



THE HIGH COURT OF KERALA

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No: **DI-1/43497/2005 (2)**

Date: **25-08-2021**

NOTIFICATION

Sub.: Electronic Video Linkage Rules for Courts (Kerala), 2021- issued- date of commencement of Rules – notified – reg.
Ref.: High Court Notification No. DI-1/43497/2005 (1), dated 25/08/2021.

In exercise of the powers conferred under Articles 225 and 227 of the Constitution of India, the High Court of Kerala, under sub-rule (2) of Rule 1 of the 'Electronic Video Linkage Rules for Courts (Kerala), 2021', hereby notifies that the said Rules shall come into force from 25th of August, 2021.

(By Order)

P.G Ajithkumar
Registrar (District Judiciary)

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25/8/21
A.S.O

To

All the District Judges including District Judge, Kavaratti.
All the CJMs

P.T.O

The Joint Registrars, Deputy Registrars and Assistant Registrars
The Chief Librarian, High Court.
The IT Section, High Court
The e Courts Cell, High Court
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The Advocate General, Kerala
The Director General of Prosecutions, Kerala
The Director, Kerala Judicial Academy, Athani
The Secretary, Rule Committee
The Secretary, Kerala High Court Advocates' Association

Copy submitted to -

The Honourable Judges
The Registrars, High Court

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THE HIGH COURT OF KERALA

DI-1 / 43497/ 2005 (1)

Kochi- 682 031,
Dated :25/08/2021

NOTIFICATION

In exercise of the powers conferred under Article 225 and Article 227 of the Constitution of India and all other powers enabling it in this behalf and after obtaining previous approval of the Governor of Kerala conveyed in G.O. (Rt) No. 2149/2021/Home dated 03/08/2021, the High Court of Kerala hereby makes the following Rules,

ELECTRONIC VIDEO LINKAGE RULES FOR COURTS (KERALA), 2021

CHAPTER I

PRELIMINARY

1. Short Title, Commencement and Applicability:-

- (1) These Rules shall be called Electronic Video Linkage Rules for Courts (Kerala) 2021.
- (2) They shall come into force on the date notified by the High Court of Kerala.
- (3) These Rules shall apply to the High Court, Subordinate Courts and Commissioners appointed to record evidence and to an officer appointed to conduct an inquiry. These Rules shall also apply to such other proceedings as are mentioned in the Rules.

(4) These Rules shall also apply to Tribunals which shall be notified by the High Court from time to time.

2. Definitions:-

In the construction of these rules the following terms (unless the context or subject-matter otherwise requires) shall have the respective meanings hereinafter assigned to them:

(a) "Advocate" means an advocate entered in any roll under the provisions of the Advocates Act, 1961 (Act 25 of 1961) and shall also include Government Pleaders/Advocates and officers of the prosecuting agencies.

(b) "Commissioner" means a person appointed as a Commissioner under the provisions of the Code of Civil Procedure, 1908 (Act 5 of 1908) or the Code of Criminal Procedure, 1973 (Act 2 of 1974), or any other law for the time being in force.

(c) "Co-ordinator" means a person nominated as Co-ordinator under Rule 5 of the Rules.

(d) "Court" means a Physical Court; Virtual Court or Tribunal.

(e) "Court Point" means the courtroom or other place where the Court sits or the place where the Commissioner or an inquiring officer holds proceedings pursuant to the directions of the Court.

(f) "Court User" means a user participating in the Court proceedings through Electronic Video Linkage at a Court Point.

(g) "Designated Electronic Video Linkage Software" means the software allowed by the High Court from time to time to conduct the proceedings.

(h) "District Judge" means the Principal District and Sessions Judge of the District.

(i) "Electronic Video Linkage" means a connection enabling a Person to communicate audio-visually from a Remote point and Court point.

(j) "Exceptional Circumstances" includes pandemic, epidemic, natural calamities, circumstances implicating law and order and matters relating to the safety of the accused and witnesses.

(k) "High Court" means the High Court of Kerala.

(l) "Live Link" means a live television link, audio-video electronic means or other arrangements whereby a witness, a required person or any other person is permitted to remain present, while physically absent from the Courtroom but is nevertheless virtually present in the Courtroom by remote communication using technology to give evidence and be cross-examined

(m) "Remote Point" means a place where any person or persons are required to be present or appears, through a video link.

(n) "Remote User" means a user participating in Court proceedings through Electronic Video Linkage at a Remote Point.

