

## CHAPTER XXIX-A

### APPEALS TO THE SUPREME COURT

(Under Supreme Court Rules, 1966)

#### (A) Civil Appeals on the Certificate of the High Court

**1. (i) Application for Certificate.** — Whosoever desires to appeal to the Supreme Court shall apply by petition to the Court for a Certificate granting Leave to Appeal to the Supreme Court.

**(ii) Oral Application for Certificate may be made immediately after the pronouncement of Judgment.** — Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such a certificate immediately after the pronouncement of the judgment by the Court and the Court may grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i) :

Provided, however, that if an oral application for Certificate for Leave to Appeal under sub-rule (ii) is made and rejected, no written petition under sub-rule(i) shall lie.

**(iii) Form of Petition.** — Petitions praying for a Certificate for Leave to Appeal to the Supreme Court shall be presented in Form No. 1 of Schedule A appended to this Chapter and shall specify in the heading the names of the actual parties to the appeal at the time of the presentation of the petition, tracing their relation to the original parties to the dispute, where the parties to the appeal have been placed on the record as representatives in interest of such original parties, or explaining in what capacity they have come on the record of the Appeal.

**(iv) Addresses of parties.** — Full particulars of addresses of the parties shall be furnished at the time of the filing of the petition.

**(v) Accompaniments to the petition.** — Every petition shall be accompanied by two spare typed copies of the petition and of the judgment for the use of the Court where the judgment has been pronounced by this Court.

**2. Notice of Rule and its service.** — If the Court grants Rule upon the petition, the Registrar shall issue a notice in Form No. II of Schedule A appended to this Chapter on payment of prescribed fee calling upon the opposite party to show cause, within a period of time after the service of the notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.

**3. Registrar to investigate causes of delay if parties are not served within two months.** — If the parties concerned are not served within two months of the date on which the Rule is granted, the Registrar shall personally investigate the causes of the delay and take all possible steps to expedite the service and if necessary, submit the case to the Court for directions.

**4. Form of Certificate.** — Upon the Court making the Rule absolute the office shall issue a certificate in Form No. III of Schedule A appended to this Chapter.

**5. Procedure for consolidation of appeals.** — No application for consolidation of appeals will be entertained by this Court. The parties desiring consolidation of appeals shall be required to move the Supreme Court for an order in that behalf under Rule 5 of Order XLVII of the Supreme Court Rules, 1966.

**6. Procedure for amending record after certificate is granted.** — An application for amendment of the record of the appeal by adding or substituting parties will not be entertained by this Court after the date of the order granting the certificate. The parties desiring such amendment shall be required to move the Supreme Court in that behalf.

**7. Service of Notice in certain cases upon Advocates.** — When a party has been represented at the hearing of the appeal by an Advocate unless the Vakalatnama of such Advocate has been cancelled with the sanction of the Court, such Advocate shall accept service of the notice in the following cases, and the service of notice in such cases on the advocate shall be deemed sufficient notice: —

- (a) Notice of Rule issued under rule 2 of this Chapter;
- (b) Notice of lodgment of petition of appeal under rules;
- (c) Notice for inspecting the record and filing the list of documents under rule 10;
- (d) Notice for making deposit for the costs of transmission of the original record, or the preparation of the transcript of the record in English and its transmission, or for the preparation and transmission of the printed or cyclostyled transcript of the record;
- (e) Notice of the transmission of the transcript of the record to the Supreme Court;

Provided that where the notice has been served on an Advocate under the above provisions the Appellant's Advocate shall in addition to the Bhatta to be paid under the rules deposit with the Nazir at the time of paying the Bhatta an amount calculated at Rs.4 for each opponent who can be so served to meet the costs of the Advocate concerned for communicating the notice to his client. The Registrar may order the costs reasonably incurred by the Advocate to be paid out of such deposit and may also call upon the appellant's Advocate to make good the deficit, if such costs exceed Rs.4 or may return the balance, if any:

Provided also that, if the Advocate served with the notice is unable to communicate it to the party concerned, he shall inform the Registrar who may thereupon either order the notice to be served by registered post or through a Court or, if necessary, obtain directions of the Court.

