

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
SUO MOTO WRIT (CRL) No. 1 of 2017

**IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES
AND DEFICIENCIES IN CRIMINAL TRIALS**

REPORT SUBMITTED BY THE AMICI CURIAE

SHRI R BASANT, SENIOR ADVOCATE

SHRI SIDHARTH LUTHRA, SENIOR ADVOCATE

SHRI K PARAMESHWAR, ADVOCATE

DATED : 04.03.2020

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Report of the Amici Curiae

1. This Hon'ble Court by order dated 30.03.2017 while hearing Criminal Appeal No. 400/2006, noticed certain inadequacies in the procedure followed during criminal trials throughout the country. The Hon'ble Court recorded suggestions given by Shri R Basant, Senior Advocate, and issued notice to all State Governments and the respective High Courts as to whether consensus could be arrived at about the need to amend the relevant criminal rules of practice/criminal manuals to bring about uniformity of practice.
2. By order dated 07.11.2017 and 20.02.2018, Shri R Basant, Senior Advocate, Shri Sidharth Luthra, Senior Advocate and Shri K Parameshwar, Advocate were appointed as *amici curiae* to assist the Court. The order dated 20.02.2018 also directed the respective State Governments and the High Courts to submit their responses to the *amici curiae*. Upon receiving the responses, the *amici curiae*

were directed to convene a meeting with all parties for vetting the various responses given by the parties.

3. By January 2019, 15 States/Union Territories and 21 High Courts had given their responses by filing responses in the Supreme Court. Based on this feedback, the *amici curiae* evolved a consultation paper, which *inter alia* contained draft rules, and the same was circulated to all parties by letter dated 18.02.2019. Written responses were invited from the stakeholders and a colloquium was convened in the India International Centre on 30.03.2019 which was attended by representatives of different States/Union Territories and High Courts.
4. After taking into account the suggestions, the *amici curiae* submit the following Draft Rules of Criminal Practice, 2020 for the consideration of this Hon'ble Court. While drafting the Draft Rules, due care has been taken to ensure uniformity and at the same time to recognise the diverse practices among the various States and High Courts in this country. Care has also been taken to ensure that the draft rules are compliant and not in any way repugnant to the Code of Criminal Procedure, 1973. In fact, many of the

suggestions are practice directions reflective of the mandatory provisions of the Code of Criminal Procedure, 1973.

5. We would fail in our duties if we do not acknowledge the assistance by A Karthik, Advocate, Mehaak Jaggi, Advocate and M. V. Mukunda, Advocate who have rendered valuable assistance in accomplishing this task.

R. Basant

(Senior Advocate)

Sidharth Luthra

(Senior Advocate)

K. Parameshwar

(Advocate-on-Record)

ITEM NO. 801

COURT NO. 9

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SMW(Crl.) No.1/2017

IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND
DEFICIENCIES IN CRIMINAL TRIALS

Date : 30/03/2017 This matter was taken up by the Court on its own motion today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

Counsel for the parties

Mr. Basant R., Sr. Adv.
Mr. Raghenth Basant, Adv.
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Mr. Mishal Johari, Adv.
Ms. Aanchal Tikmani, Adv.
Mr. Senthil Jagadeesan, Adv.

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Mr. Deepak Prakash, Adv.
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Ms. Usha Nandini. V, Adv.

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Mr. Jishnu M.L., Adv.
Mrs. Priyanka Prakash, Adv.
Mrs. Beena Prakash, Adv.
Mr. Manu Srinath, Adv.

Ms. Bina Madhavan, Adv.

The Court made the following
O R D E R

Issue notices in terms of the signed reportable
order, to the Registrars General of all the High Courts,
and the Chief Secretaries/the Administrators and the
Advocates-General/Senior Standing Counsel of all the
States/Union Territories, so that general consensus can be

arrived at on the need to amend the relevant Rules of Practice/ Criminal Manuals to bring about uniform best practices across the country. This Court may also consider issuance of directions under Article 142 of the Constitution. They can be given the option to give suggestions also on other areas of concern.

Put up after six weeks.