(o) "Required Person" includes;

(i) the person who is to be examined;

(ii) the person in whose presence certain proceedings are to be recorded or conducted;

(iii) an Advocate or a party in person who intends to examine a witness;

(iv) any person who is required to make submissions before the Court;

(v) any other person who is permitted by the Court to appear through Electronic Video Linkage.

(p) "Subordinate Court" means all the Courts over which the High Court exercises supervisory jurisdiction.

(q) "Tribunal" means the Tribunals which are notified by the High Court from time to time under sub-rule (4) of Rule 1.

CHAPTER II

GENERAL PRINCIPLES

3. Principles:-

(1) Electronic Video Linkage facilities may be used at all stages of judicial proceedings or under any other special law for the time being in force, and also to such other proceedings which are conducted by the Court.

(2) All proceedings conducted in a Court by way of Electronic Video Linkage shall be deemed to be judicial proceedings and all the courtesies and protocols applicable to a Court shall apply to these virtual proceedings. The protocol provided in Schedule I of these Rules shall be adhered to, for the conduct of the proceedings under these Rules.

(3) All relevant statutory provisions applicable to judicial proceedings including the provisions of the Code of Civil Procedure, 1908 (Act 5 of 1908), Code of Criminal Procedure, 1973 (Act 2 of 1974), Indian Evidence Act, 1872 (Act 1 of 1872), Information Technology Act, 2000 (Act 21 of 2000), Criminal Rules of Practice, Kerala, Civil Rules of Practice, Kerala and Rules of the High Court of Kerala, 1971 shall apply to the proceedings conducted through Electronic Video Linkage. Words and expressions used and not defined in these Rules shall have the same meaning as assigned to them in the Acts and Rules mentioned in this sub-rule and the General Clauses Act, 1897 (Act 10 of 1897).

(4) Subject to maintaining independence, impartiality and credibility of judicial proceedings, and to such directions as the High Court may issue from time to time, Courts may adopt such technological changes as may become available from time to time.

(5) No person shall record or take photographs or publish or share the Electronic Video Linkage proceedings conducted under these Rules.

4. Facilities Recommended:-

As far as possible, the following facilities may be provided for conducting the proceedings at the Court Point and the Remote Point:

- (i) Desktop Computer or Laptop Computer or Mobile Device with internet connectivity and printer;
- (ii) Device for ensuring uninterrupted power supply;
- (iii) Camera;
- (iv) Microphones, Speakers, Headphones and Earphones;
- (v) Display Unit;
- (vi) Document Visualizer;
- (vii) Provision of a firewall;
- (viii) Adequate seating arrangements ensuring privacy;
- (ix) Adequate lighting; and
- (x) Availability of a quiet and secure area.

5. Preparatory Arrangements:-

(1) There shall be Co-ordinators both at the Court Point and the Remote Point. However a Co-ordinator may be required at the Remote Point only when a witness or a person accused of an offence is to be examined.

(6)

(2) In the Subordinate Courts persons nominated by the High Court or the concerned District Judge shall perform the functions of the Co-ordinator at the Court Point as well as the Remote Point as mentioned in sub-rule (4).

(3) In the High Court, the Registrar (Recruitment & Computerisation) or any other person authorised by the Chief Justice, shall be the Co-ordinator at the Court Point.

(4) The Co-ordinator at the Remote Point may be one among the following:

	Where the Advocate or Required Person is at the following Remote Points	The Remote Point Co-ordinator shall be:
i	Overseas	An official of an Indian Consulate/Indian Embassy/High Commission of India
ii	Court of another State/Union Territory	Any authorized person nominated by the concerned District Judge
iii	Kerala State Legal Services Authority or High Court Legal Services Committee or Mediation Centre or office of the District Legal Services Authority (including Taluk Legal Services Authority)	Any authorized person nominated by the Member-Secretary, Kerala State Legal Services Authority or Secretary, High Court Legal Services Committee or Chairperson or Secretary of the concerned District Legal Services Authority
iv	Jail or Prison	The concerned Prison or Jail Superintendent or Officer-in-Charge of the Prison or Jail
v	Hospitals administered by the Central/State Governments or Local Bodies	Medical Superintendent or an officer authorized by him or the person in charge of the said hospital
vi	Observation Home, Special Home, Children's Home, Shelter Home or any institution referred to as a child	The Superintendent or Officer-in-Charge of that child facility or an officer authorized by him