**8. Action to be taken on receipt of the copy of petition of appeal from the Supreme Court.** — On receipt from the Supreme Court of the copy of the petition of appeal, the Registrar, shall, —

(i) cause notice of the lodgment of the petition of appeal to be served on the respondent personally or in the manner provided under rule 7 above in Form No. IV of Schedule A appended to this Chapter;

(ii) unless otherwise ordered by the Supreme Court transmit or cause to be transmitted to that Court at the expense of the appellant the original record of the case including the record of the Courts below; and

(iii) as soon as notice as aforesaid is served, send a certificate to the Supreme Court as to the date or dates on which the said notice was served on the respondent or respondents in Form No. V of Schedule A appended to this Chapter.

**9. (i) Procedure where proceedings in Courts below were had in English, —**

Where proceedings from which the appeal arises were had in Courts below in English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court, call upon the appellant (vide form No. VI Schedule A) to deposit in this Court the necessary amount to cover the costs of the transmission of the original record of the case including the record of Courts below to the Supreme Court. Upon the appellant's depositing the amount, if the record of the Courts below is in the High Court, the Registrar shall forward to the Supreme Court the same along with the record of the case in the High Court, If the record of the Courts below is not in the High Court the Registrar shall direct the Courts below to transmit the records of the case in those Courts direct to the Supreme Court under the intimation to this Court and to inform this Court of the expenses incurred by them for such transmission. The Registrar shall also forward to the Supreme Court the record of the case so far as it pertains to the appeal in the High Court.

**(ii) Balance to be refunded. —** The balance of the deposit, after meeting the costs of the transmission of the record by the Courts below as well as this Court, shall be refunded to the appellant.

**(iii) Default to be reported to Supreme Court. —** Any default on the part of the appellant to deposit the amount to cover the costs of the transmission of the record as above shall be reported to the Supreme Court for orders.

**10. (i) Procedure where proceedings in Courts below were held in a language other than English.—**

Where the proceedings from which the appeal arises were had in Courts below in a language other than English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court, secure the record and proceedings of the case from the Courts below, if the same are not already in the High Court and as soon as the same are received in the High Court, shall issue notice to the parties calling upon them to inspect the record and proceedings of the case, if they so desire.

**(ii) Contents of notice to appellant. —** The notice to the appellant under sub-rule (i) above shall also call upon the appellant to file, within four weeks of the service upon him of the said notice, a list of documents which he proposes to include in the paper-book, after serving a copy thereof on each of the respondents. The appellant shall produce an acknowledgement in writing from each of the respondents that a copy of the list has been served on him.

**(iii) Contents of notice to respondent.** — The notice to the respondent under sub-rule (i) above shall also intimate to him the fact that a notice has already been issued to the appellant for filing the list of documents, and requiring him (the respondent) to file, within three weeks from the service of a copy of the list on him by the appellant, a list of such additional documents as he desires to be included in the paper-book.

**(iv) Default to be reported to the Supreme Court.** — Any default by the appellant to file the list as required and within the time prescribed shall be reported to the Supreme Court for orders.

**(v) Forms of notices to appellant and respondent.** — Notices to the appellant and the respondent under this rule shall respectively be in Form Nos. VII and VIII of Schedule A appended to this Chapter.

**11. Setting of Index.** — After the expiry of the time fixed for the filing of the list of additional documents by the respondent, the Registrar shall fix a day for the settlement of the list (hereinafter referred to as the Index) of documents to be included in the transcript of the record of the appeal and shall notify, the same on the notice board of the Court. No separate notices will be issued to the parties or their Advocates. In settling the index, the Registrar as well as the parties concerned shall endeavour to exclude from the record all documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record as far as practicable.

**12, Procedure where respondent objects to inclusion of documents.** — Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, the transcript of the record as finally prepared shall, with a view to subsequent adjustment of costs of or incidental to the printing of the said document, indicate in the index of the paper-book or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the expense of the appellant.

