



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ८, अंक ३५]

शुक्रवार, जुलै १५, २०२२/आषाढ २४, शके १९४४

[पृष्ठे ८, किंमत : रुपये ९.००

असाधारण क्रमांक ४५

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले
(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)
वैधानिक नियम व आदेश; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क),
जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील
इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

BY THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

No. Rule-P. 0801/2022.—The Hon'ble the Chief Justice and the Judges of the Bombay High Court in exercise of the powers conferred by Article 227 and 235 of the Constitution of India and the directions issued by the Hon'ble Supreme Court of India in SUO MOTO WRIT (CRL) NO.(S) 1/2017 IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS *VERSUS* THE STATE OF ANDHRA PRADESH & ORS. and all other enabling powers are pleased to direct that the following amendments shall be made to the Criminal Manual, 1980 :—

(I)

Insert the following Explanation-I and Explanation-II after the existing Para 12 of Chapter I of the Criminal Manual, 1980.

“Explanation-I : The application for bail in non-bailable cases 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 reply to the bail application or status report (by the police or prosecution) if any, shall be furnished to the accused and to the prosecution on the date of pronouncement of the order itself.”

“Explanation-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.”

(१)

(II)

Substitute the following Paragraph 17 for the existing Paragraph 17 of Chapter III of Criminal Manual, 1980 :—

“17. 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) of Code of Criminal Procedure]. For this purpose, at the commencement, and immediately after framing charge, the Court shall hold a scheduling hearing, to ascertain and fix consecutive dates for recording of evidence, regard being had to whether the witnesses are material, or eyewitnesses, or formal witnesses or are experts. The Court then shall draw up a schedule indicating the consecutive dates, when witnesses would be examined; it is open to schedule recording of a set of witness’ depositions on one date, and on the next date, other sets, and so on. The Court shall also, before commencement of trial, ascertain if the parties wish to carry out admission of any document under Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.”

(III)

Substitute the following Paragraph 18(1) for the existing Paragraph 18(1) of Chapter III of Criminal Manual, 1980 :—

“18(1) 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) of Code of Criminal Procedure].”

(IV)

Substitute the sub-title as “Recording of Evidence : Procedure” of Paragraph 16 to 23 of Chapter VI of Criminal Manual, 1980 for the existing sub-title “Recording of Evidence” of Paragraph 16 to 23 of Chapter VI of Criminal Manual, 1980 :—

(V)

Substitute the following Paragraph 16 for the existing Paragraph 16 of Chapter VI of Criminal Manual, 1980. Insert Explanation-I to VI after the substituted Paragraph 16 of Chapter VI of Criminal Manual, 1980. :—

“16. 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.”

“Explanation-I : The provision of Section 296 of the Code of Criminal Procedure, 1973, empowers the Courts to order any evidence of formal character to be given by affidavit instead of by oral evidence, subject to the conditions contained in the said Section.”

“Explanation-II : Provided that in case the language of deposition is to be recorded in 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.”

- “Explanation-III : The deposition shall be recorded in the language of the witness and in English when translated as provided in Explanation- II.”**
- “Explanation-IV : A translator shall be made available in each Court.”**
- “Explanation-V : 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.”**
- “Explanation-VI : The Presiding Officer shall not record evidence in more than one case at the same time.”**

(VI)

Substitute the following Paragraph 17(1) for the existing Paragraph 17(1) of Chapter VI of Criminal Manual, 1980. Insert Explanation-I to III after substituted Paragraph 17(1) of Chapter VI of Criminal Manual, 1980 :—

“17(1) Prosecution witnesses shall be numbered as PW-1, PW-2 etc. *in seriatim*. Similarly, defense 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*.”

- “Explanation-I : All Judges and Magistrates shall, in the examination of complainants, witnesses and accused persons, record, in each deposition, statement or defense, the following particulars which are indispensably necessary for the further identification of the parties examined, *viz.*, the name of the person examined, the name of his or her father, and, if a married woman, the name of her husband, his or her surname, his or her profession and age and the village and district in which he or she resides.”**
- “Explanation-II : The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.”**
- “Explanation-III : 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.”**

(VII)

Insert following new Sub-Paragraphs (i) to (iii) and Explanation-I to III after the substituted paragraph 17(1) of Chapter VI of the Criminal Manual, 1980.

(i) “Prosecution Exhibits shall be marked as Exhibit P-1, P-2 etc. *in seriatim*. Similarly, defense Exhibits shall be marked as Exhibit D-1, D-2, etc. *in seriatim*. The Court Exhibits 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.”

“Explanation-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.”

“Explanation-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.”

“Explanation-III : Where witnesses 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.”

(VIII)

Substitute the following Paragraph 18(2) for the existing Paragraph 18(2) of Chapter VI of Criminal Manual, 1980. Insert Explanation after substituted Paragraph 18(2) of Chapter VI of Criminal Manual, 1980 :—

“18(2) The Presiding Officers shall wherever necessary record the deposition in question and answer format.”