	facility (collectively referred to as child facilities) and where the Required Person is a juvenile or a child or a person who is an inmate of such child facility	
vii	Women Rescue Homes, Protection Homes, Shelter Homes, or any institution referred to as a women's facility (collectively referred to as women's facilities)	The Superintendent or Officer-in-Charge of the women's facility or an officer authorized by him
viii	In custody, care or employment of any other government office, organization or institution (collectively referred to as institutional facilities)	The Superintendent or Officer-in-Charge of the institutional facility or an officer authorized by him
ix	Forensic Science Lab	The Administrative Officer in charge or any authorized officer
x	In case of any other location	The concerned court may appoint any person deemed fit and proper who is ready and willing to render their services as a Co-ordinator to ensure that the proceedings are conducted in a fair, impartial and independent manner and according to the directions issued by the Court in that behalf

(5) The Co-ordinators at both the Court point and Remote Point shall ensure that the facilities recommended in Rule 4 are available. They shall also conduct a test between the points well in advance to resolve any technical problem, so that the proceedings are conducted without interruption.

(6) The Co-ordinator at the Remote Point shall ensure that:

- (i)** all Advocates/Required Persons required to appear or heard are available and ready at the Remote Point at least 30 minutes before the scheduled time;
- (ii)** no other recording device including mobile phone is used inside the Remote Point;
- (iii)** no unauthorized person enters the Remote Point when the proceedings are in progress;
- (iv)** the person being examined or heard is not prompted, tutored, coaxed, induced or coerced in any manner by any person and that the person being examined does not refer to any document, script or device without the permission of the concerned court, during the proceedings.

(7) Where the witness to be examined through Electronic Video Linkage requires or if it is otherwise expedient to do so, the Court shall give sufficient notice in advance, setting out the schedule of the proceedings and in appropriate cases may transmit non-editable digital scanned copies of all or any part of the record of the proceedings to the official electronic mail account of the Co-ordinator of the concerned Remote Point.

(8) Before the scheduled date of the proceedings, the Co-ordinator at the Court Point shall ensure that the Co-ordinator at the concerned Remote Point receives certified copies, or non-editable scanned soft copies of all or any part of the record of the proceedings which may be required for recording statements or evidence or for reference. However, they shall be permitted to be used by the Required Person only with the permission of the Court.

(9) The Court shall direct the Co-ordinator at the Remote Point or at the Court Point whenever required to provide-

- (i)** a translator in case the person to be examined is not conversant with the official language of the Court;

- (ii) an expert in sign language in case the person to be examined is impaired in speech and/or hearing;
- (iii) an interpreter or special educator, as the case may be, in case the person to be examined is either permanently or temporarily differently abled.

CHAPTER – III
GENERAL PROCEDURES

6. Application for Appearance, Evidence and Submission through Electronic Video Linkage:-

- (1) Any party to the proceedings or witness, save and except where the Electronic Video Linkage proceedings are initiated at the instance of the Court, may move an application in the form prescribed in Schedule II.
- (2) In proceedings before the Family Court, Electronic Video Linkage shall be allowed only after completing the reconciliation process subject to the condition that both the parties file consent memorandum for Electronic Video Linkage. When either of the party is not able to attend the reconciliation process in person, the Family Court may for reasons to be recorded in writing, allow the reconciliation process to be done through Electronic Video Linkage.
- (3) The form for request shall be served on the opposite party or parties to the proceedings except where it is not possible for valid reasons.
- (4) On receipt of the application and upon hearing all concerned parties, the Court shall pass an order after ascertaining that the application is not filed with an intention to impede a fair trial or to delay the proceedings.
- (5) The Court while allowing the application for Electronic Video Linkage shall also fix the schedule for the proceedings.

(6) If the Electronic Video Linkage is scheduled for making oral submissions, the Court may require the Advocate or Required Person to submit written arguments and citation of judgments, if any, in advance to the concerned court through the official electronic mail of that court.

(7) In case the Required Person is situated in a country outside India, the Presiding Officer of the Court shall route the concerned details for Electronic Video Linkage through the High Court.

(8) If any Subordinate Court wants to examine a Required Person who is within another District in Kerala, then the details thereof shall be forwarded by or through the District Judge concerned to the District Judge within whose jurisdiction the Required Person is situated. The District Judge within whose jurisdiction the Required Person is situated shall make necessary arrangements for Electronic Video Linkage.