(Sanjay Kumar-II)
Court Master

(Indu Pokhriyal)
Court Master

(Signed Reportable Order is placed on the file)

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
SUO MOTU WRIT (CRL.) NO.1 OF 2017

IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES
AND DEFICIENCIES IN CRIMINAL TRIALS

O R D E R

During the course of hearing of Criminal Appeal No.400/2006 and connected matters, Mr. R. Basant, learned Senior Counsel appearing for the appellants-complainant, pointed out certain common inadequacies and deficiencies in the course of trial adopted by the trial court while disposing of criminal cases. In particular, it was pointed out that though there are beneficial provisions in the Rules of some of the High Courts which ensure that certain documents such as list of witnesses and the list of exhibits/material objects referred to, are annexed to the judgment and order itself of the trial court, these features do not exist in Rules of some other High Courts. Undoubtedly, the judgments and orders of the trial court which have such lists annexed, can be appreciated much better by the appellate courts.

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Certain other matters were also pointed out by Mr. Basant, learned Senior Counsel for the appellants-complainant, during the course of arguments. He made the

following submissions :

A. In the course of discussions at the Bar while considering this case, this Court had generally adverted to certain common inadequacies and imperfections that occur in the criminal trials in our country. I venture to suggest that in the interests of better administration of criminal justice and to usher in a certain amount of uniformity, and acceptance of best practices prevailing over various parts of India, this Court may consider issue of certain general guidelines to be followed across the board by all Criminal Courts in the country.

B. The following areas may be considered specifically:

1. The pernicious practice of the Trial Judge leaving the recording of deposition to the clerk concerned and recording of evidence going on in more than one case in the same Court room, at the same time, under the presence and general supervision of the presiding officer has to be disapproved strongly and discontinued forthwith. A visit to Delhi Trial Courts any day will reveal this sad state of affairs, I am given to understand.

2. The depositions of witnesses must be recorded, in typed format, using computers, in Court, to the dictation of the presiding officers (in English wherever possible) so that readable true copies will

be available straightaway and can be issued to both sides on the date of examination itself.

3. The deposition of each witness must be recorded dividing it into separate paragraphs assigning para numbers to facilitate easy reference to specific portions later in the course of arguments and in Judgments.

4. Witnesses/documents/material objects be assigned specific nomenclature and numbers like PWs/DWs/CWs (1 onwards); Ext. P/Ext. D/Ext. C (1 onwards); MOs (1 onwards) etc., so that reference later becomes easy and less time-consuming. Kindly see the Relevant Rules

Kerala Criminal Rules of Practice 1982

"Rule 62 - Marking of exhibits.-

(1) Exhibits admitted in evidence shall be marked as follows:

(i) If filed by the prosecution, with capital letter P followed by a numeral P1, P2, P3 etc

(ii) If filed by defence, with capital letter D followed by a numeral D1, D2, D3 etc

(iii) If Court exhibits, with capital letter C followed by a numeral C1, C2, C3 etc.

(2) All exhibits marked by several accused shall be marked consecutively.

(3) All material objects shall be marked in Arabic numbers in continuous series, whether exhibited for the prosecution or the defence or the Court as M.O.1, M.O.2, M.O.3, etc"

Andhra Pradesh Criminal rules of Practice and Circular Orders, 1990

"Rule 66 - How witness shall be referred to
Witnesses shall be referred by their names or ranks as P.W.s., or D.Ws., and if the witnesses are not examined, but cited in the chargesheet, they should be referred by their names and not by numbers allotted to them in the charge-sheet."

5. Every judgment must mandatorily have a preface showing the name of the parties and an appendix showing the list of Prosecutions Witnesses, Prosecution Exhibits, Defence Witnesses, Defence Exhibits, Court witnesses, Court Exhibits and Material Objects. Kindly see inter alia the Relevant rules in the Kerala Criminal Rules of Practice, 1982.

