

Draft Rules of Criminal Practice, 2021

The Hon'ble Supreme Court of India has, vide judgment dated 20.04.2021, in *Suo Motu* Writ Petition No. 1/2017 finalized a set of rules, referred to as "**Draft Rules of Criminal Practice, 2021**", to deal with certain inadequacies and deficiencies which occur in course of criminal trials in India presently. While doing so, the Hon'ble Supreme Court has directed that all High Courts are required to incorporate the said Draft Rules in the existing Rules and wherever necessary, Police Manuals be modified by all State Governments and all steps be taken by all concerned authorities to bring the said Rules in effect within a period of six months.

The main features of the Draft Rules have been encapsulated by our team as under:

At the stage of Investigation

- Medico Legal Certificate and Post Mortem Report to contain a printed format of human body (frontal and rear view) and injuries, if any, to be indicated on the sketch.
- Video recording and photographs to be taken at the time of post mortem in case of death of a person at the time of arrest or action taken to disperse an unlawful assembly or a death while in police custody and certificate under Section 65B of Evidence Act, 1872 be obtained.
- Site Plan of the place of occurrence of the incident to be made by hand and appended to the Spot *Panchnama*, necessarily disclosing the place of occurrence, place where body, material exhibits, weapons, blood stains / body fluids, bullet shells were found and indicating the source of light; details, including elevation and location of adjoining structures (trees, walls, pits etc.). Further, a Scaled Site Plan to be prepared by police draftsman after visiting the spot.
- State Governments to appoint separate panel of Advocates, other than Public Prosecutors, to advise Investigating Officer during investigation.

Rights of Accused

- Statement of witnesses, list of documents, material objects and exhibits seized to be supplied to the Accused, while also specifying the statements, documents, material objects and exhibits not being relied upon by the Investigation Officer.
- Disposal of Bail Application ordinarily within 3-7 working days from the date of first hearing. Accused be provided copy of status report filed by Police / Prosecution.

Case Management Hearing and Exeditious Trial

- After framing of charges, a preliminary case management hearing to be held in order to consider the total number of witnesses, classify them as eyewitness, material witness, formal witness and experts. The recording of deposition of witnesses shall then be taken up, after the

scheduling exercise is complete. A specific date may be fixed for admission / denial of documents.

- Examination of a witness to be continued day to day until all the witnesses in attendance have been examined and reasons for adjournment to be necessarily recorded.

Recording of Evidence

- Deposition of witnesses be additionally translated in English by the concerned Court if it is in a language other than English or local language. Deposition to be recorded in Q&A format, wherever necessary.
- Prosecution Witnesses, Defence Witnesses and Court Witnesses be numbered as PW, DW and CW in *seriatim*.
- Objections to documents and questions be decided during the deposition or at least at the end of the deposition of particular witness. However, if the court is of the opinion that repeated objections have been taken, the remedy of costs, depending on the nature of obstruction, and the proclivity of the line of questioning, may be resorted to.
- Prosecution Exhibits, Defence Exhibits and Court Exhibits be marked as Exhibit P, D, C in *seriatim*. Further, it will mention the number of the witness through whom the exhibited was first introduced. Ex. P-1/PW-1. Material Objects shall be marked as MO in *seriatim*.
- Accused, Witness or Exhibits and Objects shall be referred only by the distinct numbers assigned as above and not by names or other references.
- Relevant portion of statement recorded under Section 161 or Section 164 used for contradicting the witness shall be extracted. In case, the relevant portion is not extracted, the admissible portion shall be indicated specifically by opening and closing words and distinctly marked as prosecution or defence exhibit.

While practical challenges in day-to-day recording of evidence cannot be ignored, introduction of codified Case Management Hearing in criminal trials in India was a much-awaited step.

Another aspect which attracts our attention is that in so far as the observation relating to 'appropriate stage of deciding objections in respect of documents and questions', the present judgment tends to overrule the judgment passed by a coordinate bench in the case of Bipin Shantilal Panchal vs. State of Gujarat while observing as under:

"Therefore, this court is of opinion that the view in Bipin Shantilal Panchal should not be considered as binding."