Thank You, Thank You, Thank You, Thank You, Thank You, Thank You, Thank You







Prosecution Replenish

10th Anniversary



Thank You, Thank You, Thank You, Thank You, Thank You, Thank You, Thank You

Word of Gratitude

Season’s greetings.

Ten years ago, we launched this leaflet based on the simple premise to replenish our Prosecution Department with the latest elucidation of law delivered by the Constitutional Courts. We wanted it to “be free and everywhere”.

As you are all aware, the physical form of our leaflet, though heavily patronized by you all, was unable to reach all, due to varied reasons. The earlier website was hacked umpteen times keeping the technical personnel on their toes always. Then, posting on Social Media was undertaken. The advent of the Social Media made it possible to be “everywhere,” while the emergence of the concept of open access allowed us to be “free” by allowing completely unrestricted access to every leaflet.

While Social media like Whatsapp, face-book etc were utilized in addition to emails etc, it was felt to further expand and this paved way to posting the leaflet in Telegram Channel and further launching an New Website, so as to be accessible to our patrons at all times.

Today, as we look back over our first decade, we see that our premise was correct. In a short time, the leaflet has risen from nothing to become a leading lookup publication. Numbers for submissions, publications, internet access, downloads, and citations all have reached remarkable levels and continue to increase. We thank the patrons who have powered this amazing trajectory.

The Judiciary, the Investigating Agency and the Prosecutors have all played a role, in our leaflet adorning the crown. Our leaflet has grown to National level recognition and all credit goes to our Patrons for their uncompromising patronage.

We celebrate this anniversary with this special issue, composed of invited articles from distinguished Patrons and exclusive matter. We hope you will enjoy these contributions, as we hope you will enjoy our leaflet “Prosecution Replenish” in future too.

We stealthily acknowledge the hands of the guiding forces behind us, they are instrumental in shaping us in the manner we are today and forever believing in us that the leaflet would satiate our pursuits. We are wantonly not taking any names as the same would be exhaustive and the space is a constraint. Further it is their counsel that names do not matter; but the content does.

I deeply thank Smt Deepa Rani, APP for contributing the Evidence Act pages, Sri Abhinay, APP for correcting the CrPC pages & Sri K.Hanumanthu, HG for correcting the SLL pages.

I also thank Ms. LJJ Mrunalini, APP; Smt.Vidya Deore Nikam, APP; Smt Sandhya Chakravarthy, Addl PP and Rajesh Shastri, APP, for sparing their valuable contributions to this commemorative edition.

Hoping the same cooperation and patronage in future from all our well wishers and patrons,

I Remain,

Yours faithfully,

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Criminal Prosecution System-
Is it possible to overcome investigation lacuna to tight the clutches around the Offender – Role of Public Prosecutor - (Part-1) FIR.

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Controlling crime is the main aim in the creation of criminal justice system comprising of the police, the prosecution, courts and the correctional services. The effective functioning of the criminal justice system is dependent on the effective functioning of these components of the system. If any of its components fails, it would seriously affect the criminal justice system which in turn, would considerably affect the protection that it gives to the society at large. So, I would like to discuss what is the job and responsibility of Public Prosecutor as stated in various decisions of the Apex Court and also made an attempt to discuss about the investigation lacuna and to what extent they affect the result of a case in criminal prosecution with the help of Judgments of Honourable Courts. I would like to discuss the issues in parts of different articles. In this Article I started with the first issue delay in sending the FIR.

Criminal procedure Code is the constitution for criminal prosecution. The Investigating Agency and the Public Prosecutors should follow the rules and procedures prescribed under Criminal law for launching the Criminal Prosecution. Victim or Complainant gives information orally or in writing to the police on which the Police as an investigating agency play a key role and set the criminal law into motion. Foundation of the criminal prosecution mainly depends on the evidence collected during investigation done by the police. There are procedures provided for the collection of evidence, forwarding and storing the same, every Investigating Officer should follow those procedures to collect evidence properly, safely and in time. If there is investigation lacuna, deficiency and negligence on the part of the police in following those procedures to collect evidence as prescribed under the law leads to failure of the criminal prosecution on technical grounds.

Role and duty of the Prosecutor: Presenting the case and conduct of trial of the Criminal case in the Court:

In India, the prosecutorial set-up consists of Public Prosecutors, Additional Public Prosecutor, Special Public Prosecutor, Senior Public Prosecutors and Assistant Public Prosecutor (*herein after referred all of them as Public Prosecutor for convenience as the nature of duty same). Public Prosecutor is a public servant whose duties and responsibilities are of public nature and of vital interest to the public as such he is bound by law and professional ethics.

Right from the time of presenting the case before a criminal court till the pronouncement of judgment the prosecutor plays a vital role in criminal proceedings. Public prosecutors in fact, are really Ministers of Justice whose job is none other than assisting the courts in the administration of justice. They are not representatives of any party. Their job is to assist the court by placing all relevant facts and evidence of the case before it. However, the police view him as their advocate to get conviction for the accused, while the victim looks at the prosecutor as champion of their cause. On the other hand, the accused thinks that the prosecutor shall not withhold any legitimate benefit that the accused is entitled to(**Medichetty Ramakistiah vs. State of Andhra Pradesh, AIR, 1959 p. 659**).It was observed by his lordship that "prosecutor should be scrupulously fair to the accused and should not strive for conviction in all these cases." It is often said that a prosecutor should not be a persecutor. Competency and efficiency of a prosecutor is one of the key components of successful prosecution system. Thus a prosecutor has to play conflicting roles but must be able to strike a balance among separate roles he has to perform.

Poor investigation of cases, delay in submission of investigation reports and lack of public cooperation are some of the ailments of the criminal prosecution system. Lack of coordination between police and prosecuting officers, protracted trials, interference of politicians and many other factors are generally shown as contributing to the failure of the prosecution. At the same time frivolous and malicious reports due to grudge, political rivalry, property issues and other.

The apex court observed in **Hitendra Vishnu Thakur vs. State of Maharastra,1994 (4) SCC 602.** *"a public prosecutor is an important officer of the state government and is appointed by the state under the*

Cr PC. She or he is not a part of the investigating agency. She or he is an independent statutory authority. She or he is neither a post office of investigating agency nor its forwarding agency but is charged with a statutory duty". In the words of The Hon'ble Supreme Court in **Balwant Singh vs. State, AIR 1977 SC 2265** *"the statutory responsibility for the public prosecutor is not negotiable and cannot be bartered in favour of those who may be above him on administrative side. The Criminal Procedure Code (Cr PC) is the only master of the prosecutor and he has to guide himself with reference to Cr P C."*

The prosecutor occupies a unique position in the criminal prosecution system. As the lawyer for the state, the prosecutor is automatically considered an officer of the court and at the same time, he is formally a member of the executive branch of government and is thus independent from the judiciary. Prosecution in criminal cases is taken on behalf of the people (the state vs. the accused) rather than on behalf of an individual victim or complainant. Prosecutor is the person who, in criminal court, presents the case against a person accused of crime. In principle, securing conviction is less important among the prosecutor's responsibilities than administering justice as an officer of the court, a duty that includes protecting the legal rights of the guilty as well as those of innocent accused. The prosecutor has to make a proper balance among conflicting interests. Successful prosecution mostly depends upon effective investigation and efficient policing.

The First step to set the Criminal Law in motion: a report or statement furnishing the information and events prima facie showing a cognizable offence is necessary (refer 154 CrPC). It sets the criminal law in motion and marks the commencement of the investigation which ends up with the formation of opinion under Section 169 or 170 CrPC, as the case may be, and forwarding of a police report under Section 173 CrPC. FIR (First information Report) is the foundation of criminal prosecution.

FIR:

FIR can be used to corroborate or impeach the testimony of the person filing it under sections 145, 157 and 158 of the Indian Evidence Act. It can also be used under clause (1) of section 32 and illustrations (j) and (k) under section 8 of the Indian Evidence Act. It is necessary to fill the FIR document with utmost care and accuracy with all available

details and enter the facts, at once in the GD particularly date & time of dispatch, mentioning details of complainant or informant and substance of the information. FIR has to be dispatched immediately without any delay (AP Police Manual Vol.II.A). There should not be any over writings or white paint or corrections, if there are any mistakes or delay in dispatch of FIR it leads to doubt the case of the prosecution. Proper explanation for the same by the investigating officer has to give during his examination in the court. The Public prosecutor should take care of it and elicit the reasonable reasons for the same. If IO fails to give proper and believable reasons, the case of the prosecution will be doubtful.

In **re M. Subramaniam & Anr. Vs. S. Janaki & Anr, Crl. A. No. 102/2011 decided on 20th March, 2020** Apex court held that *"It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution."* Every IO should follow the procedure as contemplated U/s.154 Cr PC and 157 Cr PC without fail.

Delay in F.I.R. can be understood under 3 situations. Delay by an informant in lodging F.I.R., for the same a reasonable explanation by the informant should be elicited and mentioned in the FIR. During the examination also it is very essential to be elicited. Delay in recording the F.I.R. by the officer in charge of the police station, reasons for the same must be entered in the G.D. and should give proper and reasonable explanation during his examination in the court. Delay in dispatching the F.I.R. to the magistrate.

Section 157 Of Criminal Procedure Code, 1973

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below

such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender; Provided that-

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub- section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub- section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

Delay in sending FIR:

The delay in sending the special report was also the subject of discussion in a recent decision **Sheo Shankar Singh v. State of U.P.** Wherein it was held that before such a contention is countenanced, the accused must show prejudice having been caused by the delayed dispatch of the FIR to the Magistrate.

In **re Jafel Biswas v. State of West Bengal, Crl.A. No. 543 OF 2011, decided on 12-09-2018,** Supreme Court held that *"Time and again, this Court has held that unless serious prejudice was demonstrated to have been suffered as against the accused, mere delay in sending the FIR to the Magistrate by itself will not have any deteriorating (sic) effect on the case of the prosecution. Therefore, the said submission made on behalf of the appellants cannot be sustained. On delayed dispatch of F.I.R., some prejudice has to be proved by accused. The prejudice which was sought to be projected by the appellants is that in F.I.R. names of only 7 accused were mentioned but in the report sent to the Magistrate there were 10 names. For the present case, it is sufficient to notice that name of all the appellants were*

very much in the F.I.R., hence addition of three names in report can in no manner prejudice the appellants."