"Rule 132 - Judgment to contain certain particulars.- The Judgment in original decision shall, apart from the particulars prescribed by Section 354 of the Code also contain a statement in Tabular Form giving the following particulars, namely:-

1.	Serial Number	
2.	Name of the Police Station and the Crime No. of the offence	
3.	Name	Description of the Accused
4.	Father's name	
5.	Occupation	
6.	Residence	
7.	Age	
8.	Occurrence	Date of
9.	Complaint	
10.	Apprehension	
11.	Release on bail	
12.	Commitment	
13.	Commencement of trial	
14.	Close of trial	
15.	Sentence or order	
16.	Service of copy of judgment or	

	Finding on accused	
17.	Explanation of delay	

Note.- (1) Date of complaint in column 9 shall be the date of the filing of the charge-sheet in respect of case instituted on police report and the date of filing of the complaint in respect of other case.

(2) Date of apprehension in column 10 shall be the date of arrest.

(3) Date of commencement of trial in column 13 shall be :

(a) In summons cases, the date on which the particulars of the offence are stated to the accused under section 251 of the Code.

(b) In warrant cases instituted on police report, the date on which the documents under section 207 of the Code are furnished to the accused and the Magistrate satisfied himself of the same under section 238 of the Code.

(c) In other warrant cases, when the recording of evidence is commenced under section 244 of the Code.

(d) In Sessions trials, when the charge is read out and explained to the accused under section 228 of the Code.

"Rule 134 - List of witnesses etc. to be Appended to Judgement.

There shall be appended to every judgment a list of the witnesses examined by the prosecution and for the defence and by the Court and also a list of exhibits and material objects marked."

6. Once numbers are assigned to the accused, witnesses and exhibits, they be referred to, subsequently in the proceedings and in the judgments with the help of such numbers only. The practice of referring to the names of the accused/witnesses and documents descriptively in the proceedings paper and judgments creates a lot of confusion. Whenever there is need to refer to them by name their rank as Accused/Witness must be shown in brackets.

7. Repetition of pleadings, evidence, and arguments in the judgments and orders of the Trial Court, Appellate and Revisional Courts be avoided. Repetition of facts, evidence, and contentions before lower Courts make the judgments cumbersome, and takes away the precious time of the Court unnecessarily. The Appellate/Revisional Court judgment/order is the continuation of the lower court judgment and must ideally start with "in this appeal/revision, the impugned judgment is assailed on the following grounds" or "the points that arise for consideration in this appeal/revision are". This does not of course, take away the option/jurisdiction of the Appellate/Revisional Courts to re-narrate facts and contentions if they be inadequately or insufficiently narrated in the judgment. Mechanical re narration to be avoided at any rate.

8. In every case file, a judgment folder to be maintained, and the first para in the appellate/revisional judgment to be numbered as the next paragraph after the last para in the impugned judgment. This would cater to a better culture of judgment writing saving precious court time.

9. The healthy practice in some states of the Investigating Officer obtaining and producing (or the wound certificate/ post mortem certificate showing) the front and rear sketch of the human torso showing the injuries listed in the medical documents specifically, may be uniformly insisted. This would help the judges to have a clearer and surer understanding of the situs of the injuries.

10. Marking of contradictions - A healthy practice of marking the contradictions/Omissions properly does not appear to exist in several States. Ideally the relevant portions of case diary statement used for contradicting a witness must be extracted fully in the deposition. If the same is cumbersome at least the opening and closing words of the contradiction in the case diary statement must be referred to in the deposition and marked separately as a Prosecution/Defence exhibit.

11. The practice of omnibus marking of S. 164 statement of witness deserves to be deprecated. The

relevant portion of such prior statements of living persons used for contradiction or corroboration U/s. 145/157 of the Evidence Act deserves to be marked separately and specifically.

12. The practice of whole sale marking of confession statement of accused persons for introduction of the relevant statement admissible under S. 27 of Evidence Act deserves to be deprecated. Ideally the admissible portion and that portion alone, must be extracted in the recovery memos (Mahazar or Panch - different nomenclature used in different parts of the land) within inverted commas. Otherwise the relevant portion alone written separately must be proved by the Investigating Officer. Back door access to inadmissible evidence by marking the entire confession statement in the attempt to prove the admissible portion under S. 27 of Evidence Act should be strictly avoided.