(9) If any Subordinate Court in Kerala wants to examine a Required Person who is situated outside the State through Electronic Video Linkage, then the details thereof with a formal request shall be forwarded by or through the District Judge concerned to the District Judge in whose jurisdiction the Required Person is situated for facilitating the Electronic Video Linkage facility.

(10) If any Subordinate Court in Kerala receives a request directly from a Court outside the State for facilitating the examination of a Required Person within its jurisdiction through Electronic Video Linkage, such Court shall intimate the District Judge concerned.

7. Service of Summons:-

(1) When summons is issued to a witness, proposed to be examined or heard through Electronic Video Linkage, the summons shall specifically mention the date, time and venue of the concerned Remote Point and shall also direct the witness to attend in

person along with proof of identity or an affidavit to that effect as mentioned in sub-rule (5) of Rule 8. The existing rules regarding service of summons and the consequence for non-attendance, as provided in the Code of Civil Procedure, 1908 (Act 5 of 1908), Code of Criminal Procedure, 1973 (Act 2 of 1974), Civil Rules of Practice, Kerala and Criminal Rules of Practice, Kerala shall apply with respect to service of summons for proceedings conducted by Electronic Video Linkage.

(2) When such a witness is also required to produce a document, it shall be sufficient compliance of the direction if he produces it in the Remote Point at the time fixed for examination, along with an authenticated copy. The document so produced shall be scanned and sent to the Court Point before the commencement of the examination, so as to enable the court and the parties to verify it. The Co-ordinator at the Remote Point shall, along with the other documents, transmit the original of the document so produced to the Court Point within three days of its production by authorised courier service or registered speed post.

8. Examination of Persons:-

(1) In civil cases, the party requesting for recording statement of a person through Electronic Video Linkage, shall inform the Court the location of the person, the time, place and the availability of the technical facilities and his willingness to be examined through Electronic Video Linkage.

(2) In criminal cases, where the person to be examined is a prosecution witness or court witness, the prosecution and where the person to be examined is a defence witness the defence counsel, will inform the Court, location of the person, time, place and the availability of the technical facilities.

(3) Where the person to be examined is an accused, the prosecution shall confirm the location of the accused at the Remote Point.

- (4) When the accused person is in custody and not present at the Court Point, the Court shall order a multi-point Video Linkage between the Court, the witness and the accused person in order to facilitate the recording of the statement of the witness. The Court shall also ensure adequate opportunity to the accused person to communicate in privacy with his Advocate before, during and after the recording.
- (5) A Required Person, including a witness shall, before being examined, produce and file proof of identity by submitting an identity document issued or duly recognised by the Government of India/State Government/Union Territory as the case may be. In the absence of such a document, an affidavit attested by any of the authorities referred to in Section 139 of the Code of Civil Procedure, 1908 (Act 5 of 1908) or Section 297 of the Code of Criminal Procedure, 1973 (Act 2 of 1974) shall be produced. The affidavit in addition to all the details of the Required Person or witness shall state that the person, who is shown to be the party to the proceedings or witness, is the same person, who is going to depose at the virtual hearing. The copy of the identity document or affidavit filed, as the case may be, shall be made available to the opposite party.
- (6) If the proof of identity or affidavit is produced at the Remote Point, the same shall be scanned and sent to the Court Point before the commencement of the proceedings, so as to enable the Court and the opposite parties to verify it. The identity of the person to be examined shall be confirmed by the Court with the assistance of the Co-ordinator at the Remote Point before the recording of the evidence. The same shall be mentioned in the order sheet of the Court. The Co-ordinator at the Remote Point shall, along with the other documents, transmit the hard copy of the proof of identity or affidavit to the Court Point by authorised courier service or registered post.
- (7) Examination through Electronic Video Linkage shall ordinarily be conducted during the working hours of the Court or at such time as the Court may deem fit. Before the commencement of the examination, oath shall be administered from the Court Point, to the person deposing.

(8) Where the Required Person being examined or the accused to be tried, is in custody, the statement or the testimony as the case may be, be recorded through Electronic Video Linkage. The Court shall provide adequate opportunity to the under-trial prisoner to communicate in privacy with his Advocate before, during and after the recording.

(9) Where a party or a lawyer requests that in the course of the proceedings some privileged communication may have to take place, the Court shall pass appropriate orders in that regard.