“Explanation : As per sub-section (2) of Section 276 of the Code of Criminal Procedure, 1973, according to which the evidence of each witness shall be taken down by the Courts of Sessions in the form of question and answer, but the Presiding Judge may, in his discretion, take down or cause to be taken down the whole or any part of the evidence in the form of narrative.”

(IX)

Insert the words “or English as the case may be” after the words “in the regional language” appearing at the end of the Paragraph 18(3) of Chapter VI of the Criminal Manual, 1980.

(X)

Substitute the words “an inner margin of 5 cms. and an outer margin of 3 cms.” in the existing Paragraph 18(4) of Chapter VI of the Criminal Manual, 1980 for the word “quarter margin” appearing in between the words “so as to leave a” and “on each page”.

(XI)

Substitute the following Paragraph 20 for the existing Paragraph 20 of Chapter VI of Criminal Manual, 1980. Insert the Explanation after the substituted Paragraph 20 of Chapter VI of Criminal Manual, 1980 :—

“20. Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.”

“Explanation : The Presiding Officer should make a note about the demeanour of a witness in the deposition recorded by him when such demeanour is noteworthy and is likely to affect his estimate of the value of the evidence given by the witness.”

(XII)

Insert the words “as prosecution or defense exhibit” in between the words “exhibited” and “after” in the existing Paragraph 29(1) of Chapter VI of the Criminal Manual, 1980.

(XIII)

Insert “**words in the**” in between the words “**specific**” and “**statement**” in the existing Paragraph 29 (3) of Chapter VI of the Criminal Manual, 1980.

(XIV)

Insert the following Explanation-I and II after the existing Paragraph 29 of Chapter VI of Criminal Manual, 1980. :—

“Explanation-I : The aforesaid Rule applicable to recording of statements under Section 161 shall mutatis mutandis apply to statements recorded under Section 164 of Cr.P.C. whenever such portions of prior statements of living persons are used for contradiction / corroboration.”

“Explanation -II : Omnibus marking of the entire statement under Section 161 and 164 of Cr.P.C. shall not be done.”

(XV)

Insert the following as sub-paragraph 23(A) after the existing Paragraph 23 of Chapter VI of the Criminal Manual, 1980.

“23(A) The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 of Indian Evidence Act, 1872 is marked and given an exhibit number.”

(XVI)

Substitute the following Paragraph 1(i) for the existing Paragraph 1(i) of Chapter VI of the Criminal Manual, 1980.

“1(i) Sessions cases may 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.”

(XVII)

Substitute the following sub-paragraphs 44(i) to 44(iii) for the existing Paragraph 44 of Chapter VI of Criminal Manual, 1980 :—

“44 (i) Start with a preface showing the names of parties as per FORM XXXII (Part ‘A’) in Chapter XXXIII.

(ii) A tabular statement as per FORM XXXII (Part ‘B’) in Chapter XXXIII.

(iii) An Appendix giving the list of Prosecution witnesses, Defense witnesses, Court witnesses, Prosecution Exhibits, Defense Exhibits, Court Exhibits and Material Objects as per FORM XXXII (Part ‘C’) in Chapter XXXIII.”

(XVIII)

Substitute the following Paragraph 45(1) for the existing Paragraph 45 (1) of Chapter VI of the Criminal Manual, 1980. Insert Explanation-I to III after the substituted Paragraph 45(1) of Chapter VI of the Criminal Manual, 1980.

“45(1) In compliance with Section 354 and 355 of Code of Criminal Procedure, 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.”

- “Explanation-I : A Judgment should be divided into consecutively numbered paragraphs of a reasonable length and their division into sub-paragraphs should be avoided. This is mainly facilitate reference to any particular portion of the judgment during the arguments in the appellate or revisional Court.”**
- “Explanation-II : In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their 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.”**
- “Explanation-III : The judgment shall be written in paragraphs and each paragraph shall be numbered in *seriatim*. The Presiding Officers, may, in their discretion, organize the judgment into different sections.”**

(XIX)

Substitute the following Paragraph 45(2) for the existing Paragraph 45(2) of Chapter VI of the Criminal Manual, 1980. Insert Explanation after the substituted Paragraph 45 (2) of Chapter VI of the Criminal Manual, 1980.

“45(2) 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.”

Explanation : The opening paragraph should state briefly the nature of the offence with which the accused is charged.

(XX)

In Chapter XXXIII of the Criminal Manual, 1980 insert the following additional Form No. XXXII containing Part ‘A’ to ‘C’.

Form No. XXXII

Part ‘A’

(Title Page of Judgment)

[Para 44(i) of Chapter VI of Criminal Manual]

	IN THE COURT OF	
	Present : Sessions Judge	
	[Date of the Judgement]	
	[Case No. / ..]	
	(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

Part 'B'

[Para 44 (ii) of Chapter VI of Criminal Manual]

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, Cr.P.C.

Part 'C'

[Para 44 (iii) of Chapter VI of Criminal Manual]

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		

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 Object Number	Description
1	MO1	
2	MO2	

HIGH COURT OF JUDICATURE AT BOMBAY,

Date : 14th July 2022.

MAHENDRA W. CHANDWANI,

REGISTRAR GENERAL.