The obligation is on the IO to communicate the report to the Magistrate. The obligation cast on the IO is an obligation of a public duty. But it has been held by this Court that in the event the report is submitted with delay or due to any lapse, the trial shall not be affected. The delay in submitting the report is always taken as a ground to challenge the veracity of the FIR and the day and time of the lodging of the FIR. In cases where the date and time of the lodging of the FIR is questioned, the report becomes more relevant. But mere delay in sending the report itself cannot lead to a conclusion that the trial is vitiated or the accused is entitled to be acquitted on this ground (**OMBIR SINGH VS STATE OF UTTAR PRADESH, 26 May 2020 ; 2020 0 Supreme(SC) 379**). Mere delay in lodging FIR, even for longer period alone will not be enough to disbelieve prosecution case, until the same is explained **(2013 (1) ALD (Cri) 209 (AP) Korra Govardhan Vs State of A.P).**

Commencement of investigation on telephonic information- later reduced to writing and lodged FIR- the author of the complaint did not offer himself for cross-examination -whole genesis of case cannot be thrown out of board- not fatal to the prosecution case(**2013 (1) ALD (Cri) 283 (SC) Subash Krishnan Vs State of Goa)**. Every omission in FIR is not fatal. Court is required to examine the role that has been attributed to an accused by prosecution. FIR need not be encyclopedia of all facts and circumstances **(2013 (1) ALD (Cri) 283 (SC) Subash Krishnan Vs State of Goa).** Judging the time of death from contents of stomach may not always be the determinative test. If prosecution is able to prove its case beyond reasonable doubt it may not be appropriate for the court to reject the case of prosecution. Delay in lodging FIR cannot be a ground by itself for throwing away the entire prosecution case **(Jitender Kumar Vs. State of Haryana 2012 (3) ALT (Crl) 456 (SC)).**

Apex Court in **re Munna @ Pooran Yadav vs State Of Madhya Pradesh on 4 November, 2008, Crl. A. No. 1025 of 2006** observed that "Much was tried to be suggested about the time of F.I.R. We have seen the original Hindi First Information Report as also the original Hindi evidence of the witness. The witness has specifically stated that the time was the day-break time, sun was about to rise (Din Nikalne me thaa). Considering that the witness was not a literate witness and did not know

how to read the watch, the mention of 7 O'clock as the time of incident in the First Information Report appears to be the handiwork of the person who recorded the First Information Report. Much importance cannot be given to such insignificant factors. Much was tried to be suggested from the evidence of Gariba (P.W.4) that immediately after the incident, he went to the neighbours, like Ambika Prasad (P.W.1) and Sunderlal Vishwakarma (P.W.3) and substantial time was spent and, therefore, he could not have reached along with all those persons to Jujharnagar police station at about 8 O'clock which was six kilometers away. In our considered opinion, such criticism has no merits. Nothing has come in the evidence as to how these persons reached the police station. There is no cross examination to any of these witnesses regarding the time taken from the village to the police station. If that is so, it would not be possible to reject the First Information Report on that flimsy ground alone. Again the distance between the village and the police station which is given in First Information Report is six kilometers approximately. That in our opinion is not such a distance which would not be covered within an hour or so. Giving overall consideration to this aspect, we are of the opinion that the First Information Report was a genuine document and was correctly recorded at the time when it was given and there is nothing unusual in the timings of First Information Report. We, therefore, reject the argument of the defence on that ground."

Merely non-mentioning of number of crimes registered upon FIR or names of prosecution witnesses in inquest panchnama would not lead the Court to believe that the FIR had been ante-timed. **In re Rajesh@ Raju Chandulal Gandhi and anr. Vs. State of Gujarat, AIR 2002 SC 1412**, Apex court held as "on account of some irregularities in mentioning the names or noting the timing during the course of investigation by the prosecution or some discrepancies and contradictions, which are at the micro-level could not be said to be sufficient and efficient to discard and dislodge the otherwise weighty and very important, serious and sound testimony of eye-witness, PW1, Rakesh, one of the close relatives of the deceased, whose presence, we have found, quite natural and whose evidence is, also, found to be quite reliable and dependable and, rightly, accepted by the trial court". After going through the testimony of the prosecution witnesses particularly those of PWs1 and 14, perusing the record including FIR No.49/93, Exhibits 37 and Exhibit 32, we are of the opinion that the plea of ante-timing of the FIR is the figment of imagination of the defence and not a reality. Assuming that the FIR number and the name of the complainant

was known at the time of recording of Panchanama (Exh.P- 37) and it was not mentioned therein, such circumstance would not probabilise the defence version that the FIR had been ante-timed, in view of the cogent, reliable and confidence inspiring testimony of Rakesh (PW1), Satish (PW12) and Umaben (PW10).

As far as FIR is concerned, Honourable Apex Court notices that the FIR need not be an encyclopaedia of all the facts and circumstances on which the prosecution relies. The main purpose of the FIR is to enable a police officer to satisfy himself as to whether commission of cognizable offences is indicated so that further investigation can be undertaken by him. The purpose of the FIR is to set the criminal law in motion and it is not customary to mention every minute detail of the prosecution case in the FIR. FIR is never treated as a substantive piece of evidence and has a limited use, i.e., it can be used for the corroborating or contradicting the maker of it. Law requires FIR to contain basic prosecution case and not minute details. The law developed on the subject is that even if an accused is not named in the FIR he can be held guilty if prosecution leads reliable and satisfactory evidence which proves his participation in crime. Similarly, the witnesses whose names are not mentioned in the FIR but examined during the course of trial can be relied upon for the purpose of basing conviction against the accused. Non-mentioning of motive in the FIR cannot be regarded as omission to state important and material fact. As a principle, it has been ruled by this Court that omission to give details in the FIR as to manner in which weapon was used by accused is not material omission amounting to contradiction. Further, this is a case wherein FIR was filed by a rustic man and, therefore, non-mentioning of motive in the FIR cannot be attached much importance **(State Of U.P vs. Krishna Master & Ors on 3 August, 2010, CRL. A. NO. 1180 OF 2004).**

Conclusion:

From the above discussion it may conclude that Public Prosecutor represents the State. She or he is not a part of the investigating agency. She or he is an independent statutory authority. Public Prosecutors are really Ministers of Justice whose job is none other than assisting the courts in the administration of justice. In principle, securing conviction is less important among the prosecutor's responsibilities than administering justice as an officer of the court. The Criminal Procedure Code (Cr PC) is the only master of the prosecutor and he has to guide himself with reference to Cr P C.

FIR sets the criminal law into motion. It is necessary to fill the FIR document with utmost care and accuracy with all available details and enter the facts, at once in the GD particularly date & time of despatch, mentioning details of complainant or informant and substance of the information. FIR has to be despatched immediately without any delay. There should not be any over writings or white paint or corrections, if there are any mistakes or delay in despatch of FIR it leads to doubt the case of the prosecution. Proper and reasonable explanation for the same is necessary. Mere delay in lodging FIR, even for longer period alone will not be enough to disbelieve prosecution case, until the same is explained. Distance between police station to place of offence, circumstances and surroundings of place of occurrence and informant, time of offence all these conditions will be analysed to decide reasons for delay to conclude its genuineness.

Mere delay in sending the FIR itself cannot lead to a conclusion that the trial is vitiated or the accused is entitled to be acquitted on this ground. The accused must show prejudice having been caused by the delayed dispatch of the FIR to the Magistrate.

*****

SHOULD PERJURY AND HOSTALITY WIN?

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Answer of this question is definitely "No". Bentham said: **"Witnesses are the eyes and ears of justice."** Nowadays problem of perjury and hostility is increasing but Courts and Prosecutors are not spectators and should treat this problem with strict hands.

The Honourable Supreme Court in **Sathya Narayanan vs. State represented by Inspector of Police, (2012) 12 SCC 627** the Honourable Supreme Court has held, on the aspect of considering a part of evidence of a hostile witness, in paragraphs 24and 25 as under :-

> *"24. It is the contention of Mr.Giri, learned senior counsel that in view of the fact that all the prosecution witnesses turned hostile and even the evidence of PWs 1 and2 are not acceptable in toto, the conviction based on certain statements cannot be accepted. In this regard, it is relevant to refer a decision of this Court in Mrinal Das v. State of Tripura [(2011) 9 SCC 479]. In the said decision, the main prosecution witnesses, viz. PWs 2, 9, 10 and 12 were declared as hostile witnesses. While reiterating that corroborated part of evidence of hostile witness regarding commission of offence is admissible, this Court held: (SCC pp.505-506, Para 67) "67.It is settled law that corroborated part of evidence of hostile witness regarding commission of offence is admissible. The fact that the witness was declared hostile at the instance of the Public Prosecutor and he was allowed to cross-examine the witness furnishes no justification for rejecting en bloc the evidence of the witness. However, the court has to be very careful, as prima facie, a witness who makes different statements at different times, has no regard for the truth. His evidence has to be read and considered as a whole with a view to find out whether any weight should be attached to it. The court should bestow to act on the testimony of such a witness, normally; it should look for corroboration with other witnesses. Merely because a witness deviates from his statement made in the FIR, his evidence cannot be held to be totally unreliable. To make it clear that evidence of hostile witness can be relied upon at least up to the extent; he supported the case of the prosecution. The evidence of a person*

does not become effaced from the record merely because he has turned hostile and his deposition must be examined more cautiously to find out as to what extent he has supported the case of the prosecution."

25. We reiterate that merely because the witness was declared as hostile, there is no need to reject his evidence in toto. In other words, the evidence of hostile witness can be relied upon at least to the extent; it supported the case of the prosecution.

In **Ramesh and others vs. State of Haryana, 2017 (1) Mh.L.J. (Cri.) (S.C.) 673,** the Honourable Supreme Court has concluded in paragraphs 35 to 46 as under:-

35. We find that it is becoming a common phenomenon, almost a regular feature, that in criminal cases witnesses turn hostile. There could be various reasons for this behaviour or attitude of the witnesses. It is possible that when the statements of such witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973 by the police during investigation, the Investigating Officer forced them to make such statements and, therefore, they resiled there from while deposing in the Court and justifiably so. However, this is no longer the reason in most of the cases. This trend of witnesses turning hostile is due to various other factors. It may be fear of deposing against the accused/delinquent or political pressure or pressure of other family members or other such sociological factors. It is also possible that witnesses are corrupted with monetary considerations.

36. In some of the judgments in past few years, this Court has commented upon such peculiar behaviour of witnesses turning hostile and we would like to quote from few such judgments. In Krishna Mochi vs. State of Bihar, (2002) 6 SCC 81, this Court observed as under:

"31. It is matter of common experience that in recent times there has been sharp decline of ethical values in public life even in developed countries much less developing one, like ours, where the ratio of decline is higher. Even in ordinary cases, witnesses are not inclined to depose or their evidence is not found to be credible by courts for manifold reasons. One of the reasons may be that they do not have courage to depose against an accused because of threats to their life, more so when the offenders are habitual criminals or high-ups in the Government or close to powers, which

may be political, economic or other powers including muscle power."

37. Likewise, in ***Zahirahabibullah vs. State of Gujarat, (2006) 3 SCC 374,*** *this Court highlighted the problem with following observations:*

"40. Witnesses, as Bentham said, are the eyes and ears of justice. Hence, the importance and primacy of the quality of trial process. If the witness himself is incapacitated from acting as eyes and ears of justice, the trial gets putrefied and paralysed and it no longer can constitute a fair trial. The incapacitation may be due to several factors like the witness being not in a position for reasons beyond control, to speak the truth in the court or due to negligence or ignorance or some corrupt collusion. Time has become ripe to act on account of numerous experiences faced by the court on account of frequent turning of witnesses as hostile, either due to threats, coercion, lures and monetary considerations at the instance of those in power, their henchmen and hirelings, political clouts and patronage and innumerable other corrupt practices ingeniously adopted to smother and stifle truth and realities coming out to surface. Broader public and social interest require that the victims of the crime who are not ordinarily parties to prosecution and the interests of State representing by their presenting agencies do not suffer... there comes the need for protecting the witnesses. Time has come when serious and undiluted thoughts are to be bestowed for protecting witnesses so that ultimate truth presented before the Court and justice triumphs and that the trial is not reduced to mockery.