**13. Procedure where appellant objects to inclusion of document.** — Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of the opinion that the document is not relevant, may direct that the said document be included separately at the expenses of the respondent and require the respondent to deposit within such time as he may prescribe the necessary charges therefor. If the amount so deposited is found insufficient, the Registrar may call upon (vide Form No. VI, Schedule A) the respondent to deposit additional amount or amounts within such further time as he may deem necessary. The question of the costs thereof will be dealt with by the Supreme Court at the time of the determination of the appeal.

**14. Estimate of costs of the preparation of the transcript of record, etc.** — As soon as the index of the record is settled the Registrar shall cause an estimate of the costs of the preparation of the transcript of the record (and of printing or cyclostyling the record, where it is required to be printed or cyclostyled) to be prepared and served on the appellant and shall require him (vide Form No. VI, Schedule A) to deposit within 30 days of such service the said amount. Such costs shall include the

costs of translations, if any. The appellant may deposit the said amount in lump sum or in such installments as the Registrar may prescribe.

**15. Where record is printed for High Court appeal, no fresh transcript necessary,** — Where the record has been printed for the purpose of the appeal before the High Court and sufficient number of copies of the said printed record is available, no fresh transcript of the record shall be necessary except of such additional papers as may be required.

**16. Registrar may call for additional deposit if deposit made is insufficient.** — If at any time during the preparation of the transcript-of the record (or of printing or cyclostyling the record, where it is-required-to be printed, or cyclostyled) the amount deposited is found insufficient, the Registrar shall call upon the appellant (vide Form No. VI, Schedule A) to deposit such further sum as may be necessary within such further time as may be deemed fit, but not exceeding 28 days in the aggregate.

**17. Procedure on appellant making default in making deposit** -Where the appellant fails to make the required deposit, the preparation of the transcript of the record (and the printing or the cyclostyling of the record, where the same is required to be printed or cyclostyled) shall be suspended and the Registrar shall not proceed therewith without an order in this behalf of this Court; the Court may give such accommodation in the matter of time for making the deposit as it deems proper and if the appellant continues the default in spite of the orders of this Court, the Registrar shall obtain an order from the Court for reporting the default to the Supreme Court and report accordingly.

<sup>1</sup>[**18. Transcript of the record to be transmitted to Supreme Court within six months.** — (i) The Registrar shall within six months, from the date of the service on respondent of the notice of the petition of appeal, transmit to the Supreme Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated by appending a certificate to the same under the seal of this High Court and his signature. If for any reason the same cannot be transmitted within the period of six months mentioned above, the Registrar shall report the facts to the Supreme Court and obtain necessary extension of time for transmitting the same.

1. Substituted by Notification No. P 3601/92, Dt. 27-5-1992.

(ii) Where the record has been printed for the purpose of Appeal before the High Court and the record is in English, ten extra printed copies shall be transmitted to the Supreme Court along with the record.

(iii) **Certificate of expenses to be appended to the transcript or forwarded separately.** — The Registrar shall also append to the transcript of the record or separately forward a certificate showing the amount of expenses incurred by the parties concerned for the preparation and the transmission of the transcript of the record ].

**19. Form of notice of transmission of the transcript to the parties.** — When the record has been made ready, the Registrar shall certify the same and give notice to the parties of the certification and the transmission of the transcript of the record

(or of the printed or cyclostyled record, where it is required to be printed or cyclostyled) in Form No. IX of Schedule A appended to this Chapter, and thereafter shall send a certificate to the Supreme Court as to the date or dates on which the notice has been served on the parties in Form No. X of Schedule A appended to this Chapter.

**20. (i) Record not to be printed unless ordered by the Supreme Court.** — Unless the Supreme Court so directs the record shall not be printed or cyclostyled in this Court.

**(ii) Rules regarding printing and cyclostyling.** — Where the Supreme Court directs that the record be printed or cyclostyled in this Court the same shall be printed or cyclostyled in accordance with the rules in Schedule 'B' appended to this Chapter.

**(iii) Record may be cyclostyled if consisting of less than 200 pages.** — Where the appeal paper-book is not likely to consist of more than 200 pages, the Registrar may, instead of having the record printed, have it cyclostyled.

