

O/o the Distt. & Session JUDGE
Kullu & Lahaul Distt. At Kullu
Receipt No. 1919
Date 28-3-22

HIGH COURT OF HIMACHAL PRADESH, SHIMLA

No. HHC/Rules/Amendment/2022-

Dated: 26.03.2022

NOTIFICATION

The High Court of Himachal Pradesh in exercise of the powers vested in it in this behalf, in pursuance to the directions issued by Hon'ble Supreme Court of India in "Suo Moto Writ (Criminal) No. 1 of 2017, To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials versus The State of Andhra Pradesh and Others", is pleased to make the following amendments in the Rules and Orders of Punjab and Haryana High Court, Volume-III, as applicable to State of Himachal Pradesh:-

(I) In Chapter 1, Part A, after existing sub-rule(III) of Rule 6(Speedy Disposal of Cases), Sub Rules 6(IV), 6(V) and 6(VI) shall be added as follows:-

(IV) 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

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Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.

(V) 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.).

(VI) 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. As Sessions case once posted should not be postponed unless it 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.

) In Chapter 1, Part D(Procedure in Enquiries and Trials by Magistrates), the existing Rule 6 shall be substituted as under:-

“[6] Warrant case on Police report – Police to furnish copies to accused before the trial commences:- In a warrant-case (Chapter XIX of the Code of Criminal Procedure, 1973) the procedure would now depend on whether the case has been instituted on a police report or otherwise. Sections 238 to 243 of Code of Criminal Procedure, 1973 govern the procedure in warrant cases instituted on police reports. When the accused appears or is brought before the Magistrate, the Magistrate should, at the commencement of the trial, satisfy himself that he has complied with the provisions of Section 207 Cr.P.C. Further, every accused should be supplied with statements of witnesses recorded under Sections 161 and 164 Cr.P.C and a list of documents, material

objects and exhibits seized during investigation and relied upon by the Investigating Officer in accordance with Sections 207 and 208 Cr.P.C.

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”.

- 1) In Chapter 1, Part D, the following words shall be added at the end of Rule 7:-

“The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II, Code of Criminal Procedure, 1973 to be prepared personally by the Presiding Officer after complete and total application of mind”.

- 2) In Chapter 1, Part E (Record of Evidence in Criminal Cases), the existing Rule 3 shall be substituted as follows:-

3.(i) Mode of recording evidence:- Sections 272 to 283 of Chapter XXIII Part A of Code of Criminal Procedure, 1973 deals with the mode of taking and recording of evidence in inquiries and trials.

(ii) Procedure for Recording Evidence:-

a) 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 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.

b) The deposition shall be recorded in the language of the witness and in English when translated as provided in the sub-rule (ii) (a) above.

c) 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”.

(iii) Format of recording evidence of witnesses:-

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

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

(v) Subsequent references to accused, witness, exhibits and material objects:-

a) 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.

b) 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.

c) 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 list of witnesses attached with the complaint or police report.

(vi) References to statements under Sections 161 and 164 Cr.P.C.-

a) During cross-examination, the relevant portion of the statements recorded under Section 161 Cr.P.C 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.

b) 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.

c) 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.

a) The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.

b) 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*.

c) The record of depositions shall indicate the date of examination-in-chief, the cross-examination and re-examination.

d) The Presiding Officers shall wherever necessary record the deposition in question and answer format.

e) Objections by either the prosecution or by 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.

f) 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.

(iv) Exhibiting of material objects and evidence: -

a) 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*.

b) 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

d) 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.P.C, whenever such portions of prior statements of living persons are used for contradiction/corroboration.

e) Omnibus marking of the entire statement under Sections 161 and 164 Cr.P.C shall not be done.

(vii) **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”.

(V) In Chapter 1, Part H(The Judgment), Rule 1-A (i) shall be substituted as follows:-

“ 1-A. Contents of a judgment:-

(i) In all cases, the judgment must be drawn up containing (1) the point or points for determination, (2) the decision thereon, and (3) the reasons for the decision. In case of a conviction, the judgment should separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them should be dealt with separately. In case of acquittal and if the accused is in confinement, a direction should be given to set the accused at liberty, unless such accused is in custody in any other case”.

(VI) In Chapter 1, Part H, after Rule 1-A(i) Sub-Rules (i-a) and (i-b) shall be added as follows:-

“(i-a) Every judgment should contain the following:-

a) Start with a preface showing the names of parties as per FORM 'A' appended at the end of this chapter.

b) A tabular statement as per FORM 'B' appended at the end of this chapter.

c) 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' appended at the end of this chapter.