13. The Trial Courts must be mandatorily obliged to specify in the Judgment the period of set off under Section 428 Cr.P.C specifying date and not leave it to be resolved later by jail authorities or successor presiding officers. The Judgements and the consequent warrant of committal must specify the period of set off clearly.

In the circumstances, we direct that notices be issued to the Registrars General of all the High Courts, and the Chief Secretaries/the Administrators and the Advocates-General/Senior Standing Counsel of all the States/Union Territories, so that general consensus can be arrived at on the need to amend the relevant Rules of Practice/ Criminal Manuals to bring about uniform best practices across the country. This Court may also consider issuance of directions under Article 142 of the Constitution. They can be given the option to give suggestions also on other areas of concern.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

New Delhi;
MARCH 30, 2017.

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ITEM NO. 21, 26 & 25.1

COURT NO. 7

SECTION PIL-W
IV-A & II-ASUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Suo Moto Writ Petition (Criminal) No.1/2017

IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND
DEFICIENCIES IN CRIMINAL TRIALS Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH & ORS.

Respondent(s)

With SLP(C) No.25669 of 2015

SLP(Crl.) No...../2017 Crl. M.P. No.7862/2017

(With Appln.(s) for condonation of delay in filing and refiling
SLP)

Date : 07-11-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

Counsel for the parties

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Ms. Anitha Shenoy, AOR

Ms. Srishti Aganihotri, Adv.

Mr. Jatinder Kumar Bhatia, AOR

Mr. Jugal Kishore Gilda, Ld. AG

Mr. Aniruddha P. Mayee, AOR

Mr. Chirag Jain, Adv.

Mr. Sibbo Sankar Mishra, AOR

Ms. Sneha Kalita, AOR

Mr. Annam D. N. Rao, AOR

Mr. Venkatesh Rao, Adv.

Mr. Sudipto S., Adv.

Ms. Tulika Chikker, Adv.

Mr. Rahul Mishra, adv.

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Mr. A. Mariarputham, Ld. AG

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Mr. Avneesh Arputham, Adv.

Ms. Anuradha Arputham, Adv.

Ms. Simran Jeet, Adv.

For M/S. Arputham Aruna And Co, AOR

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Mr. Abhinav Mukerji, AOR

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Mr./Ms. Bihu Sharma, Adv.

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Mrs. Beena Prakash, Adv.

Mr. Vijay Shankar V.L., Adv.

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Ms. Jesal Wahi, Adv.

Ms. Puja Singh, Adv.

Ms. Shodhika Sharma, Adv.

Mr. Ashok K. Srivastava, AOR

Mr. Mishra Saurabh, AOR
Mr. Ankit Kr. Lal, Adv.

Mr. Bhupesh Narula, Adv.
Mr. K.V. Jagdishvaran, Adv.
Mrs. G. Indira, Adv.

Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Mrs. K. Enatoli Sema, Adv.
Mr. Edward Belho, Adv.
Mr. Amit Kumar Singh, Adv.
Mr. K. Luikang Michael, Adv.
Mr. Z.H. Isaac Haiding, Adv.

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Mr. Amit Sharma, Adv.
Mr. Ankit Raj, Adv.
Ms. Indira Bhakar, Adv.
Mr. Milind Kumar, Adv.

Mr. M. Shoeb Alam, AOR
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Mr. Maninder Singh, Ld. ASG
Mr. Anmol Chandan, Adv.
Mr. G.S. Makker, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Suo Moto Writ Petition (Criminal) No.1/2017

Admit.

Service is not complete.

By consent, we appoint Mr. Sidharth Luthra, learned Senior Counsel, and Mr. R. Basant, learned Senior Counsel, as Amicus Curiae in the matter.

Mr. Sidharth Luthra, learned Amicus Curiae through his assisting counsel, may take steps to serve fresh notices to all the

unserved respondents-States/Union Territories and also their Standing Counsel, and the Registrars General of the High Courts, notifying of the matter and calling upon them to enter appearance and file their respective affidavits.

Put up on 12.12.2017 as part-heard for further hearing.

In the meantime, all the respondents shall furnish copies of their respective reply affidavit to both the learned Amicus Curiae.