41. The State has a definite role to play in protecting the witnesses, to start with at least in sensitive cases involving those in power, who has political patronage and could wield muscle and money power, to avert trial getting tainted and derailed and truth becoming a casualty. As a protector of its citizens it has to ensure that during a trial in Court the witness could safely depose truth without any fear of being haunted by those against whom he had deposed. Every State has a constitutional obligation and duty to protect the life and liberty of its citizens. That is the fundamental requirement for observance of the rule of law. There cannot be any deviation from this requirement because of any extraneous factors like, caste, creed, religion, political belief or ideology. Every State is supposed to know these fundamental requirements and this needs no retaliation. We can only say this with regard to the

criticism levelled against the State of Gujarat. Some legislative enactments like the Terrorist and Disruptive Activities (Prevention) Act, 1987 (in short the "TADA Act") have taken note of the reluctance shown by witnesses to depose against people with muscle power, money power or political power which has become the order of the day. If ultimately truth is to be arrived at, the eyes and ears of justice have to be protected so that the interests of justice do not get incapacitated in the sense of making the proceedings before Courts mere mock trials as are usually seen in movies."

Likewise, in **Sakshi vs. Union of India, (2004) 5 SCC 518,** the menace of witnesses turning hostile was again described in the following words:

"32. The mere sight of the accused may induce an element of extreme fear in the mind of the victim or the witnesses or can put them in a state of shock. In such a situation he or she may not be able to give full details of the incident which may result in miscarriage of justice. Therefore, a screen or some such arrangement can be made where the victim or witnesses do not have to undergo the trauma of seeing the body or the face of the accused. Often the questions put in cross-examination are purposely designed to embarrass or confuse the victims of rape and child abuse. The object is that out of the feeling of shame or embarrassment, the victim may not speak out or give details of certain acts committed by the accused. It will, therefore, be better if the questions to be put by the accused in cross-examination are given in writing to the Presiding Officer of the Court, who may put the same to the victim or witnesses in a language which is not embarrassing. There can hardly be any objection to the other suggestion given by the petitioner that whenever a child or victim of rape is required to give testimony, sufficient breaks should be given as and when required. The provisions of sub-section (2) of Section 327, Cr.P.C. should also apply in inquiry or trial of offences under Section 354 and 377, Indian Penal Code."

In **State vs. Sanjeev Nanda, (2012) 8 SCC 450,** the Court felt constrained in reiterating the growing disturbing trend:

"99. Witness turning hostile is a major disturbing factor faced by the criminal courts in India. Reasons are many for the witnesses turning hostile, but of late, we see, especially in high profile cases, there is a regularity in the witnesses turning hostile, either due to

monetary consideration or by other tempting offers which undermine the entire criminal justice system and people carry the impression that the mighty and powerful can always get away from the clutches of law thereby, eroding people's faith in the system.

This court in **State of U.P. vs. Ramesh Mishra and another, AIR 1996 SC 2766,** held that it is equally settled law that the evidence of hostile witness could not be totally rejected, if spoken in favour of the prosecution or the accused, but it can be subjected to closest scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted.

In **K.Anbazhagan vs. Superintendent of Police and another, AIR 2004 SC 524,** this Court held that if a court finds that in the process the credit of the witness has not been completely shaken, he may after reading and considering the evidence of the witness as a whole with due caution, accept, in the light of the evidence on the record that part of his testimony which it finds to be creditworthy and act upon it. This is exactly what was done in the instant case by both the trial court and the High Court and they found the accused guilty.

In **Sidhartha Vashisht @Manu Sharma vs. State (NCT of Delhi), (2010) 6 SCC 1** and in **Zahira Habibullah Shaikh vs. State of Gujarat, AIR 2006 SC 1367,** had highlighted the glaring defects in the system like non- recording of the statements correctly by the police and the retraction of the statements by the prosecution witness due to intimidation, inducement and other methods of manipulation. Courts, however, cannot shut their eyes to the reality. If a witness becomes hostile to subvert the judicial process, the Courts shall not stand as a mute spectator and every effort should be made to bring home the truth. Criminal judicial system cannot be overturned by those gullible witnesses who act under pressure, inducement or intimidation. Further, Section 193 of the IPC imposes punishment for giving false evidence but is seldom invoked."

On the analysis of various cases, following reasons can be discerned which make witnesses retracting their statements before the Court and turning hostile:

"(i) Threat/intimidation.
(ii) Inducement by various means.
(iii) Use of muscle and money power by the accused.

(iv) Use of Stock Witnesses.
(v) Protracted Trials.
(vi) Hassles faced by the witnesses during investigation and trial.
(vii) Non-existence of any clear-cut legislation to check hostility of witness."

Threat and intimidation has been one of the major causes for the hostility of witnesses. Bentham said: "witnesses are the eyes and ears of justice". When the witnesses are not able to depose correctly in the court of law, it results in low rate of conviction and many times even hardened criminals escape the conviction. It shakes public confidence in the criminal justice delivery system.

It is for this reason there has been a lot of discussion on witness protection and from various quarters demand is made for the State to play a definite role in coming out with witness protection programme, at least in sensitive cases involving those in power, who have political patronage and could wield muscle and money power, to avert trial getting tainted and derailed and truth becoming a casualty. A stern and emphatic message to this effect was given in Zahira Habibullah's case as well.

Justice Malimath Committee Report on Reforms of Criminal Justice

Justifying the measures to be taken for witness protection to enable the witnesses to depose truthfully and without fear, Justice Malimath Committee Report on Reforms of Criminal Justice System, 2003 has remarked as under:

> *"11.3 Another major problem is about safety of witnesses and their family members who face danger at different stages. They are often threatened and the seriousness of the threat depends upon the type of the case and the background of the accused and his family. Many times crucial witnesses are threatened or injured prior to their testifying in the court. If the witness is still not amenable he may even be murdered. In such situations the witness will not come forward to give evidence unless he is assured of protection or is guaranteed anonymity of some form of physical disguise...Time has come for a comprehensive law being enacted for protection of the witness and members of his family."*

43. Almost too similar effect is the observations of Law Commission of India in its 198th Report [Report on 'witness identity protection and witness protection programmes'], as can be seen from the following discussion therein:

> *"The reason is not far to seek. In the case of victims of terrorism and sexual offences against women and juveniles, we are dealing with a section of society consisting of very vulnerable people, be they victims or witnesses. The victims and witnesses are under fear of or danger to their lives or lives of their relations or to their property. It is obvious that in the case of serious offences under the Indian Penal code, 1860 and other special enactments, some of which we have referred to above, there are bound to be absolutely similar situations for victims and witnesses. While in the case of certain offences under special statutes such fear or danger to victims and witnesses may be more common and pronounced, in the case of victims and witnesses involved or concerned with some serious offences, fear may be no less important. Obviously, if the trial in the case of special offences is to be fair both to the accused as well as to the victims/witnesses, then there is no reason as to why it should not be equally fair in the case of other general offences of serious nature falling under the Indian Penal Code, 1860. It is the fear or danger or rather the likelihood thereof that is common to both cases. That is why several general statutes in other countries provide for victim and witness protection."*

Pratiksha Bakshi : "In Justice is a Secret : Compromise in Rape Trials"

Another significant reason for witnesses turning hostile may be what is described as 'culture of compromise'. Commenting upon such culture in rape trials, Pratiksha Bakshi : "In Justice is a Secret : Compromise in Rape Trials" has highlighted this problem in the following manner:

> *"During the trial, compromise acts as a tool in the hands of defence lawyers and the accused to pressurise complainants and victims to change their testimonies in a courtroom. Let us turn to a recent case from Agra wherein a young Dalit woman was gang-raped and the rapist let off on bail. The accused threatened to rape the victim again if she did not compromise. Nearly a year after she was raped, she committed suicide. While we find that the judgment records that the victim committed suicide following the pressure to compromise, the judgment does not criminalise the pressure to compromise as criminal intimidation of the victim and her family.*

The normalising function of the socio-legal category of compromise converts terror into a bargain in a context where there is no witness protection programme. This often accounts for why prosecution witnesses routinely turn hostile by the time the case comes on trial, if the victim does not lose the will to live.
In other words, I have shown how legality is actually perceived as disruptive of sociality; in this instance, a sociality that is marked by caste based patriarchies, such that compromise is actively perceived, to put it in the words of a woman judge of a district court, as a mechanism for 'restoring social relations in society'."

In this regard, two articles by Daniela Berti delve into a sociological analysis of hostile witnesses, noting how village compromises (and possibly peer pressure) are a reason for witnesses turning hostile. In one of his articles [Daniela Berti : Courts of Law and Legal Practice (pp.6-7)], he writes:

"For reasons that cannot be explained here, even the people who initiate a legal case may change their minds later on and pursue non-official forms of compromise or adjustment. Ethnographic observations of the cases that do make it to the criminal courtroom thus provide insight into the kinds of tensions that arise between local society and the state judicial administration. These tensions are particularly palpable when witnesses deny before the judge what they allegedly said to the police during preliminary investigations. At this very moment they often become hostile. Here I must point out that the problem of what in common law terminology is called "hostile witnesses" is, in fact, general in India and has provoked many a reaction from judges and politicians, as well as countless debates in newspaper editorials. Although this problem assumes particular relevance at high-profile, well-publicized trials, where witnesses may be politically pressured or bribed, it is a recurring everyday situation with which judges and prosecutors of any small district town are routinely faced . In many such cases , the hostile behaviour results from various dynamics that interfere with the trial's outcome - village or family solidarity, the sharing of the same illegal activity for which the accused has been incriminated(as in case of cannabis cultivation), political interests, family pressures, various forms of economic compensation, and so forth. Sometimes the witness becomes "hostile" simply because police records of his or her earlier testimony are plainly wrong. Judges themselves are well aware

that the police do write false statements for the purpose of strengthening their cases. Though well known in judicial milieus, the dynamics just described have not yet been studied as they unfold over the course of a trial. My research suggests, however, that the witness's withdrawal from his or her previous statement is a crucial moment in the trial, one that clearly encapsulates the tensions arising between the evidence given by hostile witness may contain elements of truth.

23. This Court has held in State of U.P. vs. Chetram and others, that

merely because the witnesses have been declared hostile the entire evidence should not be brushed aside.[See SCC p.432, Para 13 : AIR Para 13 at page 1548].

Similar view has been expressed by a **three-judge Bench of this Court in Khujji alias v. State of M.P.. At SCCp.635, Para 6 : AIR p.1857, Para 6** of the report this Court speaking through Ahmadi,J. as His Lordship then was, after referring to various judgments of this Court laid down that just because the witness turned hostile his entire evidence should not be washed out."

In **Veer Singh and others vs. State of Uttar Pradesh, (2014) 2 SCC 455,** the Honourable Supreme Court specifically concluded that, that portion of testimony of such hostile witness in his examination-in-chief, which supports the prosecution case can be taken for consideration. If a part of the testimony of a hostile witness lends credence to the testimony of other witnesses or if such part of the testimony is corroborated by other witnesses, the said testimony can be taken into consideration in support of the case of the prosecution.

90. In Veer Singh (supra),the Honourable Supreme Court has observed in paragraphs 18 and 19 as under :-

18. Hazoor Singh has been examined as PW 5 and in his examination-in-chief he has stated that on the occurrence night he heard the noise of firing coupled with screaming cries from the house of Shisha Singh and Mohar Singh and he went to the house of Jassa Singh and both of them went to the house of Gurdip Singh who accompanied them by taking gun and torch and when they went near the house of Shisha Singh they saw several men and he could not identify any of them and Harbans Kaur met them there and told them that Kartar Singh and other assailants have attacked them. At this point of time he was declared hostile by the

prosecution and in the cross-examination he stated that Gurdip Singh had lodged the complaint about the occurrence in the Police Station and when Harbans Kaur narrated the occurrence, he was also present at the place and on the request of Harbans Kaur he went to the tube well and found Shisha Singh and Mohar Singh lying dead and he informed Harbans Kaur about the same and she became unconscious.

