b) (c) on the applications and request of public and provide it under 2(f) of RTI Act and information should not be incomplete misleading and false and public is free to check accountability under 4(1) (d) RTI Act 2005.The Right to Information (RTI) Act is one of the most important tools that can empower the common man, it had become imperative to fight against corruption for the effective functioning of the three pillars of democracy — legislature, executive and judiciary. The three pillars of democracy had been included in the ambit of the RTI Act and people should make use of the provisions of the Act to bring down corruption. There was a need to create awareness among people on the wide range of powers enshrined in the RTI Act. The educated sections of society must take active part in the fight against injustice and use the provisions of the RTI Act to protect the rights of the people.

**THE INFORMATION IS CREATED UNDER RTI ACT 4(1) (a) (b) (c) 2005: And PA is obligated to provide this information created earlier and created every day and updated publicly and freely to all.**Under 4 (1) (a) information is created before 2005 is computerized : The public authorities were functioning since before RTI ACT 2005 Under 4 (1) (a) they need to computerize the all available records and catalogues and make them available in digital or electronic format on electronic network. PA is obligated to provide this information publicly and freely. Under 4 (1) (b) information is created every day: The public approaches every day with request letters and applications and grievances to public authorities .The public authorities functions every day and they create information on the request letters and applications and grievances to public authorities as per organizational function and duties and as per the norms set by it for the discharge of its functions; and as per the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions and as per the powers and duties and procedures followed in decision making process including channels of supervision and accountability as per the rules, regulations, instructions, manuals and records ; under 4 (1) (b). The PA must declare publicly and provide information publicly and free of cost in respect of (iii) the procedure followed in the decision making process, including channels of supervision and accountability; (iv) the norms set by it for the discharge of its functions; (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions; (vi) a statement of the categories of documents that are held by it or under its control; (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof; (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public; (ix) a directory of its officers and employees; (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations; (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made; (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes; (xiii) particulars of recipients of concessions, permits or authorizations granted by it; (xiv) details in respect of the information, available to or held by it, reduced in an electronic form; (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use; (xvi) the names, designations and other particulars of the Public Information Officers; The above information created by everyday by PA need to be updated and put on electronic network every year as updated information.Under 4 (1) (c) information is created by PA: The PA need to publish all decisions and policies and relevant facts which affects public.The Accountability is checked by public under 4 (1) (d): The citizens who are affected by decisions made under RTI ACT 4(1) (a) (b) (c) can seek reasons for their administrative and quasi judicial decisions .PA can provide reasons to affected person and copy of such reasons can be provided to anybody under 2(f) of RTI Act.

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