SLP(Crl.) No...../2017 Crl.M.P. No.7862/2017

Tag with Suo Moto Writ Petition (Criminal) No.1/2017

SLP(C) No.25669 of 2015

De-tagged from SLP(Crl.) No...../2017 Crl.M.P. No.7862/2017.

List the matter in the month of December, 2017.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
BRANCH OFFICER

ITEM NO.1(PH), 1.1-1.4,26 & 28 COURT NO.7 SECTIONS. PIL-W,
II-A,II-B,II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Suo Moto Writ Petition (Criminal) No. 1/2017

IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING
INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH & ORS. Respondent(s)

WITH

SLP(Crl.)...CRLMP No. 7862/2017 (II-A)
(With appln.(s) for condonation of delay in filing/refiling
SLP)

SLP(Crl.) Diary No(s). 40383/2017 (II-A)
(With appln. for condonation of delay in filing SLP)

SLP(Crl.)....Diary No(s). 41687/2017 (II-B)
With appln. for condonation of delay in filing SLP)

SLP(Crl.)... Diary No(s). 42562/2017 (II-C)
(With appln.(s) for condonation of delay in filing SLP,
exemption from filing c/c of the impugned judgment and
exemption from filing OT)

SLP(Crl.).....Diary No(s) 41799/2017
(With appln.(s) for condonation of delay in filing/refiling
SLP, exemption from filing O.T.)

SLP(Crl.)....Diary No(s) 1857/2018
(With prayer for interim relief,appln.(s) for condonation of
delay in filing SLP)

Date : 20-02-2018 These petitions were called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

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CHANDAN K. KAIR
DN: cn=CHANDAN K. KAIR,
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NP

Mr. R. Basant, Sr. Adv. (AC)
Mr. A. Karthik, Adv.
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Mr. Leishangthem Roshmani Kh, AOR
Mr. M. Babina, Adv.
Mr. D.B. Goswami, Adv.

Ms. Swarupama Chaturvedi, AOR
Mr. B.N. Dubey, Adv.

Mr. Shuvodeep Roy, AOR
Mr. Sayooj Mohan Das, Adv.

Mr. Shekhar Raj Sharma, Adv.
Mr. Sanjay Kumar Visen, AOR

Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Mr. Mrityunjai Singh, Adv.

Mr. Ajay Marwah, AOR

UPON hearing the counsel the Court made the following
O R D E R

Suo Moto WP(Crl.) No. 1/2017

Shri K. Parameshwar, learned counsel is appointed as Amicus Curiae to assist Shri Siddharth Luthra and Shri R. Basant, learned Amici Curiae.

All the respondents, i.e. the respective State Governments / Union Territories and the High Courts through their Registrars General may submit their responses along with suggestions to this Court by 16.03.2018 with advance copies to learned Amici Curiae.

Upon receipt of such proposals, if any, Shri Basant, learned Amicus Curiae shall convene a meeting of all the parties for vetting various proposals and for finalizing the draft proposal for submission to this Court. The final draft proposal shall be submitted to this Court by 16.04.2018 with copies to all the parties.

List the matter on 25.04.2018.

SLP(Crl.) Nos. 7862, 40383, 41687, 42562, 41799/2017 and D. No. 1857/2018

Delinked from suo moto writ petition

(Criminal) no. 1 of 2017.

In all these matters the petitioners have been directed to submit a better affidavit explaining the cause of delay. They may do so by the next date of hearing. A copy of such affidavits shall be served on Ms. Vibha Datta Makhija, learned Amicus Curiae.

Ms. Vibha Datta Makhija, learned Amicus Curiae points out that Shri S.S. Rathi, Director, NALSA is present in Court. Shri Subramonium Prasad, learned senior counsel represents Supreme Court Legal Services Committee. It appears that for the effective implementation of the proposed Scheme for ensuring that Criminal Appeals are not neglected and are filed without delay in this Court, it is necessary to have a digital solution for some aspects along with active human interface. For this purpose, it would be necessary that Legal Assistants are given training about their duties and responsibilities in relation to the filing of appeals of convicts whose convictions and sentences have been upheld by the High Court(s). At the same time, the Legal Services Authorities need to have up-to-date information about each case within their jurisdiction so that the legal assistants can follow it up. For this purpose obviously, a digital solution is necessary.