(10) Subject to the provisions for examination of witness contained in the Indian Evidence Act, 1872 (Act 1 of 1872) and sub-rules (7) and (8) of Rule 5 of these Rules, before the examination of the witnesses, the documents, if any, sought to be relied upon shall be transmitted to the Co-ordinator at the Remote Point, so that the witness acquires familiarity with the said documents.

(11) If a person is examined with reference to a particular document, unless the Court otherwise directs, the summons to that person must be accompanied with a duly certified photocopy of the said document. The original of the said document should be exhibited at the Court Point in accordance with the deposition of the person being examined.

(12) The Court or the Commissioner may record such remarks as is material regarding the demeanour of the person being examined.

(13) The Commissioner shall note the objections, if any raised, during the course of the examination of the person through Electronic Video Linkage. The Court shall pass such orders as may be necessary on the objections raised by the Commissioner.

(14) The Court shall note the objections, if any raised, during the course of the examination of the person through Electronic Video Linkage. The Court shall pass such orders as may be necessary on such objections.

(15) When the person being examined finds it difficult to identify the accused through the ordinary mode of Electronic Video Linkage imaging, he may be shown the image of the accused more closely by zooming the camera so as to see the accused person individually. Such fact shall be recorded by the Court.

(16) The Court shall obtain the signature of the person being examined on the transcript once the examination is concluded. The signed transcript shall form part of the record of the judicial proceedings. The signature of the person being examined shall be obtained in either of the following ways:

(i) If digital signatures are available at the concerned Court Point and Remote Point, the soft copy of the transcript digitally signed by the Presiding Judge at the Court Point shall be sent by the official electronic mail to the Remote Point where a printout of the same will be taken and signed by the person examined. A scanned copy of the transcript signed by the person examined and the Co-ordinator at the Remote Point shall be transmitted by official electronic mail to the Court Point. The hard copy of the signed transcript shall be despatched, along with the other documents preferably within three days of recording by the Co-ordinator at the Remote Point to the Court Point either by authorised courier service or by registered speed post.

(ii) If digital signatures are not available, the printout of the transcript shall be signed by the Presiding Officer and the representatives of the parties, if any, at the Court Point and thereafter it shall be sent in non-editable scanned format to the Remote Point through the official electronic mail where a print out of the same will be taken and signed by the person examined and countersigned by the Co-ordinator at the Remote Point. A non-editable scanned format of the transcript so signed shall be sent by the

Co-ordinator of the Remote Point to the Court Point, where a print out of the same shall be taken and the same shall form part of the records. The hard copy of the signed transcript should also be despatched preferably within three days of recording along with other documents, if any, by the Co-ordinator at the Remote Point to the Court Point by authorised courier service or by registered speed post.

(17) The audio-video recording of the persons examined shall be preserved. The encrypted master copy with hash value shall be retained by the Court as part of the records.

(18) The recorded data should be secured by administrative password and shall be retrieved only when the Court orders its retrieval. The administrative password shall remain with the Registrar (Recruitment & Computerisation) or any other person authorised by the Chief Justice in the case of the High Court and with the Presiding Officer in all other cases.

(19) The Court may, at the request of a witness to be examined, or on its own motion, taking into account his best interests, direct appropriate measures to protect the privacy of the witness bearing in mind aspects such as age, gender, physical condition and recognised customs and practices.

(20) The Co-ordinator at the Remote Point shall ensure that except the witness only persons permitted by the Court be present in the room at the time of examination of the witness.

(21) The Court shall in order to ensure compliance of sub-rule (6) (iv) of Rule 5 impose such other conditions as may be necessary for the effective recording of the examination.

(22) The examination before the Court or the Commissioner shall as far as practicable, proceed on a day to day basis. The Court or the Commissioner shall not grant unnecessary adjournments.

(23) When a Required Person is unable to reach the Court Point or the Remote Point due to sickness or physical infirmity or due to any genuine reason which the court may decide, or the presence of the Required Person cannot be secured without undue delay or expenses, the Court may authorise the conduct of the proceedings through Electronic Video Linkage from the place where the Required Person is situated. In such circumstances the Court may direct the use of portable Video system. The authority for the same shall be given by the Court to the concerned Co-ordinator or any other person deemed fit by the Court.

(24) Subject to the orders of the Court, if any party or his authorised person is desirous of being physically present at the Remote Point at the time of recording of the evidence, it shall be open for such party to make arrangements at his own cost.