**(iv) Rules 7 to 19 to apply mutatis mutandis to printing and cyclostyling.** — Where the record is printed or cyclostyled in this Court the provisions contained in Rules Nos. 7 to 19 above (both inclusive) shall apply *mutatis mutandis* to the printing and cyclostyling of the record.

**(v) Number of copies for the use of the Supreme Court.** — Unless otherwise directed by the Supreme Court, at least 20 copies of the record shall be prepared for the use of the Supreme Court.

**(vi) Number of copies for the parties.** — Unless a party informs its requirements before the printing or the cyclostyling is undertaken, each party shall be entitled to three copies of the record for its use.

**21. (i) Rate of fees for preparation of the transcript of the record and printing and cyclostyling of record.** — For preparing the transcript of the record (and for printing or cyclostyling the record, where it is required to be printed or cyclostyled) fees shall be charged at the following rates :—

(1) Preparation of Index	50 paise per page
(2) Copying of documents for the preparation of the transcript of the record.	25 paise per folio of 100 words (for 4 copies)
(3) Comparing copies of documents for the preparation of the transcript of the record.	5 paise per folio of 100 words.
(4) Writing head Notes to documents in the transcript of the record.	10 paise for each head note.

(5) Examination of the proofs where the record is required to be printed or cyclostyled.	25 paise for every printed or cyclostyled page.
(6) Certifying of the transcript of the record or of the printed or cyclostyled record by the Registrar.	Re.1 for every 10 pages of fraction thereof.
(7) Printing or cyclostyling.	As per bill received from the printing press or the cyclostyling agency as per rates to be determined by the office from time to time.

**(ii) Manner of appropriating the fees.** — Fees recovered as above under items (1) to (6) of sub-rule (i) above shall be credited to Government;

Provided that the Registrar may direct the party or his Advocate to supply copies of documents required for the preparation of the transcript of the record; and

Provided further that where such copies are supplied by the Advocate the charges for the same at the rate prescribed as item (2) of sub-rule (i) above shall be paid to him out of the deposit made for the preparation of the transcript of the record, and where such copies are supplied by the party himself he shall not be charged for the same, and in respect of copies so supplied by the Advocate or the party only comparing charges at the rates prescribed at item (3) of sub-rule(i) above shall be recovered and credited to Government.

**(iii)** Fees recovered under item No. (7) of sub-rule (i) above, unless the printing is done by the Government Printing Press, shall be paid to the Printing Press or cyclostyling agency which does the work and when the printing is done by the Government Printing Press, the same shall be credited to Government.

**22. (i) Translations to be made by Chief Translator's Office or Special Translators.** — Translations required for the transcript of the record shall be made by the office of the Chief Translator or by such other person (hereinafter referred to as special Translators) as the Chief Justice may specially appoint from time to time in that behalf.

**(ii) Fees for estimating translation charges.** — A fee of Rs.16/- shall be charged for estimating the translation charges.

**(iii) Estimate may be called from the Chief Translator.** — If, after having due regard to the amount of deposit made under rule 14 above and the number of documents to be translated for the purpose of inclusion in the transcript of the record, the office of the Registrar deems it necessary to obtain an estimate of the

translation charges prior to the actual entrusting of the work of translation, the Chief Translator shall certify the necessary estimate within one week from the date the documents to be translated are sent to him for estimate.

**23. Procedure where translations are made for High Court appeal.** — Any part of the record which may have been officially translated for the purposes of the hearing in the High Court shall not be translated over again.

**24. Where depositions of witnesses are to be translated.** — The deposition of witnesses in the original languages shall not be translated in cases in which the notes of the substance of the depositions are taken in English by the Courts below, unless any one of the parties desires and shows sufficient cause to the Registrar that particular depositions should be translated and the Registrar orders that they should be translated.

