

OFFICE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE:
YADADRI-BHUVANAGIRI.

Endt.Dis.No. 1609/2024/A1,

Dated: 12 -07-2024.

"Communicated, the G.O.Ms.No.66, dated 29.09.2024".


PRL DISTRICT & SESSIONS JUDGE,
YADADRI-BHUVANAGIRI.
Yadadri Bhuvanagiri.

To
All the Judicial Officers in Yadadri-Bhongir District Unit.

Check & Print

08 SEP 2024

1609



HIGH COURT FOR THE STATE OF TELANGANA :: HYDERABAD

Endt. Roc.No.1064/SO/2024

Dt. 04.09.2024

"Communicated"

Eawf
4/9/24
REGISTRAR GENERAL

To

1. The Pri. Secretary to the Hon'ble the Chief Justice, High Court for the State of Telangana, Hyderabad (for placing before the Hon'ble the Chief Justice for information).
2. The P.S. to all the Hon'ble Judges, High Court for the State of Telangana, Hyderabad (for placing before the Hon'ble Judges for information).
3. All the Registrars, High Court for the State of Telangana, Hyderabad.
4. All the Unit Heads in the State (With a request to circulate among all the Judicial Officers in your unit).
5. The Deputy Registrar, New filing Section
6. The Director, Telanagana State Judicial Academy, Secunderabad.
7. The Section Officers, Criminal Section.

Check & Putup

09 SEP 2024

Pri. DJ



Inward no - 2639/24
Dt - 09/09/24

GOVERNMENT OF TELANGANA
ABSTRACT

RULES – Rules in addition and amendments to the existing Criminal Rules of Practice and Circular Orders, 1990 - Notification - Orders – Issued.

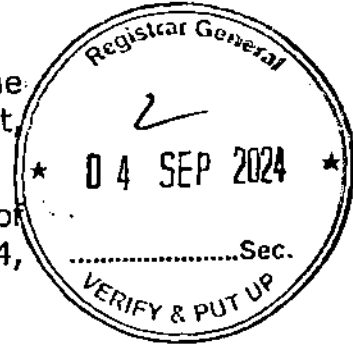
LAW (LA, LA&J-HOME-COURTS.B) DEPARTMENT

G.O.Ms.No.66

Dated:29.08.2024.

Read the following:-

1. The Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2023).
2. Notification No. S.O. 2790 (E), dated 16.07.2024 of the Ministry of Law and Justice, Legislative Department, New Delhi.
3. From the Registrar General, High Court for the State of Telangana, Hyderabad, Letter ROC No.1064/SO/2024, dated 15.06.2024.



ORDER:

The Bharatiya Nagarik Suraksha Sanhitha, 2023 (Central Act 46 of 2023) replacing the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) came into force with effect from 1st July, 2024, vide Notification second read above.

2. The Registrar General, High Court for the State of Telangana, Hyderabad, in the Letter third read above, has stated that in consonance with the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2023), the Committee of Hon'ble Judges for framing of Rules and Guidelines not falling within the jurisdiction of Rules Committee under section 123 of C.P.C., has proposed amendments to the existing Criminal Rules of Practice and Circular Orders, 1990 and the said proposals of the Committee is approved by the Hon'ble the Chief Justice. She has, therefore, requested the Government to approve the amendments to the existing Criminal Rules of Practice and Circular Orders, 1990, before 01.07.2024 in this regard.

3. Government, after careful examination of the proposal of the Registrar General, High Court for the State of Telangana at Hyderabad, hereby decided to approve the amendments to the existing, Criminal Rules of Practice and Circular Orders, 1990, with effect from 01.07.2024, to bring them in conformity with the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2023).

4. Accordingly, the appended Notification, shall be published in an Extraordinary issue of the Telangana Gazette, Dated:29.08.2024.

5. The Registrar General, High Court for the State of Telangana, Hyderabad, shall take further necessary action accordingly.