19. It is settled law that the testimony of the hostile witness need not be discarded in toto and that portion of testimony in the chief-examination which supports the prosecution case can be taken for consideration. In the present case, in the examination-in-chief itself PW 5 Hazoor Singh has admitted about his going to -the place of occurrence along with Gurdip Singh and Jaswant Singh on hearing the noise of firing and cries emanating from the house of Shisha Singh and Mohar Singh

and the narration of the occurrence by HarbansKaur to them which led to lodging of the complaint. The above testimony of PW 5 lends credence to the testimony of PW 4."(Emphasis supplied)

In the matter of the **State through PS Lodhi Colony, New Delhi vs. Sanjeev Nanda, (2012) 8 SCC 450,** dealing with hostile witnesses, the Honourable Supreme Court has concluded in paragraphs 98to 101 as under :-

"98. We notice, in the instant case, the key prosecution witnesses PW1 - Harishankar,PW2 - Manoj Malik, PW3 - Sunil Kulkarni turned hostile. Even though the abovementioned witnesses turned hostile and Sunil Kulkarni was later examined as court witness, when we read their evidence with the evidence of others as disclosed and expert evidence, the guilt of the accused had been clearly established. In R.K. Anand, the unholy alliance of Sunil Kulkarni with the defence counsel had been adversely commented upon and this Court also noticed that the damage they had tried to cause was far more serious than any other prosecution witness.

99. Witness turning hostile is a major disturbing factor faced by the criminal courts in India. Reasons are many for the witnesses turning hostile, but of late, we see, especially in high profile cases, there is a regularity in the witnesses turning hostile, either due to monetary consideration or by other tempting offers which undermine the entire criminal justice system and people carry the impression that the mighty and powerful can always get away from the clutches of law thereby, eroding people's faith in the system.

This court in **State of U.P. v. Ramesh Prasad Misra, AIR 1996 SC 2766,** held that it is equally settled law that the evidence of hostile witness could not be totally rejected, if spoken in favour of the prosecution or the accused, but it can be subjected to closest scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted.

In **K.Anbazhagan v. Superintendent of Police, [AIR 2004 SC 524],**this Court held that if a court finds that in the process the credit of the witness has not been completely shaken, he may after reading and considering the evidence of the witness as a whole with due caution, accept, in the light of the evidence on the record that part of his testimony which it finds to be creditworthy and act upon it. This is exactly what was done in the instant case by both the trial court and the High Court and they found the accused guilty.
We cannot, however, close our eyes to the disturbing fact in the instant case where even the injured witness, who was present on the spot, turned hostile. This Court in Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1] and in Zahira Habibullah Sheikh v. State of Gujarat, [AIR 2006 SC 1367] had highlighted the glaring defects in the system like non-recording of the statements correctly by the police and the retraction of the statements by the prosecution witness due to intimidation, inducement and other methods of manipulation. Courts, however, cannot shut their eyes to the reality. If a witness becomes hostile to subvert the judicial process, the Courts shall not stand as a mute spectator and every effort should be made to bring home the truth. Criminal judicial system cannot be overturned by those gullible witnesses who act under pressure, inducement or intimidation. Further, Section 193 of the IPC imposes punishment for giving false evidence but is seldom invoked."
(Emphasis supplied)

In dealing with the cases in which the panch witnesses are found to be frequently turning hostile, the Honourable Supreme Court has recently held in **Mallikarjun and others vs. State of Karnataka, (2019) 8 SCC 359,** in paragraph 23 as under :-

> *"23. There is no merit in the contention that merely because the panch witnesses turned hostile, the recovery of the weapon would stand vitiated. It is fairly well settled that the evidence of the*

Investigating Officer can be relied upon to prove the recovery even when the panch witnesses turned hostile.

In **Modan Singh v. State of Rajasthan,(1978) 4 SCC 435),** it was observed (at SCC p. 438, Para 9) that where the evidence of the investigating officer who recovered the material objects is convincing, the evidence as to recovery need not be rejected on the ground that seizure witnesses did not support the prosecution version. Similar view was expressed in **Mohd. Aslam v. State of Maharashtra, (2001) 9 SCC 362.**

In **Anter Singh v. State of Rajasthan, (2004) 10 SCC 657,** it was further held that:(SCC p. 661, Para 10) *"10. ... even if panch witnesses turn hostile, which happens very often in criminal cases, the evidence of the person who effected the recovery would not stand vitiated."*

In **Ramji DudaMakwana vs. The State of Maharashtra, 1994 Cri.L.J. 1987** (Bombay High Court), the learned Division Bench of this Court held in paragraphs 10 and 28 as under :-

"10. We do not need to speculate as to how and under what circumstances this unfortunate situation of panchas turning hostile has been arising in not only this but in several other cases because we are not prepared to accept the contention that the Police have been guilty of wholesale fabrication of documents and that the pancha when he has turned hostile and given evidence to the effect that he was asked to sign blank documents is telling the truth. It is quite obvious that something has happened and it is not difficult for us to conclude what this is, because of the simple inference that there can be only one beneficiary from the pancha turning hostile or disappearing. There will have to be some serious corrective steps taken in cases of this type and as a starter, it will be necessary to take appropriate action as provided by law against PWs 2 and 3 who have obviously given false evidence on oath. Unless the Court adopts such drastic and corrective steps the unfortunate drama that has-been enacted in this case will continue unabated. The Registrar of this Court shall accordingly issue notice to the two Panchas, returnable after 15 days, to show-cause as to why they should not be prosecuted for perjury and giving false evidence on oath. The trial Courts shall not hesitate to take action along similar lines so that these corrupt practices are

stopped and not permitted to make a mockery of serious judicial proceedings."

"28. We had occasion in the earlier part of this judgment to observe that this Court cannot close its eyes or continue to be a mere spectator in a situation where in case after case the panchas are either tampered with, disappear or turn hostile. In such a situation, to our mind, unless stringent action is taken, the position would go from bad to worse. The Legislature has made specific provisions for rigorous punishment in order to curb the social menace of drug possession and drug trafficking and it is the equal duty of the Courts to enforce with a very strong hand the provisions of law. Under these circumstances, it would be very essential that in those of the cases where panchas are found to retract from their statements and if they are bold enough to give false evidence on oath, show cause notice be served forthwith on them to show cause as to why they should not be prosecuted for perjury. In the present case, PWs 2 and 4 have been bold enough to come forward and give false evidence on oath. If they have been influenced or if they have done so in order to oblige the defence, they will have to face the consequences of the same. We, therefore, direct that the Trial Courts shall in all such cases hereinafter where the material so warrants take appropriate action according to law including a prosecution for perjury against persons indulging in conduct of this type. There can be little doubt that wherever this happens it is at the instance of the accused, and the action shall therefore include the accused and such other persons who may come to the notice of the Court for having indulged in or abetted such a corrupt practice."

We direct the learned Registrar (Judicial) of this Court, to circulate this judgment to all the learned Principal District Judges to apprise all learned Judges about the law laid down in Sanjeev Nanda (supra) and Ramji Duda Makwana (supra) while dealing with hostile witnesses. (Bombay High Court -Krishna S/O. Sitaram Pawar vs The State Of Maharashtra, The High Court Of Judicature At Bombay Bench At Aurangabad Criminal Confirmation Case No.02 OF 2020,on 22 December, 2020 ,Bench: R.V.Ghuge, B. U. Debadwar)

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SOLITARY WITNESS VS STERLING QUALITY

Sandhya Chakravarthy.
Addl. PP, Andhra Pradesh

According to Bentham, “witnesses are the eyes and ears of justice “In a criminal case the prosecution process is set in motion on the basis of evidence to project their case witness are required who may be direct or circumstantial.

Who is witness

A witness is one who sees an incident taking place like the commission of a crime or heard about the taking place of a crime or has some relevant details concerning the crime or incident.

The fundamental principle of criminal jurisprudence that an accused is presumed to be innocent and therefore the burden lies on the prosecution to prove the guilt beyond reasonable doubt , so in that case the testimony of witness credibility alone would be the quantum to deliver justice and their is Latin maxim if a murder happens in a brothel only strumpets can be witness

Evidence act chapter ix section 118 to 134 deals with witness it desks with competency compel liability privileges and quantum

There is principle that evidence has to be weighed and not counted

Evidence of solitary witness and Sterling quality

“Whenever man commits crime heaven finds a witness,” says Edward G. Bulwer. They have a pivotal role in bringing the offender to justice. Their testimony can be relied upon and conviction can be founded thereon if they appear to be unbiased and their testimony is clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime. **Chattar Singh v. State of Haryana, AIR 2008.** Section 134 evidence act says that the court can rely on single witness testimony provided he is who’ll reliable **Amar singh vs state 17.10. 2020**

Sterling witness

The Division Bench in **Rai Sandeep @ Deepu vs. State of NCT of Delhi,** observed a sterling witness be a witness of very high quality and calibre whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation.

Pardeep @ Sonu vs State (Govt. Of Nct of Delhi) on 25 March, 2011
To be a sterling witness, the testimony given by the witness should not be having an ounce of doubt and completely trustworthy

The Law of Evidence does not require any particular number of witnesses to be examined in proof of a given fact. However, faced with the testimony of a single witness, the court may classify the oral testimony of a single witness, the court may classify the oral testimony into three categories, namely (i) wholly reliable, (ii) wholly unreliable, and (iii) neither wholly reliable nor wholly unreliable. In the first two categories there may be no difficulty in accepting or discarding the testimony of the single witness. The difficulty arises in the third category of cases. The court as to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial, before acting upon testimony of a single witness; **Lallu Manjhi v. State of Jharkhand, AIR 2003 SC 854.**

In **Pawan Kumar Mahto @ Pawan Kumar ... vs The State Of Bihar on 23 March, 2021,** “13. Now the question is whether prosecutrix of this case is a "sterling witness". In the statement recorded under Section 164 Cr. P.C. (Ext.1), the victim stated that on 5 th of January in the morning, she got a mobile call. She received the call and the coller abused her, then she dropped the call. On the same day at 6.00 P.M., she had gone to attend the natural call. Two boys were coming on a motorcycle, the boy, who was sitting on the rear, took the victim in clutches, put his hands on her mouth and got her seated on the motorcycle. They took her to the college nearby and both, the appellant and co-accused-Sanjay Singh, ravished her. Thereafter, the two took her to Jai Nagar Railway Station and all boarded on a train. The appellant and co-accused Sanjay asked her to sit while they would return after taking betel but they fled away and the train moved on. When the train reached

at Khathauli Railway Station, a 3rd boy Sunil Das asked her to accompany him and Sunil assured her that he would marry with her. The name of Sunil was disclosed by the female passenger sitting there. Sunil took her to Gujarat at Gandhi Dham. Sunil took her to the house of a friend and asked her to wait till Sunil searches out a room. When the "Seth Jee" got information that Sunil had eloped the girl, he telephoned to the uncle of the victim at Banglore, then uncle came and took the victim to Banglore and from there they reached to Patna.