**25. Procedure where parties disagree in regard to translations.** — The parties shall be invited from time to time to inspect the translations, and in case of disagreement, the points in dispute, which must be stated in writing, shall be submitted within one week to the Chief Translator for his decision, and the Chief Translator after perusal of the same shall decide the point in dispute. The writings submitted by the parties mentioning the points in dispute with the decision of the Chief Translator noted thereunder shall be forwarded by the Chief Translator to this Office along with the translations and the same shall be filed with the record of the case in this Office.

**26. (i) Rate of fees for translation) etc.** — A fee of Re.1 for translations and an additional fee of 65 paise for examination and authentication per folio of 100 words shall be levied.

**(ii) Who should examine and authenticate.** — The examination and authentication in the case of the translation done by the Office of the Chief Translator shall be done by the Chief Translator, and the examination and authentication in the case of the translations done by the Special Translators shall be done by the Special Translator concerned.

**(iii) Manner of appropriation of translation fees etc.** — The fees for translation, examination and authentication, except when the translation is done by Special Translators, shall be credited to Government, and where such translations are done by Special Translators the same shall be paid to them.

**(iv) Number of copies of translations to be supplied by the Chief Translator or the Special Translator.** — The Chief Translator's office or the Special Translators, as the case may be shall supply five typed copies of the translations for the fee of Re. 1 per folio of 100 words as provided above. Typing shall be done neatly and legibly with double space left between consecutive lines. There shall be a margin of 5 cms. and every 10th line shall be numbered in the margin. The translations shall on no account be delayed by the office of the Chief Translator or by the Special Translators.

*(B) Civil Appeals by Special Leave of the Supreme Court.*

**27. Rules 5 to 26 to apply mutatis mutandis.** — The provisions of Rules 5 to 26 above (both inclusive) shall apply mutatis mutandis to Civil Appeals by Special Leave to the Supreme Court.

*(C) Criminal Appeals on the Certificate of the High Court.*

**28 (i) Application for certificate.** — Whosoever desires to appeal to the Supreme Court shall apply by petition a certificate granting leave to appeal to the Supreme Court.

**(ii) Oral application for certificate may be made immediately after the pronouncement of judgment.**—Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such certificate immediately after the pronouncement of the judgment by the Court and the Court may grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i):

Provided, however, that if an oral application for leave to appeal under sub-rule (ii) is made and rejected, no written petition under sub-rule (i) shall lie.

**(iii) Form of petition.** — The petition praying for a certificate for leave to appeal to the Supreme Court shall be presented in Form No. XI of Schedule A appended to this Chapter.

**(iv) Accompaniments to the petition.** — Every petition shall be accompanied by two spare tagged copies of the petition and of the judgment for use of the Court where the judgment has been pronounced by this Court.

**29. Notice of rule.** — If the Court grants rule upon the petition, the Registrar shall issue a notice in Form No. II of Schedule A appended to this Chapter to the District Magistrate concerned in cases arising from the mofussils and to the Public Prosecutor in cases arising from Greater Bombay, if the petition is by an accused person, arising from and to the accused person or persons, if the petition is by the State, to show cause, within a period of time after the service of the notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.

**30. Form of certificate.** — Upon the Court making the Rule absolute the office shall issue a certificate in Form No. III of Schedule A appended to this Chapter.

**31. Cost of preparation, transmission etc. of the transcript record.** — Except as otherwise ordered by the Supreme Court, the preparation of the transcript of the record (and of the printed or the cyclostyled record, where the same is required to be printed or cyclostyled) and the transmission thereof shall be at the expense of the appellant.

**32. Where record is printed for High Court and six copies of such Printed record are available.** — In all cases where the record has been printed for the purposes of the appeal before the High Court or of other proceedings and where at least six such printed copies of the record are available, all available copies of the

printed record except one shall be despatched to the Supreme Court along with the entire original record including the record of the Courts below. One of such copies shall be duly authenticated by the Registrar.

*Explanation.* — For the purposes of this Rule the original record shall not include judgments of the High Court and the Courts below but only duly authenticated copies, thereof, and printed record shall include cyclostyled or typed record.