NOTIFICATION

In exercise of the powers conferred by Article 227 of the Constitution of India and section 523 of the Bharatiya Nagarik Suraksha Sanhitha, 2023 (Central Act 46 of 2023) and all other powers thereto enabling and with the previous approval of the State Government, the High Court for the State of Telangana hereby makes the following Rules in addition and amendments to the existing Criminal Rules of Practice and Circular Orders, 1990, for dealing with the cases arising out of the Bharatiya Nagarik Suraksha Sanhitha, 2023 with effect from 01.07.2024 onwards:-

AMENDMENTS

In the Criminal Rules of Practice and Circular Orders, 1990,

1. In rule 7, after the existing paragraph, the following paragraph shall be inserted, namely,-

"Summons shall be in an encrypted or any other form of electronic communication and shall bear image of the seal of the Court or digital signature."

2. For rule 8, the following rule shall be substituted, namely,-

"8. Accused summons to be signed by Magistrate:

Magistrates shall themselves sign summonses to accused persons.

Summons shall be in an encrypted or any other form of electronic communication and shall bear image of the seal of the Court or digital signature.

In a proceeding instituted upon a complaint made in writing, the accused shall be furnished with a copy of such complaint as early as practicable and in any case not later than the first occasion when he appears in Court.

Note: - The Copy of the complaint may be sent with summons or warrant issued to the accused under subsection (1) of section 227 of the Bharatiya Nagarik Suraksha Sanhitha, 2023 (Central Act 46 of 2023)."

3. After rule 11, the following new rule shall be inserted, namely,-

"11A. Every court shall maintain a Register No.12-B, to enter the address, email address, Phone Number and such other details as mentioned in the summons. "

4. In rule 13, after sub-rule (2), the following proviso and Explanation, shall be added at the end, namely,-

"Provided when the person summoned cannot be found, the summons be served by leaving one of the duplicates for him with some adult member of his family residing with him, and the person with whom the summons so left shall, if so, required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Explanation:- A servant is not a member of the family within the meaning of this proviso. Further adult family member includes adult female member of the family.

5. After Chapter-II, the following new Chapter shall be inserted, namely,-

Chapter-IIA

TRIAL IN THE CASE OF ABSONCDING ACCUSED

"23A. Trial or Judgment in the case of Proclaimed Offender:(1) When a person has been declared as proclaimed offender under section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 before framing charge the court shall verify whether proclaimed offender has been represented by any advocate and if not, shall appoint legal aid defence counsel or Pro bono counsel or any advocate at State expense.

(2) The court shall, upon hearing the prosecutor and the Advocate of Proclaimed offender, frame charge against proclaimed offender and shall pronounce in the open court and thereafter adjourn the proceedings to a date not later than 90 days for trial.

23B. (1) The court shall issue two consecutive warrants of arrest within interval of at least 30 days and handed over to the police officer not below the rank of Sub-Inspector and the police officer shall receive and attempt to execute and file report within two weeks from the date of issuance of warrant and may extend for one more week on each occasion.

(2) The court shall direct the Station House Officer (SHO) /Prosecutor to publish in Telugu daily newspaper circulating in the place of last known address of residence located in the State of Telangana, if other States, in a national/local daily newspaper, requiring the proclaimed offender to appear before the court for trial and informing him that in case his failure within 30 days from the date of publication, the trial shall commence in his absence.

(3) (a) In the event of failure to appear before the court as directed, the court shall direct the SHO to inform the relative or friend of Proclaimed offender regarding commencement of trial and the SHO shall file proof of the same.

(b) SHO shall affix information about the commencement of trial on conspicuous part of house or Homestead where the proclaimed offender ordinarily resides.

(c) Information also displayed in the local Police Station of last known address of residence of proclaimed offender.

23C.(1) where the proclaimed offender, after commencement of trial, and before pronouncement of Judgment, appears or is arrested and produced before the court, the court may upon his written request allow him to examine any witness already examined in his absence.

(2) The court may record evidence through Audio Video electronic means preferably through mobile phone or by any gadget and the same may be kept in the custody of Chief Ministerial Officer /Superintendent or any other Clerk as directed by the court, by following the procedure prescribed by the High Court.

6. After rule 53-A, the following new rule shall be inserted, namely,-

53-B.The evidence of witness, examination of witness under sections 254, 265 and 266 of the Bharatiya Nagarik Suraksha Sanhita, 2023, may be recorded by audio-video electronic means.