The prosecutrix examined as P.W.3 stated that on 05.01.2016 at about 6.00 P.M., she had gone to attend the call of nature, co-accused Sanjay Singh and the appellant were coming on a motorcycle from the eastern side, co-accused Sanjay Singh shut the mouth of the prosecutrix and forcefully got her seated on the motorcycle. They took her to the college near Belhi Pool and both ravished her. Thereafter, they took her to the Jai Nagar Railway Station and boarded on a train. The accused persons told her that they would return after eating betel but they did not return and the train left the Station. When the train reached at Khathauli Station, Sunil Das started insisting her for marriage and took her to Gujarat. Sunil Das kept her in the house of one Ram Babu and went to search for a room. When the "Seth Jee" of the Company got information that she was made to elope by Sunil Das, he telephoned to the father of the victim and the father reported the matter to the uncle of the victim at Banglore and then the victim was brought to the village. She stated that she had made statement before the Magistrate under Section 164 Cr.P.C. On her identification, the same was made as Ext.1. During cross examination, she admitted that Sunil Das took her from Madhubani to Delhi and thereafter to Gujarat. She did not make any alarm while travelling along with Sunil Das.

14. The Investigating Officer P.W.11 stated that the prosecutrix was recovered from nearby the Gate of Madhubani police station on 22.01.2016. Then her statement under Section 164 Cr.P.C. was recorded on 23.01.2016 and on the same day her medical examination was done.

15. In the case on hand, the conduct of the victim, in accompanying, the accused persons even after commission of rape by them, to the Jai

Nagar Railway Station and boarding train thereat along with the accused, relying on the statement of the accused that they would return after taking betel, leaves impression that she was a willing party. Moreover, on the train, she met with an unknown person and accompanied him to Gujarat on assurance of that person to marry with her knowing well that someone had just cheated her, creates serious doubt that the victim is not disclosing some more real facts about the case. The conduct of the father of the victim, who got knowledge about kidnapping of his daughter on 05.01.2016 itself as per P.W.2, but reporting the matter to the police only on 09.01.2016 even after searching her to different places including to the house of the relatives residing in different villages, does not inspire confidence that the family members were unaware of the actual affairs and if they were really unaware, they levelled allegation against the appellant in an afterthought and pre-planned manner. It is the prosecution case that the victim went to Banglore along with her uncle and then came to Patna by flight. From there it is missing whether uncle took her to the police station or to her village or to which place rather she alone was found at the Gate of Madhubani Police Station on 22.01.2016.

Nasiruddin Ali vs The State Of Assam And Anr on 31 August 2020,
In her evidence the prosecutrix as PW.1 has stated that on the day of occurrence, at about 9:00/9:30 P.M. while she was returning from her duty in IOC Medical Ward, the accused person suddenly restrained her on the way and asking her some irrelevant questions, dragged her away to the bath room of nearby swimming pool by gagging her mouth and committed rape upon her. There was nobody to hear her hue and cry. After commission of the offence, the accused fled away and she stayed there till early morning weeping all through. Thereafter she went to the house of nearby person and reported to matter. She also asked one Sankar Chetry/ the chowkidar about the accused person who showed her the house of accused. Then the victim went to the house of accused and reported the matter to his wife, who scolded her and drove her away. The prosecutrix also reported the matter to the authority of the swimming pool and the club and they asked her to report the matter to the police and accordingly she filed the FIR on the next day, which was written by a police official in the police station. Vide Ext.1 is the FIR and

Ext.2 is her statement under Section 164 CrPC. She has specifically denied that on the day of incident, she came with one Sanjay Upadhyay, office peon of the IOC Club and they were stopped by one Basu Rai/security personnel, IOC and then Sanjay fled away. Rather she stated that she do not know any person namely Sanjay Upadhyay. Although she implicated the accused al-through but in her statement under Section 164 CrPC, she stated that for the sake of the family of the accused, she do not want to proceed with the case. She has also specifically denied that as no rape was committed upon her, she made such statement.

Conclusion

No doubt the justice delivered based on the prosecution who led the evidence through the testimony of witnesses and quantity of witnesses is not a criteria to prove the guilt the witnesses must qualify the sterling test which is constitutionally valid under article 14

And there is standard saying that 1000 culprits can be scot free but one innocent person should not be punished

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STANDARD OPERATING PROCEDURE/PROTOCOL FOR DEFAULT BAIL U/S 167(2) Cr.P.C

1	Procedural requisites	(1) Moving of an Application before the Presiding Officer[1] (2) Putting time and date over the application (3) Calling from Ahlmad the Challan status with regard to time of receipt of challan recorded by Presiding Officer[2] (4) Deciding the Application forthwith[3]
2	Legal requisites	(1) Application can be written or oral [4] (2) Period of investigation (60/90 days) must have lapsed (3) Report u/s 173 Cr.P.C. not submitted till that time (4) Indefeasible right has accrued (5) Accused ready and prepared to furnish Bail
3	What else is to be examined	The only requirement is [5] (1) accused is in jail for more than 60 or 90 days (2) investigation is not completed (3) no charge sheet is filed by 60th or 90th day (4) the accused applies for default bail (5) accused is prepared to furnish bail No additional requirement of taking of cognizance is required[6]
4	Court is under an obligation to inform the accused of his right	The court is to inform the accused of his right of being released on bail and enable him to make an application in that behalf[7]
5	Initiation of right and its continuance	(1) Right availed once an application has been moved notwithstanding- pendency of bail application - Subsequent filling of charge sheet - Subsequent moving of an application for seeking extension of time (2) If accused does not apply and charge sheet is filed, right to default bail gets extinguished (3) Failure of the accused to furnish bail or to comply with the

		terms and conditions of the bail will not make his continued detention invalid[8]
5A	When Section 167(2)(a)(i) Cr.P.C applies	(1) Section 167(2)(a)(i) of the Code is applicable only in cases where the accused is charged with (i) offences punishable with death and any lower sentence; (ii) offences punishable with life imprisonment and any lower sentence and (iii) offences punishable with minimum sentence of 10 years; (2) In all cases where the minimum sentence is less than 10 years but the maximum sentence is not death or life imprisonment then Section 167(2)(a)(ii) will apply and the accused will be entitled to grant of „default bail" after 60 days in case charge-sheet is not filed[9].
5B	Expression "not less than ten years" means 10 years or more	Expression "not less than ten years" obviously means 10 years or more and would cover only those offences for which punishment could be imprisonment for a clear period of 10 years or more[10].
6	Day of remand is to be included or excluded?	Date of remand is to be excluded[11]
		Date of remand must be included[12]
		(1) A judicial conundrum has arisen which is required to be resolved for guidance of the Court (2) Reference of the issue to a larger Bench (3) Unless the issue is appropriately determined, the courts across the country may take decision on the issue depending upon which judgment is brought to the Court's notice or on the Courts own understanding of the law, covering default bail under Section 167 (2)(a) II of CrPC[13].
7	Extension of period of investigation	(1) The provisions of the Code do not empower anyone to extend the period within which the investigation must be completed nor does it admit of any such eventuality. (2) There are enactments such as the Terrorist and Disruptive Activities (Prevention) Act, 1985 and Maharashtra Control of Organised Crime Act, 1999 which clearly contemplate extension of period and to that extent those enactments have modified the provisions of the Code including Section 167. (3) In the absence of any such similar provision empowering the

		Court to extend the period, no Court could either directly or indirectly extend such period[14].
8	What is to be decided first- Extension of period of investigation or Bail?	(1) When prayer is made for extension of time, it is the duty of the Court to consider the report/application for extension of period for filing of the chargesheet in the firstinstance. (2) only if it was to be rejected could the prayer for grant of statutory bail be taken forward[15].
9	Filing of complete Report	Filing of police report containing the particulars as mentioned under Section 173 (2) amounted to completion of filing of the report[16]
10	Is prior sanction required?	No. Sanction is an enabling provision to prosecute, which is totally separate from the concept of investigation concluded by the filing of the charge-sheet. Default Bail is dependent on non conclusion of investigation within prescribed time.[17]
11	Whether any condition of depositing money can beimposed?	No other condition of deposit of any amount involved can be imposed[18]
12	Can application can be kept pending for awaiting the filing of the charge sheet?	Statutory right should not be defeated by keeping the applications pending till the charge-sheet is filed[19]
13	Cancellation of bail u/s 167(2) CrPC	Section 167 Cr.P.C does not empower cancellation of bail, the power to cancel the bail can only be traced to section 437(5) or 439 (2) of the Code[20].
14	Time for disposal of application under Section 167(2) Cr.P.C	Application under Section 167(2) Cr.P.C to be decided on the same day [21]

[1] *Hitendra Vishnu Thakur & Ors. v. State of Maharashtra & Ors, (1994) 4 SCC 602*

[2] *Nirmal Singh @ Nimma versus State of Punjab CRR No. 4246 of 2017. DOD 03/08/2018*

[3] *Union of India v. Nirala Yadav (2014) 9 SCC 457*

[4] *Rakesh Kumar Paul v. State of Assam, (2017) 15 SCC 67*

[5] *Saravanan Versus State represented by the Inspector of Police, (2020) 9 SCC 101*

[6] *Serious Fraud Investigation Office Versus Rahul Modi and Others, 2022 SCC OnLine SC 153*

[7] *Bikramjit Singh vs State of Punjab, (2020) 10 SCC 616*

[8] *M. Ravindran v. Intelligence Officer, Directorate of Revenue Intelligence, (2021) 2 SCC 485*

[9] *Rakesh Kumar Paul v. State of Assam, (2017) 15 SCC 67*

[10] *Rajeev Chaudhary v. State (NCT) of Delhi, (2001) 5 SCC 34*

[11] *State of M.P. v. Rustam, 1995 Supp (3) SCC 221 : 1995 SCC (Cri) 830; Ravi Prakash Singh v. State of Bihar, (2015) 8 SCC 340 ; M. Ravindran v. Directorate of Revenue Intelligence, (2021) 2 SCC 485*

[12] *Chaganti Satyanarayana v. State of A.P., (1986) 3 SCC 141 ; CBI v. Anupam J. Kulkarni, (1992) 3 SCC 141; State v. Mohd. Ashraft Bhat, (1996) 1 SCC 432; State of Maharashtra v. Bharati Chandmal Varma, (2002) 2 SCC 121; Pragyna Singh Thakur v. State of Maharashtra, (2011) 10 SCC 445*

[13] *Enforcement Directorate, Government of India Versus Kapil Wadhawan and Another, 2021 SCC OnLine SC 3136*

[14] *Achpal @ Ramswaroop & Another Versus State of Rajasthan, (2019) 14 SCC 599*

[15] Rambeer Shokeen vs State of NCT of Delhi, (2018) 4 SCC 405

[16] *Narendra Kumar Amin vs Cbi & Anr, (2015) 3 SCC 417*

[17] *Suresh Kumar Bhikamchand Jain v. State of Maharashtra, (2013) 3 SCC 77*

[18] *Saravanan Versus State represented by the Inspector of Police, (2020) 9 SCC 101*

[19] *Union of India v. Nirala Yadav, (2014) 9 SCC 457; Uday Mohanlal Acharya v. State of Maharashtra, (2001) 5 SCC 453; Mohamed Iqbal Madar Sheikh & Ors. v. State of Maharashtra, (1996) 1 SCC 722*

[20] *Aslam Babalal Desai v. State of Maharashtra (1992) 4 SCC 272*

[21] *Union of India v. Nirala Yadav, (2014) 9 SCC 457*

STANDARD OPERATING PROCEDURE/PROTOCOL FOR BAIL UNDER SECTION 389 CR.P.C.

