

TRIPURA GAZETTE



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PART--I-- Orders and Notifications by the Government of Tripura,
The High Court, Government Treasury etc.

HIGH COURT OF TRIPURA AGARTALA

No.F.3(49)-HC/2018/14020

Dated, Agartala, the 21st August, 2018

NOTIFICATION

In exercise of powers conferred by Article 227 of the Constitution of India and section 477 of the Code of Criminal Procedure, 1973 and all other powers enabling it, in this behalf, the High Court of Tripura with the previous approval of the State Government hereby makes the following rules for the purpose of conducting proceedings including recording of evidence of witnesses and remand of accused in Criminal cases through video conferencing.

1. Short Title and Commencement:

- (1) These rules may be called "**The Tripura Video Conferencing (Conduct of proceedings including Recording of Evidence and Remand of Accused in the trial/remand courts)) Rules, 2018**"
- (2) These Rules shall come into force with effect from such date as may be notified.

2. In these rules, unless the context otherwise requires:

- (1) '**Court point**' means the Courtroom or other place where the Court is sitting or the place where Commissioner appointed by the Court to record the evidence by video conference is sitting.
 - (2) "**Co-ordinator**" means the officer appointed / nominated under Rule 6.
 - (3) '**High Court**' shall mean the High Court of Tripura.
 - (4) '**Person to be examined**' includes a person whose deposition or statement is required to be recorded or in whose presence certain proceedings are to be conducted.
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- (5) **'Remote point'** is the place where the person to be examined through video conferencing is located, for example, a prison, etc.

General:

- (1) Proceedings by way of video conferencing shall be conducted as judicial proceedings and the same courtesies and protocols will be observed in conducting such proceeding. All relevant statutory provisions applicable to judicial proceedings including the provisions of the Information Technology Act, 2000 and the Indian Evidence Act, 1872 shall apply to the recording of evidence by video conferencing.
- (2) Video conferencing facilities can be used in all **Criminal /Civil/ Matrimonial** matters including remands, **bail hearing of the accused persons and examination of witnesses including the parties when they are residing at distance locations in or outside the State/abroad or when the witnesses happen to be Medical Officers.**
- (3) **Remand of accused through video conferencing:** Where in relation to remand proceeding under Section 167(2)(b) of the Code of Criminal Procedure, an accused in custody is required to appear before the court by way of video linkage, the jail authorities shall notify the court for making such linkage through Video Conferencing and such court, in turn, shall transmit such request to the concerned Co-ordinator as soon as possible but not later than 3 days before the day on which it is proposed to provide the video linkage.

Minimum Requisites for Video conferencing:

- (i) A desktop or laptop with internet connectivity with proper bandwidth (minimum 2 MBPS) and printer
- (ii) Device ensuring uninterrupted power supply
- (iii) Video camera (high resolution)

- (iv) Microphones and speakers
- (v) Display unit
- (vi) Document visualiser
- (vii) Comfortable sitting arrangements ensuring privacy
- (viii) Adequate lighting
- (ix) Insulations as far as possible/proper acoustics
- (x) Digital signatures from licensed certifying authorities for the co-ordinators at the court point and at the remote point.

5. Appearance by Video Conferencing otherwise than for remand proceedings:

- (1) A Court may either *suo moto* or on application of a party to the proceeding before it or by any witness, for reasons to be recorded in writing, direct that any person shall may give evidence or otherwise take part in the proceedings through video conferencing.

6. Appointment of Co-ordinator:

- (1) An Officer of the rank of Superintendent nominated by the District Judge shall be the Co-ordinator for every Court Point in every District.

Explanation:- The Co-ordinator at the remote point may be any of the following:

- (a) Where the person to be examined stays overseas, the Court may specify the co-ordinator from among the officials of the Consulate/Embassy of India as per the existing diplomatic procedure.
- (b) Where the person to be examined is in another State/U.T, a judicial Magistrate or any other responsible officer of such State as nominated by the jurisdictional District Judge or Sub-Divisional Judicial Magistrate, as the case may be.