When the accused is in Judicial custody and is examined through electronic communication, his signature shall be obtained within 72 hours of such examination."

7. In rule 61, the following proviso shall be added at the end, namely, -

"Provided that not more than two adjournments may be granted on the request of the party, except where the circumstances are beyond the control of the party, and after hearing the objections of the other party by the Court for the reasons to be recorded in writing."

8. In rule 86, the following provisos shall be added at the end, namely, -

"Provided that the committal proceedings shall be completed by the Magistrate within a period of 90 days from the date of taking cognizance. The Magistrate may extend the period not exceeding 180 days for reasons to be recorded in writing.

Provided further that any application filed before the Magistrate by the accused or the victim or any person authorized by such person in a case triable by Court of Session, shall be forwarded to the Court of Sessions with the committal of the case along with the entire record on the same day on which the committal order is passed."

9. For rule 87, the following shall be substituted, namely,-

"87. Cases Triable by Court-Martial: -

"Government of India, Ministry of Home Affairs Notification No. SO-488 dated the 9th February, 1978: Procedure in cases where a person subject to Military, Naval or Air Force Law is brought before a Magistrate charged with an offence for which he is liable to be tried by a Court-Martial."

SO-488:-In exercise of the powers conferred by sub-section (1) of section 475 of the Code of Criminal Procedure, 1973 (2 of 1974), and in supersession of the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1952, the Central Government hereby makes the following rules for the trial of the persons subject to Military, Naval, Air Force laws or Coast Guard law or any other law relating to the Armed Forces of the Union by a court to which the said Code applies, or by a Court-Martial, namely:-

1. These rules may be called the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1978:

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

(a) "Commanding Officer",

(i) in relation to a person subject to military law, means the Officer Commanding the unit to which such person belongs or is attached;

(ii) in relation to a person subject to naval law, means the Commanding Officer of the ship or naval establishment or Unit to which such person for the time being belongs as is attached; and

(iii) in relation to a person subject to Air Force Law, means the Officer for the time being in Command of the unit to which such person belongs or is attached;

(iv) in relation to a person subject to the Coast Guard law, means the Commanding Officer of the Coast Guard ship or establishment or Unit to which such person belongs or is attached, and

(b) "Competent Air Force Authority" means the Chief of the Air Staff, the Air or other officer Commanding any Command, Group, Wing or Station in which the accused person is serving in a field area, the Officer Commanding the forces or the Air Forces in the field;

(c) "Competent Military Authority" means the Chief of Army Staff or Officer Commanding the Army, Army Corps, Division, Area, Sub-area or Independent Brigade in which the accused person is serving, and, except in cases falling under Section 69 of the Army Act, 1950 (46 of 1950) in which death has resulted, the Officer Commanding the Brigade or sub-area or station in which the accused person is serving;

(d) "Competent Naval Authority" means the Chief of the Naval Staff or the Flag Officer Commanding-in-Chief, Western Naval Command, Bombay or the Flag Officer Commanding-in-Chief, Eastern Naval Command, Vishakhapatnam or the Flag Officer Commanding-in-Chief, Southern Naval Command, Kochi or the Flag Officer Commanding, Western Fleet, or the Flag Officer Commanding, Eastern Fleet or Senior Naval Officer where the accused person is serving.

(e) "Competent Coast Guard Authority" means the Director General or Inspector General or Deputy Inspector General within whose command the accused person is serving.

3. Where a person subject to Military, Naval or Air Force Law, or any other Law Relating to the Armed Forces of the Union for the time being in force is brought before a Magistrate and charged with an offence for which he is also liable to be tried by a Court-martial, or Coast Guard Court, such Magistrate shall not proceed to try such person or to commit the case to the Court of Session, unless-

(a) he is moved thereto by a competent Military, Naval or Air Force or Coast Guard authority; or

(b) he is of opinion, for reasons to be recorded, that he should so proceed or to commit without being moved there to by such authority.

