

HIGH COURT OF TRIPURA AGARTALA

No.F.3(35)-HC/2021/ 14367

Dated, Agartala, the 07th July, 2021

NOTIFICATION

The Supreme Court in its order dated 20th April, 2021 in Suo Motu Writ (Criminal) No.01 of 2007 (*In re: To issue certain guidelines regarding inadequacies and deficiencies in Criminal Trials Vs. State of Andhra Pradesh & Ors.*), has issued directions to all High Courts to take expeditious steps to incorporate the Draft Rules for criminal practice annexed to the said order. Accordingly, the High Court of Tripura in exercise of powers under Article 227 of the Constitution of India frames the following Rules:

1. (i) These Rules shall be called “**The High Court of Tripura Criminal Rules and Orders, 2021**”.
- (ii) They shall come into effect from the date of its notification in the official gazette and shall apply to all criminal trials in the State of Tripura.

CHAPTER I : INVESTIGATION

2. 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

3. 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 (“Cr.PC”) or Sections 129 to 131 Cr.PC] or death while

in police custody, the magistrate or the Investigating Officer as the case may be, 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 video graphs 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 video graphs shall be seized under a *panchnama* or seizure memo and all steps taken to ensure proper proof of such photographs/video graphs 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.

4. SCENE MAHAZAR/ 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.

5. SUPPLY OF DOCUMENTS UNDER SECTIONS 173, 207 AND 208 CR.PC

- (i) Every Accused shall be supplied with statements of witness recorded under Sections 161 and 164 Cr.PC and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O) in accordance with Sections 207 and 208, Cr. PC.

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 Investigating Officer.

Chapter II: CHARGE

6. 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

7. **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.
- (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.
- (iii) The deposition shall be recorded in the language of the witness and in English when translated as provided in Clause 6 (i).
- (iv) 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.
- (v) 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.
- (vi) The Presiding Officers shall not record evidence in more than one case at the same time.

8. **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 immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.
- (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.

9. 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.

10. 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.

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

- (i) During cross examination, the relevant portion of the statements recorded under Section 161 Cr.PC 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, through distinct marking.
- (ii) In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other inadmissible portions of the evidence are not part of the record.
- (iii) In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.
- (iv) The aforesaid rule applicable to recording of the statements under Section 161 shall mutatis mutandis apply to statements recorded under Section 164 of the Cr.PC, whenever such portions of prior statements of living persons are used for contradiction/corroboration.
- (v) Omnibus marking of the entire statement under S. 161 and 164 Cr.P.C shall not be done.

12. 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

- 13.** 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.
- 14.** In compliance with Section 354 and 355 Cr.PC, 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
- 15.** 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.
- 16.** 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.
- 17.** 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.

CHAPTER V: MISCELLANEOUS

18. BAIL

- (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 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.

19. SEPARATION OF PROSECUTORS AND INVESTIGATORS

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

20. 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.PC.). 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.

- (iv) 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.PC.).
- (v) 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 today 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.

21. These Rules shall be in addition to the existing Gauhati High Court Criminal Rules and Orders as applicable to the State of Tripura. However, in case of conflict or inconsistency in any of the provisions contained in these Rules, the provisions contained in “The High Court of Tripura Criminal Rules and Orders, 2021” shall prevail.

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, Cr.PC

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		

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		

BY ORDER

sd/-

(D.M. Jamatia)
Registrar General

No.F.3(35)-HC/2021/ 14368-421

Dated, Agartala, the 07th July, 2021

Copy to:-

1. The Secretary General, Hon'ble Supreme Court of India, New Delhi.
2. The Principal Secretary to Hon'ble the Chief Justice, High Court of Tripura, Agartala.
3. The Secretary to Hon'ble Mr. Justice S. Talapatra, Judge, High Court of Tripura, Agartala.
4. The Secretary to Hon'ble Mr. Justice A.Lodh, Judge, High Court of Tripura, Agartala.

5. The Secretary to Hon'ble Mr. Justice S.G.Chattopadhyay, Judge, High Court of Tripura, Agartala.
6. The Advocate General, Tripura, Agartala.
7. The Chairman, Bar Council of Tripura, Agartala.
8. The Govt. Advocate, High Court of Tripura, Agartala.
9. The Secretary, High Court Bar Association, Agartala.
10. The Secretary, Tripura Bar Association, Agartala.
11. The Assistant Solicitor General of India, Govt. of India, Agartala.
12. The Public Prosecutor, High Court of Tripura, Agartala.
13. The LR & Secretary, Law, Government of Tripura, Agartala.
14. The District & Sessions Judge, Gomati Judicial District, Udaipur/ Khowai Judicial District, Khowai/ North Tripura Judicial District, Dharmanagar/ Dhalai Judicial District, Ambassa/ Sepahijala Judicial District, Sonamura/ West Tripura Judicial District, Agartala/ Unakoti Judicial District, Kailashahar/ South Tripura Judicial District, Belonia, They are requested to circulate the same amongst all the Presiding Officers under their respective judgeships for their information.
15. The Judge, Family Court, Udaipur, Gomati Judicial District/ Khowai, Khowai Judicial District/ Agartala, West Tripura Judicial District / Dharmanagar, North Tripura/ Kailashahar, Unakoti Judicial District/ Sonamura, Sepahijala Judicial District / Ambassa, Dhalai Judicial District / Belonia, South Tripura District, They are requested to circulate the same amongst all the Judicial Officers under their respective judgeships for their information.
16. The Registrar (Vigilance), High Court of Tripura, Agartala.
17. The Registrar (Judicial), High Court of Tripura, Agartala.
18. The Registrar (Admn.P&M), High Court of Tripura, Agartala.
19. The Member Secretary, Tripura State Legal Services Authority, Agartala.
20. The Secretary to the High Court Legal Services Committee, High Court of Tripura, Agartala.
21. The Joint Registrar, High Court of Tripura, Agartala.
22. The Deputy Registrar(s), High Court of Tripura, Agartala.
23. The Chief Librarian, High Court of Tripura, Agartala.
24. The Assistant Registrar(s), High Court of Tripura, Agartala.
25. The System Analyst, High Court of Tripura, Agartala for uploading the notification in the official website of the High Court of Tripura, Agartala.
26. The Manager, Government Press, Agartala, Tripura. He is requested to publish the said Notification in the next extra-ordinary issue of the Tripura Gazette and send at least 5(five) copies of the same to the undersigned after publication.
27. The Superintendent, Establishment Section/Recruitment & Rules/ Bench Section(s), High Court of Tripura, Agartala.
28. Concerned File(s).


Registrar General