- (c) Where the person to be examined is in custody, the concerned Jail Superintendent or any other responsible official duly authorized by him in this behalf.
- (d) Where the person to be examined is in a hospital, public or private, whether run by the Central Government, the State Government, local bodies, the Medical Superintendent or In-Charge of the said hospital or any other responsible official authorized by him in this behalf.
- (e) Where the person to be examined is a juvenile or a child who is an inmate of an Observation Home / Home / Children's Home / Shelter Home, the Superintendent / Officer In-Charge of that Home or any other responsible official duly authorized by him.
- (f) Wherever a co-ordinator is to be appointed at the remote point under sub-rule (b), (c), (d) & (e) above, the Court concerned will make formal request to the concerned court through the jurisdictional District Judge.
- (g) In case of any other person, as may be ordered by the Court.

7. Procedure to be Observed by the Coordinator at both ends:

- (1) The co-ordinators at both the Court points shall ensure that the minimum requirements as mentioned in these rules are available at the court and remote points and shall practise dry run between both the points well in advance, so as to facilitate smooth conduct of the proceedings.
- (2) The Co-ordinator at remote point shall ensure that:-
 - (a) the person to be examined or heard is available and ready at the room earmarked for the video conferencing at least 30 minutes before the scheduled time.
 - (b) no other recording device is permitted except the one being installed in the video conferencing room.
 - (c) entry into the video conference room is regulated.

- (3) The Court shall order the co-ordinator at the court point to supply the certified copies or soft copies of all or any part of the court record in a sealed cover to the Co-ordinator at the remote point sufficient time before the scheduled date of the video conference.
- (4) The officer so authorized by the either side would ensure that the witness is not coached/tutored/prompted. The authorized officer shall allow the presence of the parties, their respective counsel and one assistant each in the Video Conferencing room when the evidence is being recorded.
- (5) The officer may, subject to relevancy and admissibility, permit the witness to bring into the video conferencing room the papers/documents which may be required by him/his counsel in the course of his examination.
- (6) The visual is to be recorded at both ends.
- (7) No person other than the witness to be examined shall, except by the leave of court, be present at the time of video conferencing; the magistrate and notary shall to certify to this effect.
- (8) The officer concerned will ensure that once the video conferencing commences, the exercise is, as far as practicable, proceeded with without any interruption and without any adjournments.
- (9) If the officer finds that the witness is not answering the questions, the officer will make a memo to that effect.
- (10) The court/commissioner may record such remark as is material with respect to the demeanour of the witness and shall also note any objections raised in the course of the recording such evidence of the witness either manually or mechanically.

(11) Depositions of the witness either in the question-answer form or in the narrative form shall, as far as practicable, be signed as early as possible before the concerned Judge and the same will thereafter form a part of the record of the proceedings. Digital signature can be put to use in this process, and such a signature shall be obtained on the following day.

8. Appointment of Experts:-

The Court shall, wherever it is convenient, order the Co-ordinator at the remote point or at the court point to provide:

- (1) a translator if the person to be examined is not conversant with Court language;
- (2) an expert in sign language, in case the person to be examined is speech and/or hearing impaired;
- (3) for reading of documents by an appropriate person if the person to be examined is visually challenged;
- (4) an interpreter or special educator, as the case may be, in case the person to be examined is mentally or physically disabled, temporary or otherwise.

9. Cost of Video Conferencing:

(1) In civil cases, the expenses of the video conferencing facility including expenses of preparing soft copies /certified copies of the Court record including the fees payable to the translator/ interpreter /special educator and for transmission of such soft copies/certified copies to the Co-ordinator at the remote point shall be borne by the party making the request for conducting the proceedings or recording of evidence or both by video conferencing.

Provided that where such party is entitled to free legal aid under Section 12 of the Legal Services Authorities Act, 1984 such expenses shall be borne/reimbursed by the jurisdictional Legal Service authority.

(2) In other cases, the court may, consistent with the extant rules/instruction, make an order as it considers it appropriate for payment of expenses to the parties and witnesses.

10. Procedure Generally:

(1) In civil cases, the party requesting for recording of statement of the person to be examined by video conferencing shall confirm to the Court his willingness to be examined by video conferencing, the location of the place subject to verification by the Co-ordinator.

(2) In criminal cases, where the person to be examined is a prosecution witness or court witness, the prosecution witness or if the person to be examined is a defence witness, the defence counsel will confirm to the Court the willingness of the witness to be examined by video conferencing, of the place and of the facility of such video conferencing.

(3) In case person to be examined is an accused, the prosecution will confirm his location at remote point.

(4) Fixation of the time for video conferencing.

(a) Fixing the time for recording evidence is always the duty of the officer who has been authorized to record evidence.

(b) The witness would be examined during working hours of Indian courts.