Principles:	i.	In case of post conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise.
	ii.	The principle of "bail being the rule and jail an exception", is not attracted, once there is a conviction upon trial.
	iii.	The court at the time of considering an application for suspension for sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors.
	iv.	There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in section 389(1) Cr.P.C.[1]
Scope: Includes stay of conviction order	i.	Appellate court has the power not only to suspend execution of sentence u/s 389 (1) Cr.P.C. but also to stay order of conviction appealed against.
	ii.	Stay of order of conviction results in rendering the order temporarily non-operative[2].
	iii.	Exceptional power of Appellate Court to suspend conviction in appropriate cases must be exercised only when attention of court is drawn to consequences which may ensue if conviction is not stayed[3]
	iv.	The authority vested in the Appellate Court to stay a conviction ensures that a conviction on untenable or frivolous grounds does not operate to cause serious prejudice[4].
	v.	Applicant must bring to notice of court all adverse circumstances of disqualifications likely to be suffered by him in case conviction is not suspended.
	vi.	If damage likely to be caused to applicant cannot be undone for non –suspension of conviction then only such power may be exercised.
	vii.	Pleadings of applicant must be scrutinised judiciously and pros and cons have to be analysed and then conviction may be suspended, if required, after reasons are recorded in writing.
	viii.	If court deems it necessary it may even impose

	conditions while suspending conviction to protect interest of other parties.[5]
Cancellation of bail by Appellate Court	In cases where a convict person is released on bail, it shall be open to the Public Prosecutor to file an application for cancellation of the bail[6].
Effect of non-compliance of conditional order of suspension of sentence	When suspension of sentence by the court is granted on a condition, non-compliance with that condition has adverse effect on continuance of suspension of sentence. Court which has suspended the sentence on a condition after noticing non-compliance with that condition can very well hold that suspension of sentence stands vacated due to non – compliance[7].

1. *Preet Pal Singh vs. State of Uttar Pradesh and Anr., (2020) 8 SCC 645*
2. *Lalsai Khunte vs. Nirmal Sinha and Ors., (2007) 9 SCC 330*
3. *Life Insurance Corporation vs. Mukesh Poonam Chand Shah, (2020) 12 SCC 144*
4. *Lok Prahari through its General Secretary, S.N. Shukla vs. Election Commission of India and Ors., (2018) 18 SCC 114*
5. *State of Maharashtra through CBI Anti Corruption Branch Mumbai vs. Balakrishana Dattatrya Kumbhar, (2012) 12 SCC 384*
6. Second Proviso to Section 389 (1) Cr.P.C.
7. Surinder Singh Deswal alias Colonel S.S. Deswal and Ors. vs. Virender Gandhi and Anr., (2020) 2 SCC 514

STANDARD OPERATING PROCEDURE/PROTOCOL FOR ANTICIPATORY BAIL

1	Filing Requisites /Checklist	1. Whether it is 1st bail application of the applicant 2. If not, which Court decided it and when ? 3. Whether any bail application pending before Hon"ble High Court ? 4. Whether any bail application of any co accused in the same FIR has been decided or is pending ? 5. Whether accused ever declared as PO in present FIR ?
2	Primary considerations in grant of anticipatory bail	1. The nature and gravity of the accusation and the exact role of the accused; 2. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence; 3. The possibility of the applicant to flee from justice; 4. The possibility of the accused"s likelihood to repeat similar or the other offences; 5. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; 6. Impact of grant of anticipatory bail particularly in case of large magnitude affecting a very large number of people; 7. The cases in which accused is implicated with the help of Sections 34 and 149 IPC, the Court should consider with even greater care and caution; 8. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused; 9. The Court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant

		10. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail[1].
3	Scope of anticipatory bail	Mere „fear" is not „belief" to grant anticipatory bail. Belief must be based on the fact that he may be arrested in non bailable offence. A blanket order should not be generally passed[2]. This power should be sparingly used in exceptional cases depending upon nature of offence, manner in which committed and the loss/injuries caused to the victim[3]. A Criminal Court exercising jurisdiction to grant bail/anticipatory bail is not expected to act as a recovery agent to realise the dues of the complainant and that too without any trial[4].
4	Reasons mandatory	While granting bail the Court shall mandatorily record the reasons therefor. An order bereft of any cogent reason would be unsustainable.[5]
5	Does anticipatory bail come to an end on filing of charge sheet?	No, mere subsequent event of filing of a chargesheet cannot compel the accused to surrender and seek regular bail. The life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the Court or when charges are framed, but can continue till the end of the trial. However, the Court is open to limit the tenure of anticipatory bail if any special or peculiar feature necessitates the Court to do so[6].
6	Second or subsequent application for anticipatory bail	Second or subsequent bail application is maintainable only if there is a change in the fact, situation or in the law[7]. The specious (superficial) reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.[8]
7	FIR not pre-requisite	It is not essential that an application for anticipatory bail should be moved only after an

		FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest[9].
8	Restrictive conditions, while granting anticipatory bail	Such conditions should not be imposed invariably but the conditions apart from s.438(2) and 437(3) may be imposed if the case warrants so depending upon materials produced by the State or the Investigating Agency[10].
9	Interim anticipatory bail can be granted to the accused	The Trial Court is not precluded from granting interim bail taking into consideration the conduct to the accused during the investigation which has not warranted arrest[11]. It may be advisable for the Court, approached with an application u/s 438 Cr.P.C, depending on the seriousness of the threat of arrest to issue notice to the Public Prosecutor and obtain facts, even by granting limited interim anticipatory bail[12].
10	Anticipatory bail, when regular bail has been cancelled	The accused who was earlier granted regular bail which was cancelled, cannot be granted anticipatory bail as he is deemed to be in constructive custody of law[13]. However, if the accused is unable to appear before the Trial Court on account of genuine reasons, the accused can surrender before the Trial Court and Trial Court would take a lenient view and decided the regular bail expeditiously[14].
11	Anticipatory bail to proclaimed offender/absconder	A person declared as an absconder / proclaimed offender in terms of section 82 Cr.P.C. is not entitled to anticipatory bail[15]. The Court shall not come to the rescue of the accused, who is not cooperating with the investigating agency and absconding and against whom proclamation u/s 82 Cr.P.C. has been issued.[16]
12	Does grant of anticipatory bail restrict the rights or duties of the I.O to investigate?	No, an order of interim bail / anticipatory bail does not in any manner limit or restrict the rights or duties of IO to investigate into the charges against a person granted pre-arrest bail[17].

13	Accused need not surrender and seek regular bail in the event of recovery of an article or discovery of a fact u/s 27 of Evidence Act	The observations in Sibbia"s case regarding "limited custody" or "deemed custody" to facilitate the requirements of the investigating authority, would be sufficient for the purpose of fulfilling the provisions of section 27, in the event of recovery of any article or discovery of a fact which is relatable to a statement made during such event. In such event, there is no question or necessity of asking the accused to separately surrender and seek regular bail[18].
14	Anticipatory bail to the accused under SC and ST Act	It is maintainable and can be granted to the accused if the complainant does not make out a prima facie case for applicability of the provisions of the said Act[19].
15	Only Special Court to entertain the bail application under the POCSO Act	Where the police had already added the offence under the POCSO Act, only the Special Court under the POCSO Act could have entertained the bail application under the said Act[20].
16	Violation of terms of anticipatory bail	It is open to the police or to the investigating agency to move to the Court concerned which grants anticipatory bail for direction u/s 438 (2) Cr.P.C. to arrest the accused, in the event of violation of any term[21].
17	Person on anticipatory bail can be re-arrested on addition of cognizable or non cognizable offences	The Court in exercise of powers u/s 437 (5) and 439 (2) Cr.P.C. can direct the accused, who has already been granted bail, to be taken into custody and to commit him to custody on commission of graver offences and there is no need to cancel earlier bail[22].

[1] *Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1, reiterated in Dr. Rajesh Pratap Giri vs. St. of U.P. and Anr, Crl. Appeal No. 272-273 of 2021 arising out of SLP (Crl.) Nos. 693-694 of 2020*

[2] *Prem Shanker Prasad vs. St. of Bihar and Anr. 2021 AIR (SC) 5125*

[3] *Gurbaksh Singh Sibbia etc. vs. St. of Pb. AIR 1980 SC 1632 ; Prahlad Singh Bhati vs. NCT Delhi AIR 2001 SC 1444; Sumedh Singh Saini vs. St. of Pb. CRM-M 26304 of 2020 D.O. 08.09.2020*

[4] *Dilip Singh vs. St. of M.P. and Anr. (2021) 2 SCC 779*

[5] *State of Maharashtra Vs. Sitaram Popat Vita, AIR 2004 SC 4258: (2004) 7SCC 521:2004 CrLJ 4189; Chaman Lal Vs. State of U.P. 2004 CrLJ 4243*

[6] *Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1, reiterated in Dr. Rajesh Pratap Giri vs. St. of U.P. and Anr, Crl. Appeal No. 272-273 of 2021 arising out of SLP (Crl.) Nos. 693-694 of 2020*

[7] *Ganesh Raj vs. St. of Rajasthan and Ors. 2005 SCC Online RAJ 319*

[8] *G.R. Ananda Babu vs. St. of T.N. and Anr. 2021 SCC Online SC 176*

[9] *Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1*

[10] *Supra 9*

[11] *Satender Kumar Antil vs. CBI (2021) 10 SCC 773*

[12] *Supra 9*

[13] *Manish Jain vs. Haryana St. Pollution Board 2020 SCC Online SC 1101*

[14] *Pawan Kumar vs. St. of Haryana and Anr. CRM-M-39172-2021 (O&M) D.O. 21.09.2021*

[15] *Lavesh vs. St. (NCT of Delhi) 2012 (8) SCC 730. Reiterated in Adri Dharan Das v. St. of W.B. (2005) 4 SCC 303, Prem Shanker Prasad vs. St. of Bihar and Anr. 2021 AIR (SC) 5125 and St. of M.P. vs. Pradeep Sharma 2014 (1) RCR (Crl.) 269 relied in Akhtar vs. St. of Hry. and Ors. CRM-M-21334-2020 (O&M) D.O. 09.08.2021*

[16] *Sanatan Pandey vs. St. of U.P. SLP (Crl.) 7358 of 2021*

[17] *Gurbaksh Singh Sibbia etc. vs. St. of Pb. AIR 1980 SC 1632 reiterated in Sushila Aggarwal and Ors. vs. St. (NCT of Delhi) and Anr. (2020) 5 SCC 1*

[18] *Supra 9*

[19] *Prathvi Raj Chauhan vs. U.O.I. and Ors. Writ Petition (C) No.1015 with 1016 of 2018 D.O. 10.02.2020*

[20] *Ramu Ram vs. St. of Rajasthan and Ors. RLW 2014 (2) RAJ 987*

[21] *St. of U.P. vs. Deoman Upadhyaya AIR 1960 SC 1125*

[22] *Pardeep Ram vs. State of Jharkhand and Anr. (2019) SCC Online SC 825*

STANDARD OPERATING PROCEDURE/PROTOCOL FOR REGULAR BAIL

Period of disposal of application for regular and anticipatory bail	• All bail applications to be disposed of normally within one week[1].
Primary considerations in grant of regular bail	• Seriousness of the offence; likelihood of the accused fleeing from justice; impact of release of the accused on the prosecution witnesses; likelihood of the accused tampering with evidence.[2] • Nature of accusation ;nature of evidence in support thereof ;severity of punishment which conviction will entail; character, behaviour, means and standing of accused; circumstances peculiar to the accused; reasonable possibility of securing presence of accused at trial ;reasonable apprehension of witnesses being tampered with ; larger interest of the public or state etc.[3] • Period of custody has to be weighed simultaneously with the totality of circumstances and criminal antecedents of accused[4]
Bail order: Requisites	• Reference to facts of the case is must[5] • While it is necessary to consider prima facie case, an exhaustive explanation of merits of case should be avoided[6]. • A court deciding a bail application should avoid elaborate discussion on merits of a case as detailed discussion of facts at a pre- trial stage is bound to prejudice fair trial[7]. • Court should refrain from evaluating or undertaking a detailed assessment of evidence as the same is not a relevant consideration at the threshold stage[8]
Victims right to be heard	Bail application shall be decided on merits after giving adequate opportunity of hearing to the victims as well. If the victims are unable to engage the services of a private counsel, it shall be obligatory upon the Court to provide them a legal aid counsel with adequate experience in criminal law, at the States expense[9].
Interim bail during pendency of regular bail application	• A court hearing regular bail application has inherent power to grant interim bail pending final disposal of the application[10].

