



The Bihar Gazette

EXTRA ORDINARY

PUBLISHED BY AUTHORITY

5 AGRAHAYANA 1943(S)
(NO.PATNA 966) PATNA, FRIDAY, 26TH NOVEMBER 2021

PATNA HIGH COURT

ADDENDA AND CORRIGENDA TO CRIMINAL COURT RULES OF THE HIGH COURT OF JUDICATURE AT PATNA (VOLUME-I) (THIRD EDITION)

C.S. No. – 98

The 26th November 2021

No.X-02-2021-344(R)— Consequent upon incorporation of the Draft Rules of Criminal Practice, 2021 and in compliance to directions given vide Order dated 20.04.2021 passed by Hon'ble Supreme Court of India in Suo Moto Writ (Criminal) No. 01 of 2017 [IN RE: To issue certain guidelines regarding inadequacies and deficiencies in Criminal Trials], the following amendments are made in the Criminal Court Rules of the High Court of Judicature at Patna (Volume-I) with immediate effects:

1. After Rule- 29 under Part- I, Chapter- III (Confession and Statements of Accused–Section 164 Cr.P.C.), the following Rules shall be inserted, namely:–

29-A. REFERENCES TO STATEMENTS UNDER SECTION 161 AND 164 Cr.P.C.–

- i. 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.
- ii. 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.
- iii. In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case maybe.
 - iv. 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.
 - v. Omnibus marking of the entire statement under S. 161 and 164 Cr.P.C. shall not be done.

29-B. 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.

2. After Chapter- IV under Part- I, a new “Chapter- IV A” namely “Bail” shall be inserted in following manner:-

Chapter IV A

BAIL

- 32-A. (i) 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 and to the accused on the date of pronouncement of the order itself.
- (ii) 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.

3. After Rule- 50 under Part- I, Chapter- VIII (General Provisions as to Enquiries and Trials), the following Rules shall be inserted, namely:-

- 50-A. SUPPLY OF DOCUMENTS UNDER SECTIONS 173, 207 AND 208 Cr.P.C.– Every Accused shall be supplied with statements of witness 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 (I.O.) 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.

- 50-B. **CHARGE**– The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II, Cr.P.C. to be prepared personally by the Presiding Officer after complete and total application of mind.

50-C. SUBSEQUENT REFERENCES TO ACCUSED, WITNESS, EXHIBITS AND MATERIAL OBJECTS—

- i. 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.
- ii. 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.
- iii. 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.

4. After Rule- 51 under Part- I, Chapter- VIII (General Provisions as to Enquiries and Trials), the following Rule shall be inserted, namely:—**51-A. DIRECTIONS FOR EXPEDITIOUS TRIAL—**

- i. 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.P.C.]. 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 Section 294, and permit them to do so, after which such consecutive dates for trial shall be fixed.
- ii. 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.P.C.].

- iii. 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.

5. After Rule- 54 under Part- I, Chapter- IX (Mode of Recording Evidence– Chapter XIII Cr.P.C.), the following Rule shall be inserted:–

- 54-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.

6. In Rule- 55 under Part- I, Chapter- IX (Mode of Recording Evidence– Chapter XIII Cr.P.C.), for the words “taken down in writing in the language of the Court”, the words “recorded in the language of the witness and in English when translated as provided in Rule 54-A” shall be substituted. The modified Rule- 55 shall now read asunder:-

- 55.** Depositions shall be recorded in the language of the witness and in English when translated as provided in Rule 54-A, either by the Magistrate or Sessions Judge, with his own hand or from his dictation in open Court. The depositions so recorded shall be signed by the Magistrate or the Sessions Judge.

7. After Rule- 55 under Part- I, Chapter- IX (Mode of Recording Evidence– Chapter XIII Cr.P.C.), the following Rules shall be inserted:–

- 55-A.** 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.

- 55-B.** A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

- 55-C.** The Presiding Officers shall not record evidence in more than one case at the same time.

8. After Rule- 57 under Part- I, Chapter- IX (Mode of Recording Evidence– Chapter XIII Cr.P.C.), the following Rule shall be inserted, namely :–

57-A. FORMAT OF WITNESSES–

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

- ii. 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*.
- iii. The record of depositions shall indicate the date of the chief examination, the cross examination and re-examination.
- iv. The Presiding Officers shall wherever necessary record the deposition in question and answer format.
- v. 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.
- vi. 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.

9. After Rule- 62 under Part- I, Chapter- X (Judgment and Sentence), the following Rules shall be inserted:-

- 62-A. Every judgment shall contain the following:
- i. Start with a preface showing the names of parties as per FORM A to the Rules.
 - ii. A tabular statement as per FORM B to the Rules.
 - iii. 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 to the Rules.

FORM A

| | |
|---|--|
| IN THE COURT OF Present Sessions Judge [Date of the Judgment] [Case No.../2019] (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 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) |
|-------------|-------------|---|
| PW1 | | |
| PW2 | | |

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) |
|-------------|-------------|---|
| 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 | |

62-B. In compliance with Section 354 and 355 Cr.P.C., in all cases, the judgments shall contain:

- i. the point or points for determination,
- ii. the decision thereon, and
- iii. the reasons for the decision

62-C. 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.

62-D. In the judgment the accused, witnesses, exhibits and material objects shall 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 name, the number shall be indicated within brackets.

62-E. 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.

10. Rule- 122 under Part- III, Chapter- I-D (Arrangement of Records of Criminal Proceedings–Exhibits) shall be substituted by the following Rule:–

122. 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*.

11. After Rule- 122 under Part- III, Chapter- I-D (Arrangement of Records of Criminal Proceedings–Exhibits), the following Rule shall be inserted:–

122-A. 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.

12. Rule- 123 under Part- III, Chapter- I-D (Arrangement of Records of Criminal Proceedings–Exhibits) shall stand deleted.

13. **Rule- 129 under Part- III, Chapter- I-D (Arrangement of Records of Criminal Proceedings–Exhibits) shall be substituted by the following Rule:–**

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

All the existing Rules, notifications, general letters, orders and directions shall also stand modified to this extent.

**By order of the Court,
ARUN KUMAR JHA,
Registrar General I/c.**

**PUBLISHED AND PRINTED BY THE SUPERINTENDENT,
BIHAR SECRETARIAT PRESS, PATNA.
Bihar Gazette (Extra) 966—571+500—Egazette
Website: <http://egazette.bih.nic.in>**