(5) Failure by witness to comply with the time slot provided for video conferencing:-

If it is found that the witness is not, without sufficient cause, attending at the time(s) so fixed, then it would be open to the court to deny recording of evidence by video conferencing in future.

(6) Failure by respondent/opposite party/accused etc. to comply with the time slot provided for video conferencing: -

The respondent/opposite party/accused and their counsel shall attend at the time fixed by the authorized officer, and if the respondent/opposite party/accused, without reasonable cause, fails to attend the court, such court will take necessary action including coercive measures to compel their attendance.

(7) The record of proceedings including transcripts of the statement shall be prepared at the point under supervision of the Court and authenticated therefor; the soft copy of the transcript digitally signed by the co-ordinator at the court point shall be sent by e-mail through NIC or any other Indian service provider to the remote point where printout of the same will be taken and signed by the deponent.

(8) A scanned copy of the statement digitally signed by co-ordinator at the remote point shall be sent e-mail through NIC or any other Indian service provider to the court point whereas the hard copy shall also be sent subsequently, preferably within three days of the recording, by the Co-ordinator from the remote point to the court point by courier/mail.

(9) The Court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his/her privacy keeping in mind his/her age, gender and physical condition.

- (10) Where a party apprehends that some privileged communication is likely to surface in the course of video-conferencing, Court will pass appropriate directions in this behalf.
- (11) The audio-visual shall be recorded at the court point. An encrypted master copy shall be retained in the Court as part of the record, while another copy shall also be stored at any other safe location for backup in the event of any emergency.
- (12) Transcript of the evidence recorded by the Court shall be given to the parties as per applicable rules, whereas a party may be allowed to view the master copy of the audio video recording retained in the Court on making application to that effect and such application shall be decided by the Court for the ends of justice. The co-ordinator at the remote point shall be paid such amount as honorarium as may be decided by the Court in consultation with the parties.
- (13) In case any party or his/her authorized person is desirous of being physically present at the remote point at the time of recording of the evidence, it shall be open to such party/authorized person to make arrangements including transportation, etc. at their own costs subject to any order to the contrary passed by the Court.
- (14) In case of perjury, Court will be able to take cognizance, consistent with the Code of Criminal Procedure, 1973, not only about the witness who gave evidence but also who induced him to give such evidence.
- (15) The voice of the person said to be testifying must be duly identified by the maker of the record or by others who are acquainted with his voice.
- (16) Accuracy of what was actually recorded had to be proved by the maker of the record and satisfactory evidence, direct or

circumstantial, shall be provided so as to rule out the possibility of tampering with the record.

11. Putting Documents to a person at remote point:

(1) If, in the course of examination of a person at a remote point by video conferencing, it is found necessary to show a document to the person being examined, the Court may give the permission in the following manner:-

(a) If the document is at the court point, by transmitting a copy of it to the remote point electronically including through a document visualiser and the copy so transmitted shall then be shown to the person to be examined;

(b) If the document is at the remote point, it shall be shown to the person being examined and thereafter the copy thereof shall be transmitted electronically and through a document visualizer to the court point electronically; the hard copy shall also be sent subsequently to the court point by courier/mail.

12. Persons Unconnected with the Case:

(1) The Court may, except in the in-camera proceedings, allow third parties to be present during the video conferencing.

(2) Where, for any person, a person unconnected with the case is present at the remote point, then such person shall be identified by the Co-ordinator at the remote point at the start of the proceeding **and the purpose for his being present explained to the Court.**

13. Conduct of Proceedings:

(1) The procedure for establishment and disconnection of links between the court point and the remote point will be regulated by orders of the Court.

(2) The Court shall satisfy itself that the person to be examined at the remote point can be seen and heard clearly and similarly the person to be examined at the remote point can clearly see and hear the Court.

14. Cameras:

(1) The Court shall at all times have the ability to control the camera view at the remote point so that there is unobstructed view of all the persons present in the room.

(2) The Court shall have a clear image of each deponent to the extent possible so that the demeanour of such person may be observed.

15. Effect of disruption of proceedings for technical reasons:

In case of disruption of proceedings due to technical fault such as, sudden breakdown of internet connectivity, power failure, mute state of audio or steel state of video, the proceedings already recorded shall be treated as part of the proceedings.

16. Residuary Clause:

Any other matters which are not enumerated herein above shall be decided by the High court.

By Order
Sd/-
(S.G.Chattopadhyay)
Registrar General
High Court of Tripura