4. Before proceeding under clause (b) of Rule 3, the Magistrate shall give a written notice to the Commanding Officer or the competent Military, Naval or Air Force or Coast Guard authority, as the case may be, of the accused and until the expiry of a period of fifteen days from the date of service of the notice he shall not, -

(a) convict or acquit the accused under section 252, sub-sections (1), (2) of section 255, sub-section (1) of section 256 or Section 257 of the Code of Criminal Procedure, 1973 (2 of 1974), or hear him in his defence under section 254 of the said Code; or

(b) frame in writing a charge against the accused under Section 240 or sub-section (1) of Section 246 of the said Code; or

(c) make an order committing the accused for trial to the Court of Session under Section 209 of the said Code; or

(d) make over the case for inquiry or trial under Section 192 of the said Code.

5. Where a Magistrate has been moved by the competent Military, Naval, Air Force or Coast Guard authority, as the case may be, under clause (a) of rule (3), and such authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such authority, the accused should be tried by a court-martial or coast Guard Court, such Magistrate if he has not taken any action or made any order referred to in clauses under rule 4, before receiving the notice shall stay the proceedings and, if the accused is in his power or under his control, shall deliver him together with the statement referred to in sub-section (1) of section 475 of the said Code to the officer specified in the said sub-section.

5. Where within the period of fifteen days mentioned in Rule 4, or at any time thereafter but before the Magistrate takes any action or makes any order referred to in that rule, the Commanding Officer of the accused or the competent Military, Naval Or Air Force or Coast Guard authority, as the case may be, gives notice to the Magistrate that in the opinion of such officer or authority, the accused should be tried by a Court-martial, the Magistrate shall stay the proceedings, and if the accused is in his power or under his control, shall deliver him together with the statement referred to in sub-section (1) of Section 475 of the said Code to the officer specified in the said subsection.

7. (1) When an accused has been delivered by the Magistrate under Rule 5 or Rule 6, the commanding officer of the accused or the competent Military, Naval or Air Force or Coast Guard authority, as the case may be, shall, as soon as may be, inform the Magistrate whether the accused has been tried by a Court-martial or Coast Guard Court or other effectual proceedings have been taken or ordered to be taken against him.

(2) When the Magistrate has been informed under sub-rule (1) that the accused has not been tried or other effectual proceedings have not been taken or ordered to be taken against him, the Magistrate shall report the circumstances to the State Government which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt with in accordance with law.

8. Notwithstanding anything contained in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to Military, Naval Or Air Force or Coast Guard law, or any other law relating to the Armed Forces of the Union for the time being in force has committed an offence, proceedings in respect of which action ought to be instituted before him and that the presence of such person cannot be procured except through Military, Naval, Air Force Or Coast Guard authorities, the Magistrate may by a written notice require the Commanding Officer of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the Court-martial if since instituted, and to make a reference to the Central Government for determination as to the Court before which proceedings should be instituted.

9. Where a person subject to Military, Naval Or Air Force Or Coast Guard law, or any other law relating to the Armed Forces of the Union for the time being in force has committed an offence which in the opinion of competent Military, Naval Or Air Force or Coast Guard authority, as the case may be, ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government has, on a reference mentioned in Rule 8, decided that proceedings against such person should be instituted before a Magistrate, the Commanding Officer of such person shall after giving a written notice to the Magistrate concerned, deliver such person under proper escort to that Magistrate.

10. In rule 93, the following clauses shall be inserted, namely,-

(i) The Court concerned shall upload the judgment / Order of Bail, release on acquittal, on the same day in the official website.

(ii) The Court concerned shall forward the copy of the Judgment / Order through electronic means to the concerned authorities for release of the accused either on bail or on acquittal.

(iii) The concerned authorities shall act upon the orders / Judgment so sent by the courts, concerned and if necessary, instructions from the Public Prosecutors office and complete the process without any delay.


(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

R. THIRUPATHI
SECRETARY TO GOVERNMENT
LEGAL AFFAIRS, LEGISLATIVE AFFAIRS & JUSTICE

To

The Commissioner of Printing, Stationery and Stores Purchase, Hyderabad.
(with a request to publish the above said notifications and send (10) copies directly to the Hon'ble High Court, under intimation to Government.)
The Registrar General, High Court for the State of Telangana at Hyderabad.
The Law (H) department.
Sf/sc.

//FORWARDED:: BY ORDER//


SECTION OFFICER