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PART I - Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

HIGH COURT AT CALCUTTA

NOTIFICATION

No. 2301 – G - 14th July, 2022— *In view of the judgment passed by the Honourable Supreme Court in Suo Motu Writ (CRL) No (S) 1 / 2017 and in exercise of the powers conferred by Clauses (2) and (3) of Article 227 of the Constitution of India and with the approval of the Governor of West Bengal, the High Court at Calcutta hereby makes the following amendments in the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985 namely :-*

AMENDMENTS

The following Rule 91 A shall be inserted after Rule 91 with a separate heading:

2A. Supply of documents to the accused

Rule 91 A :

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

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.

The following Rules 92A and 92B shall be inserted as Chapter IV(A) with the heading :

CHAPTER IV(A)

CHARGE & TRIAL in General

Rule 92 A :

(1) The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II of the Code to be prepared personally by the Presiding Officer after complete and total application of mind.

(2) 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.

Rule 92 B :

Immediately after framing of charge, the Court shall ascertain if the parties wish to carry out admission of any document under Section 294 of the Code and permit them to do so. Thereafter the court shall hold a scheduling hearing, to ascertain and fix consecutive dates for recording of evidence having regard to the nature of witnesses viz. whether they are material witnesses, eyewitnesses, formal witnesses or expert witnesses. The court then shall draw up a schedule indicating the consecutive dates on which the witnesses would be examined.

The following Rule shall be inserted after Rule 97 (2) in Chapter V:

Rule 97 (3) :

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.

The heading "Bail Bonds" of Chapter VII be substituted by "Bail and Bail Bonds"

CHAPTER VII**Bail and Bail Bonds**

The following Rules shall be inserted before Rule 125 of Chapter VII :

Rule 124 A :

(1) The application for bail in non-bailable cases must ordinarily be disposed of within a period of 3 to 7 days from the date of first hearing. If the application is not disposed of 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 or his advocate on the date of pronouncement of the order itself.

(2) 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.

The following Rules shall be inserted after Rule 133 :

Rule 133 A :

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

(2) 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.

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

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

(5) 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.

(6) 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.

Rule 135 shall be substituted as follows :-**Rule 135**

- (1) The deposition of a witness shall be recorded in the language of the witness.
- (2) If he gives deposition 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.
- (3) The deposition shall be read over to him 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 his advocate, to the witness and the prosecutor / complainant's advocate on the date of recording.
- (4) A translator shall be made available in each Court and the Presiding Officers shall be trained in the local language, if he so requests.
- (5) The Presiding Officer shall not record evidence in more than one case at the same time.

Rule 136 shall be substituted as follows :-**Rule 136**

- (1) The depositions of witnesses shall, if possible, be prepared on computers, in typed format, on the dictation of the Presiding Officer.
- (2) When the deposition is recorded on a computer by the Presiding Officer himself or under his dictation in open Court, a certificate with the dated signature of the Presiding Officer shall be given to this effect on each page.

The following Rules shall be inserted after Rule 138 :**Rule 138 A :**

- (1) 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.
- (2) 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.

Rule 138 B :

- (1) During cross examination, the relevant portion of the statements recorded under Section 161 of the Code 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.
- (2) 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.
- (3) The aforesaid Rule applicable to recording of the statements under Section 161 shall mutatis mutandis apply to statements recorded under Section 164 of the Code, whenever such portions of prior statements of living persons are used for contradiction/corroboration.
- (4) Omnibus marking of the entire statement under Section 161 and 164 of the Code shall not be done.

138 C :

The Presiding Officers shall ensure that only admissible portion of **Section 8 (sic)** 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.

Rule 157 shall be substituted as follows:-**Rule 157**

(1) 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.

(2) When a number of documents of the same nature are admitted e.g. a series of rent receipts, the whole series shall bear one number and a sub-number in brackets shall be added to distinguish each paper of the series, thus -

Exhibit P-1, Exhibit P-1(1), Exhibit P-1(2) etc;

Exhibit D-1, Exhibit D-1(1), Exhibit D-1(2) etc;

Exhibit C-1, Exhibit C-1(1), Exhibit C-1(2) etc.

(3) In order 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.

Rule 168 shall be substituted as follows:-**Rule 168**

When any article or material connected with the offence charged is produced in a Criminal Court and after being proved is admitted in evidence, it shall be marked by the Court in seriatim as MO-1, MO-2 etc.

Rule 184 shall be substituted as follows:-**Rule 184**

(1) Every judgment shall contain the followings:

(a) Start with a preface showing the names of parties as per FORM No (M) 34 to the Rules.

(b) A tabular statement as per FORM No (M) 35 to the Rules.

(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 No (M) 36 to the Rules.

(2) In compliance with Section 354 and 355 Cr PC, in all cases, the judgments shall contain :

(a) the point or points for determination,

(b) the decision thereon, and

(c) the reasons for the decision.

(3) 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.

(4) In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not by their names or otherwise only. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.

(5) 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.

Rule 188 shall be substituted as follows :-

Rule 188

If a vernacular word, not being a technical, revenue or a law term, is used in the judgment, its nearest English equivalent shall be added in brackets immediately after the word.

In view of the judgment passed by the Honourable Supreme Court in Suo Motu Writ (CRL) No (S) 1 / 2017 and in exercise of the powers conferred by Clauses (2) and (3) of Article 227 of the Constitution of India and with the approval of the Governor of West Bengal, the High Court at Calcutta hereby makes the following amendments in the Calcutta High Court Criminal (Subordinate Courts) (Forms) Rules, 1985 namely :-

The following Form A to Form C shall be inserted in chapter IV – Miscellaneous Forms as Form No (M) 34 to Form No (M) 36 respectively.

Form A

IN THE COURT OF	
Present :Sessions Judge / Magistrate	
[Date of the Judgement]	
[Case No./20.....]	
(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 Judgement is reserved	
Date of the Judgement	
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.

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)
PW 1		
PW 2		

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)
CW 1		
CW 2		

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	MO 1	
2	MO 2	

By order of the High Court,

Sd/-

[UDAY KUMAR]
Registrar General.