**33. Where two copies of High Court Paper-book are available.** — Two copies of the High Court paper-book if available for despatch to the Supreme Court shall be treated as the transcript of the record. In that event only such of the additional document as the parties choose to include for the hearing of the appeal in the Supreme Court shall be typed in duplicate and transmitted to the Supreme Court along with the High Court Paper-book, one copy of each of which shall be duly authenticated.

**34. Documents translated for High Court appeal need not be translated again.** — For the purposes of the transcript of the record such of the documents in vernacular as have already been translated for the purposes of the High Court Appeal and which are included in the High Court Appeal Paper-Book need not be translated again.

**35. Procedure in case of default by the appellant.** — Where the appellant fails to take necessary steps to have the transcript of the record prepared and transmitted to the Supreme Court with due diligence, the Registrar shall report the default to the Registrar of the Supreme Court for order.

**36. Number of copies to be printed or cyclostyled where record is required to be printed or cyclostyled.** — In the event of the Supreme Court directing this Court to print or cyclostyle the record under the supervision of the Registrar of this Court, the Registrar of this Court shall despatch to the Registrar of the Supreme Court, not less than 15 copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

**37. (i) Special time-limit for preparation and transmission of record in cases involving sentence of death.** — In all cases involving a sentence of death the printed or the cyclostyled record shall be made ready and despatched to the Supreme Court within a period of 60 days after the receipt of the intimation from the Registrar of the Supreme Court of the filing of the petition of appeal or of the order granting special leave to appeal.

**(ii)** In cases where such record cannot be despatched within 60 days as stated in sub-rule (i), the Registrar shall explain the circumstances under which it cannot be so despatched and obtain extension of time from the Supreme Court.

**38. Rules 5 to 26 to apply mutatis mutandis.** — Except as otherwise provided in Rules 28 to 37 above (both inclusive) the provisions of Rules 5 to 26 shall apply mutatis mutandis to Criminal Appeals on the Certificate issued by the High Court.

*(D) Criminal Appeals by the Special Leave of the Supreme Court.*

**39. Petitioner intending to apply for special leave to be supplied copy of judgment or order free of cost.**—On application by the petitioner intending to apply for special leave of the Supreme Court in criminal proceedings and appeals, a certified copy of 'the judgment or order sought to be appealed from shall be supplied to him free of cost.

**40. Procedure on receipt of order granting special leave.** — On receipt of the order granting special leave to appeal to the Supreme Court, the Registrar shall require the office to take necessary steps to have the record of the case transmitted to the Supreme Court in accordance with the directions contained in the order granting special leave.

**41. Rules 31 to 38 to apply mutatis mutandis.** —Except as otherwise provided in Rules 39 and 40 above the provisions of Rules 31 to 38' above (both inclusive) shall apply mutatis mutandis to Criminal Appeals by special leave of the Supreme Court,

*(E) Miscellaneous*

**42. Forms.** — The forms given in Schedule A appended to this chapter shall be used for the respective purposes with such additions, deletions and modifications as may be required in each individual case.

**43. List of pending Supreme Court appeals to be maintained and the progress of work in each to be watched.** — A list shall be maintained by the office showing the numbers and dates of all pending Supreme Court Appeals, Civil as well as Criminal, in various stages of preparation of the transcript of the record and the Registrar shall examine every fortnight the progress made in such appeals and, if necessary, call upon the appellant or the party who may be responsible for the delay to show cause why a report should not be made to the Supreme Court regarding the default which has been responsible for the delay.

**44. Interpretation.** —. In this chapter all references to the Registrar of this Court shall be deemed to include references to the Additional Registrar at Bombay and the Special Officer of the Nagpur Bench at Nagpur.

**45. Procedure where printed paper-books prepared for the use of the High Court are available in sufficient number.** — In cases where printed paper-books are available in Criminal matters for the purposes of the Supreme Court Appeal, the required number of copies of such paper-book shall be supplied on application at charges prescribed in Rule 18 of Chapter XXVI of the Bombay High Court Appellate side Rules, 1960 and the same shall be recovered in the manner prescribed therein. Charges for comparing the printed paper-book with the original documents shall be levied at the rate of 25 P. per printed page in addition to the usual charges for certificates of the transcript record by the Registrar.

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