Bail of co-accused on the ground of parity	• Co-accused is entitled to bail on the footing of parity[11].
Regular bail when interim anticipatory granted by the High Court	• No, regular bail cannot be granted.[12]
Conditions not to be imposed while granting anticipatory/regular bail	• Onerous conditions for grant of bail should not be imposed[13]. • Compensation cannot be determined at the stage of grant of bail. However, it does not mean that no monitory condition can beimposed for grant of bail.[14]
Successive bail applications – Forum	• The fundamental concept is, if a Judge is available, the matter should be heard by him unless he has demitted office, or is transferred or superannuated[15]. • All successive bail applications should be entrusted/assigned to the same Judge, who earlier dealt with it[16].
Conditions to grant regular bail u/s 498-A IPC	Magistrate while authorizing detention of accused shall peruse the checklist duly filled by police officer and would authorize detention only after recording his satisfaction. Failure to comply entails police officers and Judicial Magistrates for departmental action[17].
Regular bail when accused is not arrested and cooperates throughout investigation	• Bail application, in offences punishable with imprisonment of 7 years or less, be decided w/o accused being taken in custody or by granting interim bail till application is decided; • Bail application in offences punishable with death, imprisonment for life or more than 7 years, and economic offences not covered by Special Acts, be decided on merits on appearance of accused in court; • Bail application in offences punishable under Special Acts containing stringent provisions for bail, be decided on merits on appearance of accused in court, complying with all the provisions of bail under the Act; • Interim Bail may be granted taking into consideration conduct of the accused during

	investigation, which has not warranted arrest; • Bail application in economic offences, not covered by Special Acts, the court should take into account seriousness of the charge and severity of punishment.[18]
Dispensing with personal appearance of accused till filing of chargesheet	Whenever an accused is released on bail, he need not be required to appear before the court until the chargesheet is filed and process is issued by the court. Law does not require the accused to appear before the magistrate's court every 14 days even though he is on bail. Such practice causes considerable inconvenience to the accused[19].
Documents to be endorsed while accepting bonds	Trial Courts to make appropriate endorsement on the original documents, which are accepted along with the bail bonds and sureties before returning the same to the person furnishing the surety. However, wherever it cannot be endorsed on the original document, in that situation intimation shall be forwarded to the registering authority to make endorsement in their record[20] .
Execution of bonds for appearance before the Magistrate and Sessions Court	It would avoid hardship to an accused if the Magistrate while releasing the accused on bail, requires execution of a bond with or without surety, as the case may be, binding the accused not only to appear as and when required before him but also to appear when called upon in the Court of Sessions[21].

1 *Hussain and Ors. vs. Union of India (UOI) and Ors. AIR 2017 SC 1362*

2 *Kamla Devi vs. St. of Rajasthan and Anr. 2022 SCC Online 307*

3 *Prahalad Singh Bhatti vs. NCT of Delhi (2001) 4 SCC 280*

4 *Ash Mohd. Vs. Shiv Raj Singh @ Lalla Bahu (2012) 9 SCC 446*

5 *Subhash Chand V. State of Haryana & others, CRM-M-29385-2021 (P&H) Interim order dt. 28.07.2021.*

6 *Anil Kumar Yadav vs. State (NCT of Delhi) and Anr., (2018) 12 SCC 129*

7 *Niranjan Singh vs. Prabhakar Raja Ram Kharote (1980) 2 SCC 559*

8 *Jagjeet Singh vs. Ashish Mishra@ Monu & ano. Crl. Appeal No.632 of 202 DOD 18.4.2022*

[9] *Supra 8*

[10] *Sukhwant Singh and Ors. vs. St. of Punjab (2009) 7 SCC 559; Mukesh Kishanpuria vs. St. of West Bengal (2010) 15 SCC 154*

[11] *Girraj vs. Kishanpal and others (2021) 6 SCC 205*

[12] *Rukmani Mahato vs. St. of Jharkhand, (2017) 15 SCC 574*

[13] *Mithun Chatterjee vs. St. of Odhisha, MANU/SCROR/45128/2021*

[14] *Dharmesh @ Dharmendra @ Dhamo Jagdishbhai @ Jagabhai Bhagubhai Ratadia & Anr. vs. St. of Gujarat, Live Law 2021 SC 292*

[15] *Jagmohan Bahl vs. St. (NCT of Delhi) (2014) 16 SCC 501*

[16] *Harjit Singh vs. St. of Punjab AIR 2002 SC 281*

[17] *Arnesh Kumar vs. St. of Bihar (2014) 8 SCC 273*

[18] *Satender Kumar Antil vs. CBI and Anr. (2021) 10 SCC 773*

[19] *Free Legal Aid Committee, Jamshedpur vs. State of Bihar, (1982) 3 SCC 378*

[20] *Hari Chand vs. U.T., Chandigarh & Ors. CWP No.4898 of 2018 (P&H) D.O.D 25.03.2019*

[21] *Supra 19*

CHECKLIST FOR READER	
Checklist in Bail Applications	• Whether such or similar application for bail has or has not been made before any other Court? In case the same was made, then its status be also mentioned. • Whether the Public Prosecutor has supplied necessary information to the concerned Court regarding pendency or decision of any earlier bail application of the accused in the same offence after taking information from the concerned?. • Whether Ahlmad has given verification report?[22] **ADDITIONAL POINTS** • Whether the petitioner was accused in any other case(s) pending against him anywhere in India? In case it is so, up to date status of the proceeding in those cases • If the petitioner is on bail in any case(s) pending against him or sentence awarded to him in any other case(s) has been made, specific mention is required to be made • Mention No./title of any other pending case against the petitioner in the court where such a petition is moved. • Whether he has been declared as a proclaimed offender in any other case?[23] **DOCUMENTS TO BE ANNEXED** • Affidavit of the accused/any other person familiar with facts or interested in the matter, regarding pendency of bail application filed by the accused in any court and the decision of the earlier bail application[24]. • For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.[25] **DECLARATION BY SURETIES** • Every person standing surety to an accused person for his release on bail, shall make a declaration before the

	Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.[26]
Digital record of sureties	In applications for bail of any kind, the Reader has to maintain computer data and the trial Courts shall also ensure maintaining of the computer data of all the particulars of the sureties as well as details of the properties, which have been furnished along with the bail bonds and sureties while seeking bail by the accused.[27]
Duties of Ahlmad in bail applications of all kinds	• To verify from the official website of the Punjab and Haryana High Court, as to whether any bail application qua the same applicant in FIR/complaint is pending/decided before the High Court or not and the status of the same, if any. • After verifying the aforesaid, a report be placed on the case file for the perusal of the concerned Court[28].
Duties of Public Prosecutor in bail applications of all kinds	• To apprise the Court concerned, after collecting the necessary information from the investigating officers with respect to the filing of any application/petition before any Court, seeking concession of bail under the provisions of Code of Criminal Procedure and the result thereof. • In case of any lapse/default on the part of the investigating agency/prosecution in the said regard, it would be construed to be a fraud played upon the Court, which could invite departmental as well as penal action against the erring parties/officials, as the case may be[29]. • To bring to the notice of the court that such an application was rejected earlier by a different judge and he was available.[30]

[22] *Kulwant Singh @ Sajan vs. St. of Punjab CRM-M-52620-2019 (O&M) (P&H) D.O. 11.03.2022*

[23] *Darbara Singh vs. St. of Punjab CRM-M-12816 of 2010 (O&M) (P&H) D.O. 26.07.2011*

[24] *Instructions of Hon'ble High Court vide letter no.5142.Gaz.II.17 dated 6.2.2012*

[25] *Section 441(4) Cr.P.C[26] Section 441-A Cr.P.C.[27] Supra 20*

[28] *Kulwant Singh @ Sajan vs. St. of Punjab CRM-M-52620-2019 (O&M) D.O. 11.03.2022*

[29] *Vijay Kumar @ Vijay vs. St. of Punjab CRM-M-21526-2021 (through video conferencing) D.O. 22.07.2021*

[30] *Jagmohan Bahl vs. St. (NCT Of Delhi) (2014) 16 SCC 501*

COUNTER TO BAIL APPLICATION

IN THE COURT OF THE HON'BLE MAGISTRATE,
……..DISTRICT: AT…….

Crl. M.P. No. Of 2022
In
Cr. No. Of 2022

Between:

----- Petitioner/Accused

And

The State

Thru P.S. ----- Respondent/Complainant

COUNTER FILED ON BEHALF OF THE RESPONDENT/COMPLAINANT

May it please your honour,

1. It is submitted that the petition for bail filed by the petitioner/accused is neither maintainable under law or on facts and the same is liable to be dismissed in limini.

2. It is submitted that this respondent denies all the adverse allegations contained in the petition under reply and nothing contained therein should be deemed to have been admitted by this respondent, unless done so specifically herein.

3. This respondent craves leave of this Hon'ble Court to read the RCD of the petitioner/s in this case as part and parcel of this counter. In addition to the grounds mentioned in the Remand Case diary, it is further submitted that the petitioner is not entitled for grant of bail on the following grounds.

a. the investigation done so far by the investigation agency reveals a prima facie case against the petitioner/ accused and there are reasonable grounds to believe that the accused had committed the offence;

b. It is submitted that the nature and gravity of the offence committed by the petitioner disentitles him for the relief of bail.
c. It is submitted that the severity of the punishment in the event of conviction also does not approve the enlarging the petitioner/ accused on bail.
d. It is submitted that the danger of the accused absconding or fleeing, if released on bail would make the situation rampant;
e. It is submitted that the previous character, behaviour, means, position and standing of the accused also goes against the Petitioner/accused from being set free on bail;
f. It is submitted that the likelihood of the offence being repeated by the accused, is also apprehended and hence the petitioner/accused cannot be enlarged on bail.
g. It is submitted that there is also a reasonable apprehension of the witnesses being influenced by the accused if enlarged on bail.
h. It is submitted that the accused may also tamper the investigation and hamper the investigation.
i. It is submitted that there is danger to justice being thwarted by grant of bail.
j. Other grounds will be urged at the time of hearing of the bail petition.
k.

4. It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences, accentuates and causes harm to the society. The victim may be an individual, but in the ultimate eventuate, it is the society which is the victim. A crime, as is understood, creates a dent in the law and order situation. In a civilized society, a crime disturbs orderliness. It affects the peaceful life of the society. Hence the petitioner/ accused cannot be dealt leniently.

It is therefore prayed that this Hon'ble Court be pleased to dismiss the petition under reply as devoid of merits, in the interests of justice.