(25) The examination through Electronic Video Linkage shall be treated as substantive compliance of the provisions of the Code of Criminal Procedure 1973 (Act 2 of 1974), Code of Civil Procedure, 1908 (Act 5 of 1908), Criminal Rules of Practice, Kerala, Civil Rules of Practice, Kerala or any other law which requires personal appearance of parties, witnesses or any other Required Person for the purpose of any enquiry, trial or any other proceedings in or in relation to the Subordinate Courts or Tribunals.

9. Exhibiting or Showing Documents or Object to Required Person or Accused at Remote Point:-

(1) If in the course of examination of a Required Person or Accused at a Remote Point through Electronic Video Linkage, it is necessary to show a document or object to him, the Court may permit the same to be shown in the following manner:

(a) If the document or the object is at the Court Point it can be shown by zooming the camera to the document or to the object or by electronically transmitting the scanned image to the remote centre including through a document visualizer and the copy so transmitted be shown to the Required Person or Accused.

(b) If the document is at the Remote Point, by putting it to the person being examined and transmitting a copy of it to the Court Point electronically including through a document visualizer. The hard copy of the document should also be sent subsequently by the Co-ordinator at the Remote Point to the Court Point along with other documents, if any, preferably within three days by authorised courier service or by registered speed post.

10. Ensuring Seamless Electronic Video Linkage:-

(1) The Advocate or Required Person shall address the Court from the specified Remote Point on the date and time specified by the Court. The presence of a Co-ordinator shall not be necessary at the Remote Point where arguments are addressed by the Advocate or Required Person.

Provided if the Advocate or Required Person requires the presence of a Co-ordinator at the Remote Point, then the same shall be informed to the concerned Court in advance and the Court shall then authorise a person to be the Co-ordinator at the Remote Point at that time.

(2) In cases where the proceedings are to be conducted at any of the Remote Points mentioned in Rule 5(4)(i) to 5(4)(ix), the Co-ordinator at such Remote Point shall ensure compliance of all the technical requirements as mandated. However, if the proceedings are conducted from any of the Remote Points mentioned in Rule 5(4)(x), then the Co-ordinator at the Court Point shall ensure compliance of all the technical requirements as mandated.

(3) The Co-ordinator at the Court Point shall guide the concerned Advocate or the Required Person regarding the technical requirements for conducting the proceedings. The Co-ordinator at the Court Point shall resolve the problems faced by the Remote Users and shall share the Electronic Video Link with the Remote Users. He shall also ensure that all the technical systems are working properly at the Court Point and the Remote Point and at the scheduled time connect the Remote User to the Court.

(4) The Co-ordinator at the Court Point shall ensure that any document or audio-visual files, electronically mailed from the Remote Point are duly received at the Court Point.

(5) The Co-ordinator at the Court Point shall ensure that the Electronic Video Linkage is conducted only through the Designated Video Linkage Software as prescribed by the High Court.

(6) The Court shall mention in the order sheet the time and duration of the proceedings, the software used [in case the software used is not the Designated Electronic Video Linkage Software], the issue or issues on which the Court was addressed and the documents, if any, that were produced and transmitted online and marked.

(7) The Court shall also record in the order sheet the clarity of the sound and the connectivity of the Video Linkage for both the Court Users and Remote Users.

(8) On the completion of the proceedings, if a Remote User is of the opinion that he was prejudiced due to poor video and/or audio quality, the same shall be informed to the Co-ordinator at the Court Point, who in turn shall, communicate the said information to the Court. The Court shall then consider the information and if the Court is of the opinion that the Remote User was prejudiced by the proceedings, the Court may then pass appropriate orders either by declaring the proceedings to be incomplete and ordering for resuming the proceedings or dispense with the Video Linkage proceedings and directing the Remote User to appear before the Court on a date to be fixed.

