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THE HIGH COURT OF KERALA

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Date: 09-04-2024

No: DI-1/107950/2023

OFFICIAL MEMORANDUM

Sub.: The Electronic Video Linkage Rules for Courts (Kerala), 2021 – effective implementation of – directions issued- reg.

Ref.: (1) Minutes of the Meeting of the Administrative Committee dated 01/04/2024

(2) High Court letter of even number dated 03/04/2024 addressed to the State Police Chief, Kerala

(3) High Court notification of even number dated 09/04/2024

The Electronic Video Linkage Rules for Courts (Kerala) (for short 'the Rules') came into force with effect from 25/08/2021. However, it has come to the notice of the High Court that the provisions of the Rules have not been properly implemented due to myriad of reasons, primarily being non-appointment of Co-ordinators at the court point and remote point or unavailability of space and equipment for arranging the video conference.

1. Appointment of Co-ordinators

The main function of the Co-ordinator is to make sure that all the required facilities for the smooth conduct of the video conference are arranged and that the examination is done seamlessly. He/she also ensures that the witness is not being prompted or misled by any interested persons (as the witness is not under the physical control of the Court). The Co-ordinator is also required to help the Court in transmitting documents, etc. to the Court Point. It is thus ideal to appoint a person who is conversant with the Court proceedings and also having technical knowledge, as the Co-ordinator. While it is necessary to nominate one particular person as the Co-ordinator for the purpose of enabling the third parties to communicate with him

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for arranging the video conference, expediency demands that a staff member available on the designated day of trial has to act as the Co-ordinator at the court point. Therefore, the following directions are issued with respect to appointment of Co-ordinators:

(a) The District System Administrator / Senior System Officer will act as the Co-ordinator at the Court Point and the Remote Point, unless the District Judge concerned appoints any other person. However, for the purpose of effective communication between the applicant and the officials, the District System Administrator / Senior System Officer will be deemed to be the Co-ordinator at the Court Point and the Remote Point.

(b) If the office of the District System Administrator / Senior System Officer is located at a centre different from the centre of the Court Point and the trial Court does not appoint a Co-ordinator at the Court Point, the Bench Clerk of the Court will perform the duties of Co-ordinator at the Court Point.

(c) If the District Judge concerned does not appoint a Co-ordinator at the Remote Point or the District System Administrator / Senior System Officer is located at a different centre, any staff member deputed by the Chief Ministerial Officer of the District Court/ the Chief Judicial Magistrate Court can also act as the Co-ordinator at the Remote Point. If the Chief Ministerial Officer does not depute any staff as above said, he will have to act as the Co-ordinator at the Remote Point. The above arrangement needs to be followed only when the Remote Point is not a place mentioned in Rule 5(4) of the Rules.

(d) The District Judge / Chief Judicial Magistrate will ensure that the Court Point Co-ordinator is duly assisted by a technical staff.

2. Identifying and setting up of a small space for conducting Video conference

It will be beneficial to all the stakeholders, if a particular space is earmarked in each District Court centre and major Sub Centres as a Remote Point and necessary infrastructure is provided therein for arranging video conference. A small space with necessary infrastructure can be provided for the said purpose in the

Court complex at the District Centre. Alternatively, a small space in the building of the District Legal Services Authority can also be earmarked for this purpose. It is also possible to provide a Court room for this purpose, if there is no sitting. Taking into account the increasing number of demands for examination through video conference, a permanent mechanism in this regard is the need of the hour.

Hence, the Principal District Judges are directed to identify and set up a small space in the District Centre and major Sub Centres as Remote Point and to provide necessary facility for conducting video conference. The District Judges shall inform the High Court of the arrangements made as above at the earliest, at any rate on or before 31.05.2024.

(3) Mode of application for video linkage

As per Rule 6(1), a witness or a party to the proceedings is entitled to move an application in the form prescribed in Schedule II of the Rules for giving evidence through video linkage. Rule 6(4) provides that on receipt of the application and upon hearing all parties concerned, the Court shall allow the request unless it finds that it was not made with an intention to impede a fair trial or to delay the proceedings. A practical issue faced by the applicants is the mode in which they have to make such request for examination through video linkage in the prescribed format to the court concerned, if they are stationed at a different place. As this application is to be considered on judicial side, it would need to be presented before the Court concerned in person. It is not feasible to make such application through the e-filing portal, as the witnesses do not have a dashboard.

Since majority of the cases in which the video conference examination is required are criminal cases, the High Court, vide reference cited second above, informed the State Police Chief, Kerala that it permits the Station House Officers to make a request in the final report / charge sheet itself that formal witnesses like forensic experts, doctors, revenue officers, Nodal officers of telecom company, etc be examined through video conference. It was also informed therein, that the name and addresses of such witnesses are to be shown in the Final Report / Charge Sheet at the end of the witness list in a separate column, so that the Trial Courts can easily take a decision at the time when it issues summons that whether those officials are to be examined physically or through video linkage.

Hence, in relaxation of the contrary provisions in the Rules, the High Court vide notification cited third above, inter alia directed that the request for video linkage can be made through e-mail or by post in civil or criminal cases or in the form of a request made at the end of the witness list in the final report / charge sheet as in the manner above said. In pending cases, the Station House Officer in charge of the case is permitted to make a request for such examination, before trial commences. Further, if the police shows the e-mail ID and phone number of such witnesses in the witness list, summons can be issued through e-mail or other electronic modes to those official witnesses. In the summons, the video link and the time slot can also be provided by the Court concerned.

Therefore, the Courts in District Judiciary are directed to entertain such request for video linkage that are made through e-mail or by post in all cases or in the form of a request made at the end of the witness list in the final report / charge sheet.

If any difficulties are faced in implementing this official memorandum, it shall be reported to the High Court.

(By Order)



P. Krishna Kumar
Registrar General

To

All the Principal District Judges

Copy to,

The Kerala Judicial Academy, Athani
Adv. G. Unnikrishnan, (Secretary, Rule Committee, GTWRA1,
Vigneswaram, Ganapathy Temple Road, Edappally- 682 024)
The E-Courts Cell, High Court