We, accordingly, appoint the Director, NALSA as a nodal agency of the stakeholders, including, Ministry of Human Affairs, police/jail authorities, e-committee for a solution.

List these matters on 10.04.2018.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Indu Kumari Pokhriyal]
Asstt. Registrar

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To,

1. Registrar Generals of all High Courts
2. Chief Secretaries of all States/ U.T's

Dated: 18.02.2019

Sir,

IN RE: SUO MOTU WRIT PETITION (CRI) No.1/2017

1. We have been appointed amici curiae by the Hon'ble Supreme Court in the above matter by orders dated 07.11.2017 and 20.02.2018
2. Your kind attention is drawn to the order of the Hon'ble Supreme Court dated 30.03.2017 which is appended to this communication as APPENDIX 1.
3. Many of the State Government and High Courts have already submitted their responses to the above by now and we have already gone through the said responses. The same is appended for reference as APPENDIX 2.
4. On the basis of the above, we have evolved a consultation paper which is appended to this communication as APPENDIX 3.
5. We look forward to your further suggestions, responses and comments, if any, on the above appendices in writing before 20.03.2019.

6. On 30.03.2019, a colloquium will be held to give opportunity to all of you to further explain or modify your suggestions. On the basis of all inputs, we propose to submit, at the earliest, the draft directions for the consideration of the Hon'ble Court. The responses be sent to K. Parameshwar, Advocate at 108, Tower 12, Supreme Enclave, Mayur Vihar Phase-1, New Delhi, 110091, in writing and/or by email (at email ID vakil.parameshwar@gmail.com).
7. The colloquium shall be held at India Habitat Centre on 30.03.2019 between. Your response in writing and your active presence or that of a responsible and authorized officer/standing counsel for participation is earnestly solicited.

Thanking You,

Yours Sincerely,

R. Basant

(Senior Advocate)

Sidharth Luthra

(Senior Advocate)

K. Parameshwar

(Advocate-on-Record)

CC: Standing counsel for States/Union Territories

LIST OF PARTICIPANTS IN COLLOQUIUM HELD ON 30.03.2019

PARTICIPATING HIGH COURTS:

1. Calcutta High Court
2. Delhi High Court
3. Himachal Pradesh High Court
4. Jharkhand High Court
5. Kerala High Court
6. Madras High Court
7. Meghalaya High Court
8. Punjab & Haryana High Court

PARTICIPATING STATES

1. Andaman and Nicobar Islands
2. Nagaland
3. Sikkim
4. Tamil Nadu

PARTICIPATING POLICE DEPARTMENTS

1. Jharkhand
2. Punjab
3. Tamil Nadu

DRAFT RULES OF CRIMINAL PRACTICE, 2020CHAPTER I. INVESTIGATION

1. BODY SKETCH TO ACCOMPANY MEDICO LEGAL CERTIFICATE, POST MORTEM REPORT AND INQUEST REPORT:

Every Medico Legal Certificate, Post Mortem Report shall contain a printed format of the human body on its reverse and injuries, if any, shall be indicated on such sketch.

Explanation: The printed format of the human body shall contain both a frontal and rear view of the human body as provided in ANNEXURE – A

2. PHOTOGRAPHS AND VIDEO GRAPHS OF POST MORTEM IN CERTAIN CASES

- i. In case of death of a person in police action [under Section 46 Criminal Procedure Code, 1973 ("CrPC") or Sections 129 to 131 CrPC] or death while in police custody, the Investigating Officer shall inform the hospital or doctor in charge to arrange for photographs or videography for conducting the post-mortem examination of the deceased. The photographs of the deceased shall also be arranged to be taken in all cases.