11. Proceedings under the Code of Criminal Procedure, 1973:-

- (1) The Court may, in its discretion, authorize the detention of an accused, frame charges in a criminal trial and record the statement of the accused under Section 313 of the Code of Criminal Procedure, 1973 (Act 2 of 1974) through Electronic Video Linkage. The Court shall not order judicial remand of an accused in the first time or shall not give the accused in police custody through Electronic Video Linkage except in exceptional circumstances for reasons to be recorded in writing.
- (2) While extending the order of detention, the Court shall ensure that the accused understood the proceedings that took place on that day and also that he is aware of the next hearing date.
- (3) The Court shall retain the order of detention in its records and forward a scanned copy to the Jail or Prison by electronic mail which shall be treated by the Jail or Prison Authority as the authorization for detention of the accused. The Court may also forward a duplicate of the order of detention to the Jail or Prison by post, which need not be returned by the Jail or Prison Authority, unless physical production of the accused is directed by the Court.
- (4) The Court may, in exceptional circumstances, for reasons to be recorded in writing, examine a person or an accused under Section 164 of the Code of Criminal Procedure, 1973 (Act 2 of 1974) through Electronic Video Linkage. The Court while doing so shall ensure that the person or the accused as the case may be is free from coercion, threat, undue influence and that he is in a fit state of physical and mental health.
- (5) The Court may also, in exceptional circumstances, for reasons to be recorded in writing, record the dying declaration of a person through Electronic Video Linkage.
- (6) The Court may also, in exceptional circumstances, for reasons to be recorded in writing, order the release of an accused through Electronic Video Linkage.

12. Costs:-

- (1) The expenses of the Electronic Video Linkage facility shall include the expenses of preparing soft copies or certified copies of the court record for sending to the Co-ordinator at the Remote Point and the fee payable to the translator or interpreter or special educator, as the case may be.
- (2) The Co-ordinator at the Remote Point shall be paid such amount as honorarium as may be fixed by the Court in consultation with the parties to the case.
- (3) In criminal cases the expenses for recording evidence through Electronic Video Linkage shall be borne by such party as the Court directs, taking into account the provisions of the Criminal Rules of Practice, Kerala.
- (4) In civil cases the expenses for recording evidence through Electronic Video Linkage shall be borne by the party making the request, unless otherwise ordered by the Court.
- (5) In other cases, the Court may make an order as to the expenses as it considers appropriate taking into account the rules or instructions regarding payment of expenses to the complainant and witnesses, as may be prevalent from time to time.
- (6) The Court may, for reasons to be recorded in writing, exempt a party from the payment of costs or direct both the parties to share the expenses in the proportion as fixed by the Court.
- (7) The costs if directed to be paid, shall be deposited within the time fixed by the Court. If the costs as directed by the Court are not paid, then the Court shall pass appropriate orders, depending upon the facts and circumstances of each case.

13. Conduct of Proceedings:-

(1) All Advocates, Required Persons, Party-in-Person and/or any other person permitted by the Court to remain physically or virtually present (collectively referred to as participants) shall strictly follow the mandates contained in Schedule I of the Rules.

(2) The Co-ordinator at the Court Point shall send the link/meeting ID/the Remote Point room details to the electronic mail or the mobile number furnished by the Advocate or Required Person or other participants who are permitted to be virtually present by the Court. Once the proceedings have commenced no other person will be permitted to participate except on the orders of the Court.

(3) The participants, after joining the proceeding at the Remote Point, shall remain in the virtual lobby, if available, until they are admitted to virtual hearing by the Co-ordinator at the Court Point.

(4) Once the participants participate in the proceedings, the said participation shall constitute consent on their part, to the proceedings being recorded by Electronic Video Linkage.

(5) The Court shall have the power to the control Video-Audio links between the Court Point and the Remote Point.

(6) The Court shall ascertain that the Advocate, Required Person or any other participant that the Court considers necessary at the Remote Point or the Court Point can be seen and heard clearly at the Court Point and at the Remote Point.

14. Access to Legal Aid Clinics/Camps/Lok Adalats/Jail Adalats

(1) In conformity with the provisions of the Legal Services Authorities Act, 1987 (Act 39 of 1987) along with the Rules and Regulations in force, in proceedings related to

Legal Aid Clinics, Camps, Lok Adalats or Jail Adalats, any person who at the Remote Point is in Jail or Prison shall be examined through Electronic Video Linkage by the Member-Secretary, Kerala State Legal Services Authority; Secretary, High Court Legal Services Committee; Chairman/Secretary of the District Legal Service Authority or Taluk Legal Service Committee or Members of Lok Adalats, before any award or order is passed.

(2) The award or order so passed shall have the same force as if it was passed by the regular Lok Adalat or Jail Adalat.

(3) The copy of the award or order and the record of the proceeding shall be sent to the Remote Point.

15. Permission to view the Electronic Video Linkage proceedings by persons who are not parties:-

(1) The Court shall, depending on the links consistent with available bandwidth, allow persons who are not parties, to view the proceedings through Electronic Video Linkage.