(i-b) In the judgment the accused, witnesses, exhibits and material objects should 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 names, the number should be indicated within brackets”.

In Chapter 1, Part H, the existing Sub-Rule 1-A(viii), shall be substituted as follows:-

“Numbering of paragraphs-

(viii):- The judgment should be written in paragraphs and each paragraph should be numbered *in seriatim*. The Presiding Officers, may, in their discretion, organize the judgment into different sections”.

In Chapter 10 (Bail and Recognizance), the existing Rule 15 shall be substituted as follows:-

“15. Bail applications to be treated as urgent:-

i) All applications for bail in criminal cases including appeals should be treated as urgent.

ii) The copy of reply to bail application or status report (by the police or prosecution) if any, shall be furnished to the accused if present, or his counsel as the case may be. 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.

iii) 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 should furnish reasons thereof in the order itself.

Copy of the order of the bail application should be furnished to the accused on the date of pronouncement of the order itself”.

In Chapter 11, Part A(Investigation), after Rule 17, new Rule 18 shall be added as follows:-

18. 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.

In Chapter 18(Medico Legal Work), Part A, after Rule 4, new Rules 5 and 6 shall be added as follows:-

5. 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 .

6. Photographs and Videographs of Post Mortem in Certain Cases

i. In case of death of a person in police action [under Section 46 Criminal Procedure Code, 1973 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 incharge 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 photographs 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 video graphs shall be seized under a *panchnama* or seizure memo and all steps taken to ensure proper proof of such photographs/vide 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.

FORM 'C'

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

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

B. Defence Witnesses, if any:

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

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICALWITNESS, 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	

BY ORDER

**HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Endst. No. HHC/Rules/Amendment/2022- 7445-62 Dated: 26.03.2022

Copy forwarded for information to:-

1. The Principal Private Secretary to the Hon'ble Chief Justice, High Court of Himachal Pradesh, Shimla;
2. The Secretary(ies) to Hon'ble Judges, High Court of Himachal Pradesh, Shimla;
3. The Additional Chief Secretary (Home) to the Government of Himachal Pradesh, Shimla - 171002;
4. The Advocate General, Himachal Pradesh, Shimla.
5. The L.R.-cum-Principal Secretary (Law) to the Govt. of Himachal Pradesh, Shimla - 171002.
6. The Secretary/Private Secretary(ies)/PAs to the Registrar General/ (Vigilance)/ (Judicial)/ Rules)/ (Administration)/ (Accounts)/ (Establishment)/ District and Sessions Judge (Leave/Training Reserve)/Central Project Coordinator of this High Court.
7. All the District and Sessions Judges in Himachal Pradesh with a request to circulate the notification amongst all the concerned.
8. The Director, HP Judicial Academy, 16 miles, Village Gandhal, PO Shakrah, Sub-Tehsil Dhami, District Shimla, HP-171011.
9. The Director of Prosecution, Himachal Pradesh, Shimla - 171009.
10. The Additional Director General of Police, Shimla - 171002.
11. The President, HP High Court Bar Association, Shimla.
12. All the Presidents District/Sub-Divisions Bar Associations, H.P.
13. The Chairman, Bar Council of Himachal Pradesh, Shimla.

14. All the Additional Registrars/Deputy Registrars, High Court of Himachal Pradesh, Shimla.
15. The Section Officer(Computer) for conversion into digital form and to upload on the website;
16. The Technical Director, NIC, posting in the High Court with a request to update the High Court website;
17. The Section Officer(Scrutiny)/ Section Officer(PIL) for information and necessary action.
18. Guard File.

(Yogesh Jaswal)
Registrar (Rules)

26th March, 2022

OFFICE OF THE DISTRICT AND SESSIONS JUDGE, KULLU, H.P. - 175 101

Endst.No.D&SJ/KLU/E/R&O.HC/Sug.Comt.(320)/2017- 2047 to
Dated Kullu, the 29th March, 2022

2064

Copy forwarded for information and necessary action to *through e-mail only, except to Sr. No.6:-*

1. The learned Additional District and Sessions Judge, Kullu.
2. The learned Senior Civil Judge-cum-CJM, Kullu/ L&S at Kullu.
3. The learned Civil Judge, Kullu/ Manali/ Banjar, H.P.
4. The District Attorney, Kullu.
5. The President, Bar Association, Kullu/ Manali/ Keylong/ Banjar.
6. The Private Secretary, Reader Grade-I, Personal Assistant and Ahlmads, all of this office.
7. The Assistant Programmer, of this office. with direction to upload the same on the website of this Division for wide publicity.

For CHIEF ADMINISTRATIVE OFFICER.