- ii. Such photograph and videographs shall be taken either by arranging a police photographer or a nominated photographer of the State Government, and where neither of the above are available, an independent or private photographer shall be engaged.
- iii. Such photographs or videographs shall be seized under a *panchnama* or seizure memo and all steps taken to ensure proper proof of such photographs/videographs during Trial.
- iv. The Investigating Officer shall ensure that such photographs and videographs, if taken electronically, are seized under a *panchnama* or seizure memo and steps are taken to preserve the original, and ensure that certificate under Section 65B Indian Evidence Act, 1872 is obtained and taken to be proved during trial.
- v. The video or photographs shall be stored on a separate memory card, accompanied by a duly certified certificate under Section 65B Indian Evidence Act, 1872.
- vi. Where post-mortems are recorded in electronic form, the file containing the post-mortem proceedings, duly certified, should be placed with the

memory card as an attachment unless individual memory cards are not capable of being produced before Court.

3. SCENEMAHAZAR/ SPOT PANCHANAMA

- i. A site plan of the place of occurrence of an incident shall be appended by the Investigating Officer to the scene *mahazar* or spot *panchnama*.
- ii. The site plan shall be prepared by the Investigating Officer by hand, and shall disclose
 - a. the place of occurrence,
 - b. the place where the body (or bodies) was / were found,
 - c. the place where material exhibits and/or weapons,
 - d. blood stains and/or body fluids had fallen,
 - e. the place where bullet shells, if any, were found or have caused impact,
 - f. the source of light, if any and
 - g. adjoining natural and man-made structures or features such as walls, pits, fences, trees/bushes, if any and
 - h. elevation of structures and their location.
- iii. The preparation of this sketch by the Investigating Officer shall be followed by a scaled site plan prepared by police draftsman, if available,

or such other authorized or nominated draftsman by the State Government, who shall prepare the scaled site plan after visiting the spot.

- iv. The relevant details in the *mahazar* or *panchnama* shall be marked and correlated in the said site plan.

4. SUPPLY OF DOCUMENTS UNDER SECTIONS 173, 207 AND 208 CRPC

- i. Every Accused shall be supplied with statements of witness recorded under Sections 161 and 164 CrPC and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O).

Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the I.O.

Chapter II: CHARGE

5. The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II, Cr.P.C. to be prepared personally by the Presiding Officer after complete and total application of mind.

CHAPTER III: TRIAL**6. RECORDING OF EVIDENCE: PROCEDURE**

- i. The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer.
Provided that in case the language of deposition is a language other than English or the language of the State, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.
- ii. The deposition shall be recorded in the language of the witness and in English when translated as provided in Clause 6 (i) except when translated into English.
- iii. The depositions shall without exception be read over by the Presiding officer in Court. Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer/court officer shall be made available free of cost against receipt to the accused or an advocate representing the accused, to the witness and the prosecutor on the date of recording.

- iv. A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.
- v. The Presiding Officers shall not record evidence in more than one case at the same time.

7. RECORDING OF EVIDENCE: FORMAT OF WITNESSES

- i. The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.
- ii. Prosecution witnesses shall be numbered as PW-1, PW-2 etc, *in seriatim*. Similarly, defence witnesses shall be numbered as DW-1, DW-2, etc., *in seriatim*. The Court witnesses shall be numbered as CW-1, CW-2, etc, *in seriatim*.
- iii. The record of depositions shall indicate the date of the chief examination, the cross examination and re-examination.
- iv. The Presiding Officers shall wherever necessary record the deposition in question and answer format.

v. Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided expeditiously in accordance with law.

vi. The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

8. EXHIBITING OF MATERIAL OBJECTS AND EVIDENCE

i. Prosecution exhibits shall be marked as Exhibit P-1, P-2 etc in seriatim. Similarly, defence Exhibits shall be marked as Exhibit D-1, D-2, etc in seriatim. The Court exhibit shall be marked as Exhibit C-1, C-2, etc in seriatim.

ii. To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof).

Explanation: If Prosecution witness no. 1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P-1/PW1. If proper proof is not offered for that document at the time

when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The Second document introduced by PW1 will be Exhibit P-2/PW1.

iii. The Material objects shall be marked in seriatim as MO-1, MO-2 etc.