(2) The Court, for reasons to be recorded in writing, shall not permit persons to view the proceedings, if such proceedings are conducted in-camera.

(3) If persons who are not permitted by the Court are present in the Remote Point at the time of examination of the witness, the Co-ordinator at the Remote Point shall inform the Court before the proceedings start, the identity of the person and the reason for his being present at the Remote Point. The said person shall only on being permitted by the Court remain present at the Remote Point.

CHAPTER IV
MISCELLANEOUS

16. Power of High Court:-

(1) When the High Court is satisfied that the operation of any Rule causes undue hardship, it may order to dispense with or relax the requirements of that Rule to such extent and subject to such conditions, if any, as is necessary to deal with the case in a just and equitable manner.

(2) The High Court may also from time to time issue practice directions under these Rules and the said directions shall be effective from the dates as may be notified.

17. Residuary Provision:-

(1) Matters with respect to which no express provision has been made in these Rules shall be decided by the Court consistent with the principle of furthering the interest of justice.

(2) These Rules shall be in addition to the Rules contained in the Criminal Rules of Practice, Kerala, Civil Rules of Practice, Kerala and the Rules of the High Court of Kerala, 1971.

SCHEDULE I

1. Advocates participating in the proceedings shall wear attire as prescribed by the Bar Council of India under the Advocates' Act 1961 (Act 25 of 1961). Police officers and other uniformed officers shall appear in the uniform as prescribed for them under the relevant statutes or orders. The attire of the Presiding Officers and the Court Staff shall

be as prescribed by the High Court under the relevant Act, Rules and Orders. All other persons shall wear sober attire consistent with the dignity of the proceedings.

2. Proceedings shall be conducted as far as possible at the scheduled time by the concerned courts.
3. As directed by the concerned court, the cases shall be called out and appearance of persons recorded.
4. Every participant shall adhere to the courtesies and protocols as are followed in the physical courts. The Presiding Officers of the courts shall be addressed as Your Lordship or Your Honour or Sir/Madam. Officers of the court will be addressed by their designations. Advocates shall be addressed as Learned Counsel or Senior Counsel.
5. Advocates, Required Persons, Party in Persons and other parties to the proceedings shall keep their microphones muted till such time as they are called upon to make their submissions.
6. Remote Users shall ensure that their devices are free from any malware.
7. The Co-ordinator at the Remote Point and the Remote Users shall ensure that the Remote Point is situated in a quiet location and has sufficient internet connectivity. The Court may if the situation so warrants, direct any proceedings to be non-est, if any uninterrupted disturbance is caused during the proceedings.
8. The mobile phones of all participants shall be switched off during the proceedings.
9. All participants shall endeavour to focus their attention to the camera and remain attentive without engaging in any other activity during the course of the proceedings.

SCHEDULE II

REQUEST FORM FOR VIDEO LINKAGE

1. Number of the Case with Year:
2. Name of the Court:
3. Cause title/Name of parties to the proceedings:
4. Proposed Date of Conference [DD/MM/YYYY]:
5. Location of the Court Point(s):
6. Location of the Remote Point(s):
7. Name, Designation, Address of the Participants at the Remote Point:
8. Stage of the Case:
9. Reasons for the Electronic Video Linkage:
10. Any other matter to be stated:

I have read and understood the provisions of the Electronic Video Linkage Rules for Courts (Kerala) 2021. I undertake to remain bound by the same to the extent applicable to me. I agree to pay the costs as mentioned in Rule 12 of the Rules or as directed by the Court.

Date:

Name and Signature of the Applicant

For the use of the Registry/Court Point Co-ordinator

a) Bench Assigned:

b) Hearing:

Held on [DD/MM/YYYY]

Commencement Time:

End Time:

Number of Hours:

c) Costs:

- Overseas transmission charges, if any:
- To be incurred by the Applicant/Respondent:
- To be shared equally:
- Waived, as ordered by the Court:

Date:

Signature of the Authorised Officer

(By order)



Registrar (District Judiciary)

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25/8/21
A.S.O

Explanatory note

(This is not part of the notification, but is intended to indicate its general purport)

The courts in the State are making an effort to expedite proceedings with the help of technology. Video conferencing is being resorted to for production of accused, examination of witnesses etc. This makes it imperative that procedure Rules are laid down for the use of video conferencing in court proceedings. Hence the rules.