9. SUBSEQUENT REFERENCES TO ACCUSED, WITNESS, EXHIBITS AND MATERIAL OBJECTS

i. After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.

ii. After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not by names or other references.

iii. Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

10. REFERENCES TO STATEMENTS UNDER SECTION 161 AND 164 CRPC:

- i. During cross examination, the relevant portion of the statements recorded under Section 161 CrPC used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition.
- ii. In such cases, where the relevant portion is not extracted, the portion shall be distinctly marked as prosecution or defence exhibit as the case may be.
- iii. The aforesaid rule applicable to recording of the statements under Section 161 shall *mutatis mutandis* apply to statements recorded under Section 164 of the CrPC, whenever such portions of prior statements of living persons are used for contradiction/corroboration.
- iv. Omnibus marking of the entire statement under S. 161 and 164 Cr.P.C shall not be done.

11. MARKING OF CONFESSIONAL STATEMENTS

The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.

CHAPTER IV: THE JUDGMENT

12. Every judgement shall contain the following

- i. Start with a preface showing the names of parties as per FORM A to the Rules.
- ii. A tabular statement as per FORM B to the Rules.
- iii. An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per FORM C to the Rules.

13. In compliance with Section 354 and 355 CrPC, in all cases, the judgments shall contain:

- i. the point or points for determination,
- ii. the decision thereon, and
- iii. the reasons for the decision

14. In case of conviction, the judgment shall separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them shall be dealt with separately. In case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.

15. In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not by names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.

16. The judgment shall be written in paragraphs and each paragraph shall be numbered *in serialim*. The Presiding Officers, may, in their discretion, organize the judgment into different sections.

CHAPTER V: MISCELLANEOUS

17. BAIL

- i. The application for bail must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof in the order itself. Copy of the order and the bail

application must be furnished to the accused on the date of pronouncement of the order itself.

- ii. The Presiding Officer may, in an appropriate case in its discretion insist on a statement to be filed by the prosecutor in charge of the case.

18. SEPARATION OF PROSECUTORS AND INVESTIGATORS

The State Governments shall appoint advocates, other than Public Prosecutors, to advise the Investigating Officer during investigation.

19. DIRECTIONS FOR EXPEDITIOUS TRIAL

- i. In every enquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded. (section 309 (1) Cr.P.C.).
- ii. After the commencement of the trial, if the court finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded postpone or adjourn the same on such terms as it thinks fit, for such time as it

considers reasonable. If witnesses are in attendance no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded, in writing. (Section 309 (2) Cr.P.C.).

- iii. Sessions cases should be given precedence over all other work and no other work should be taken up on sessions days until the sessions work for the day is completed. A Sessions case once posted should not be postponed unless that is unavoidable, and once the trial has begun, it should proceed continuously from day to day till it is completed. If for any reason, a case has to be adjourned or postponed, intimation should be given forthwith to both sides and immediate steps be taken to stop the witnesses and secure their presence on the adjourned date.

FORM A

IN THE COURT OF	
Present: Sessions Judge	
[Date of the Judgement]	
[Case No...../2019]	
(Details of FIR/Crime and Police Station)	
Complainant	STATE OF OR NAME OF THE COMPLAINANT
REPRESENTED BY	NAME OF THE ADVOCATE
ACCUSED	1. NAME WITH ALL PARTICULARS (A1) 2. NAME WITH ALL PARTICULARS (A2)
REPRESENTED BY	NAME OF THE ADVOCATES

FORM B

Date of Offence	
Date of FIR	
Date of Chargesheet	
Date of Framing of Charges	
Date of commencement of evidence	
Date on which judgment is reserved	
Date of the Judgment	
Date of the Sentencing Order, if any	

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, CrPC

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1		
PW2		

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

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C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No	Exhibit Number	Description
1	Exhibit P-1/PW1	
2	Exhibit P-2/PW2	

B. Defence:

Sr. No	Exhibit Number	Description
1	Exhibit D-1/DW1	
2	Exhibit D-2/DW2	

C. Court Exhibits

Sr. No	Exhibit Number	Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects:

Sr. No	Material Number	Object	Description
1	MO1		
2	MO2		

[illegible]