Be pleased to Consider,
Place:
Dt. APP

PROFORMA COUNTER TO DISCHARGE PETITION

IN THE COURT OF THE HON'BLE MAGISTRATE

……DISTRICT : At……..

Crl. M.P. No: of 202

In

C.C. No: of 20

Between:

----- Petitioner/Accused

And

State

Thru P.S- ----- Respt/Complainant

COUNTER FILED ON BEHALF OF THE RESPONDENT/COMPLAINANT

May it please your honour,

1. The petition filed U/Sec 239 Cr.P.C. by the petitioner/Accused, is neither maintainable under law or on facts and the same is liable to be dismissed in limini.
2. It is submitted that this respondent denies all the adverse allegations contained in the petition under reply and nothing contained therein should be deemed to have been admitted by this respondent, though the same is not specifically denied herein.
3. It is submitted that the investigation revealed that on

   < Contents of the Charge sheet para which states the revelations of the investigation .....>.

4. The evidence collected by the I.O. supports the above facts pinning the offence U/Sec IPC, against the petitioner herein, hence the petitioner is not eligible to be discharged.

5. It is submitted that the petitioner has failed to produce any evidence to substantiate his claim and though hypothetical, even if he has any such evidence, this is not the stage for production of the same and the same can be produced only at the time of trial. Hence even the petitioner requires a trial to be conducted.

6. It is submitted that as seen from the above, there is prima facie case against the accused as revealed by the witnesses and also in the investigation.

7. It is submitted that the allegations made by the petitioner against the witnesses and the charge sheet are baseless and concocted and a full-fledged trial alone would bring the facts to the fore. Even the petitioner herein would require a full-fledged trial to substantiate his pleas. Hence this petition is liable to be dismissed on this ground alone.

8. It is further submitted that there is ample evidence both oral and documentary, to bring home the guilt of the accused, which would be produced at the relevant stages. Hence the petitioner is not entitled to be discharged of the offence.

It is therefore prayed that this Hon'ble court be pleased to dismiss the discharge petition under reply, as devoid of merits, in the interests of justice.

Date: Asst. Public Prosecutor

PROFORMA PETITION FILED UNDER SEC 105(B) of Cr.P.C.

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE

……District: at……

CRL.M.P. NO: OF 202

IN

C.C. NO. of 20

Between:

State

Thru P.S

----- Petitioner/Complainant

And

---- Respondent/accused.

PETITION FILED UNDER SEC 105(B) of Cr.P.C.

May it please your honour,

1. The above case is pending against the respondent/Accused for the offence under Sec , and the same is split-up against the respondent/ accused, as it is reported that the accused is abroad/ absconding. The case is posted for the appearance of the accused.

2. It is submitted that the respondent/accused despite the knowledge of the issuance of NBW by this Hon'ble court, is evading the same and thus creating a hindrance in the progress of the case.

3. It is submitted that the respondent is wantonly and deliberately evading from presenting himself in this court, with an intention to further subject the defacto complainant to further harassment and hardship. Hence, it is just and necessary that in order to secure his presence before this Hon'ble court, for progress of the case and for delivery of justice, the NBW be served against the Accused in _____ country.

4. It is submitted that Our Country has entered into a MLAT (Mutual Legal Assistance Treaty) with the _____ Country and hence the _____ country be requested to execute the NBW on the respondent/accused, for the purpose of progress in the case.

It is therefore prayed that this Hon'ble court be pleased to send the NBW to

The Under Secretary (Legal),
IS II Division,
Govt of India,
Ministry of Home affairs,
9th floor, Lok Nayak Bhawan,
New Delhi-110003

Through proper Channel (State Government), for the purpose of execution on the respondent/accused, in the interests of justice.

Date: A.P.P.

PETITION TO RECEIVE DOCUMENTS

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE
…….DISTRICT : at …….
Crl. M.P. No: of 202

In

C.C. No: of 20

Between:

State

Thru P.S.

-----Petitioner/Complainant

And

-----Respondents/Accused

PETITION FILED U/Sec 242 Cr.P.C. FOR RECEIVING DOCUMENTS

May it please your honour,

The above case is pending trial against the respondents/accused for the offences under sec. and the same is coming up for evidence on behalf of the prosecution.

It is submitted that the originals germane and pertaining to the facts of the case are being filed along with application. The same were in custody of the defacto complainant/ were discovered recently/ not collected by the investigating agency/ etc.

It is submitted that the above documents are very much necessary for proper adjudication of the case.

The non-filing of the same earlier is neither wilful nor wanton but for the fact mentioned above.

It is submitted that no prejudice will be caused to the other side if the enlisted documents are received onto file, as the respondents have the valuable right of cross-examining the witness, to put forth their case. On the other hand, the defacto complainant will be put to much hardship and irreparable loss, if the enlisted documents are not received onto file.

It is submitted that this Hon'ble Court has ample powers under the following precedents to allow this application.

1. **[2015] 1 ALD(Cri) 447 between Dilawar Hussain Vs. State of Andhra Pradesh**
2. **G. Saroja v. State of Andhra Pradesh and another, 2011 (1) ALD (Crl.) 822 (AP)**
3. **CBI Vs R.S.Pai, AIR2002SC1644; 2002(1)ALD(Cri)725; 2002CriLJ2029;**

It is therefore prayed that this Hon’ble court be pleased to receive the enlisted documents onto file for the purpose of marking the same as exhibits in the above case, in the interests of justice.

Be pleased to consider.

Place:

Date: APP

ADDITIONAL WITNESS PETITION

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE

…….DISTRICT : at …….

Crl. M.P. No: of 202

In

C.C. No: of 20

Between:

State of A.P.

Thru P.S-

---- Petitioner/Complainant

And

---- Respondents/Accused

PETITION FILED U/SEC 311 Cr.P.C.

May it please your honour,

1. The above case is pending trial before this Hon'ble court against the respondents/accused for the offence U/Sec…….

2. It is submitted that there are other witnesses who can speak about the said offences, but they were not examined by the Police. The PW-- had during his/her chief evidence has mentioned the presence of the said witnesses and their acquaintance of the facts of the case.

3. It is submitted that these witnesses are crucial not only to bring home the guilt of the accused but also for the better adjudication of the case.

4. It is submitted that the summoning and examination of the said witnesses would not cause any prejudice to the accused, as the valuable right of cross examination would be available to them/him.

5. It is submitted that the following witnesses are essential to depose for correct adjudication of the case. This Hon'ble court may kindly issue the summons to these witnesses.

6. It is submitted that if an opportunity to examine the said witnesses is not granted then the defacto complainant would suffer irreparable loss and hardship, which cannot be compensated in any terms.

It is therefore prayed that this Hon'ble court be pleased to summon the said witnesses,

1. Sri--------- S/o.---------, aged----- years, Occ:---------, R/o. ----------

2. Sri--------- S/o.---------, aged----- years, Occ:---------, R/o. ----------

in the interests of justice.

Be pleased to consider.

Date: Complainant

APP

311 CRPC REOPEN OR RECALL A WITNESS

IN THE COURT OF THE HON'BLE JUDICIAL MAGISTRATE OF FIRST CLASS

---------- District: at ----------

Crl. M. P. No: of 202

In

C.C. No: of 20

Between:

State of A.P.

Thru P.S- ----- Petitioner/ Complainant

And

----- Respondent/Accused

PETITION FILED U/SEC 311 Cr.P.C.

May it please your honour,

It is submitted that the above case is pending trial against the respondents/accused for the offence u/Sec……

It is submitted that in the above case, was examined in chief, and the case was posted for cross-examination of the said witness, but due to some un-avoidable circumstances, the witness could not appear, before this Hon'ble court, as such this Hon'ble court was pleased to close/eschew his evidence.

It is submitted that the non-appearance of the witness on the date fixed for cross-examination, was neither willful nor wanton, but for the circumstances being beyond the control of the witness, hence the same is liable to be condoned.

It is submitted that if the evidence of the witness is closed/eschewed, the complainant would suffer irreparable loss. It is further submitted that no prejudice will be caused to the respondents, as their right of cross examination is not lost.

It is submitted that if the said witness is allowed to depose, it would pave way for the correct adjudication of the case.

It is therefore prayed that this Hon'ble court be pleased to set-aside the order dated …….closing/eschewing of the evidence of the witness and permit him to submit for the cross examination, in the interests of justice.

Place :
Date: A.P.P.

COUNTER TO 311 CRPC PETITION.

IN THE COURT OF THE HON'BLE JUDICIAL MAGISTRATE OF FIRST CLASS
---------- District: at ----------
Crl. M. P. No: of 202
In
C.C. No: of 20

Between:

----- Petitioner/Accused

And

State through P.S.

----Respondent/Complainant

COUNTER FILED ON BEHALF OF RESPONDENT/COMPLAINANT

May it please your honour,

1. The petition filed by the petitioner/accused for recall of the witness is neither maintainable under law or on facts and the same is liable to be dismissed inlimini.

2. This respondent denied all the adverse allegations contained in the petition under reply and submit that the petitioner be put to strict proof of the same.

3. It is submitted that the petitioner has not given any cogent admissible reasons for recalling the witness. This respondent apprehends that the present petition is

a. directed to prolong the case and

b. harass the witnesses and

c. also to arm-twist the witnesses into succumbing to their intention of becoming hostile and

d. also to nullify the evidence that came on record, by keeping the witness away from appearing in the court again after recall.

4. < ANY OTHER GROUNDS/REASONS/FACTS>

It is therefore prayed that this Hon'ble Court be pleased to dismiss the petition under reply as devoid of merits, in the interests of justice.

Be pleased to consider.

Dt. APP

ADDITIONAL ACCUSED PETITION U/Sec 319 CrPC

IN THE COURT OF THE HON'BLE JUDICIAL MAGISTRATE OF FIRST CLASS

---------- District: at ----------

Crl. M. P. No: of 202

In

C.C. No: of 20

Between:

State of A.P.

Thru P.S-

---- Petitioner/Complainant

And

---- Respondents/Accused

---- Proposed Respondent/Accused

(The Respondents/Accused no. are not necessary parties to this petition as No relief is claimed against them)

PETITION FILED UNDER SECTION 319 Cr.P.C.

May it please your Honour,

1. The above C.C. is pending against the respondents/accused for the offence U/Sec……and the same is coming up for further evidence.

2. It is submitted that during the chief examination of the de-facto complainant as PW1, it has come on record that the some of the other

persons were also involved in the commission of the offence being tried in the present case, hence it is just and necessary to try the above case against the above said persons also mentioned in cause title as proposed accused.

3. It is submitted that the non-filing of this application earlier is neither willful nor wanton but for the fact of the deletion/ involvement of the names of the proposed respondents/accused has come to the knowledge only now, hence this application is being preferred now.

4. It is submitted that no prejudice will be caused to the respondents/accused, but on the other hand, it will pave way for better adjudication of the case against all the accused, thus avoiding multiple litigations and unnecessary delay.

5. It is submitted that no notice of this application is necessary for the proposed respondents/accused.

6. It is submitted that this Hon'ble Court has ample powers as held by the constitution bench of Apex court in Hardeep Singh Vs State of Haryana, reported as, (2014) 1 SCC (Cri) 236, to allow this application.

It is therefore prayed that this Hon’ble court be pleased to summon the proposed respondents/Accused and try the above case against them also, in the interest of justice.

Date: Petitioner

APP

MEMO FOR COPY OF JUDGMENT

IN THE COURT OF THE HON'BLE JUDICIAL MAGISTRATE OF FIRST CLASS
---------- District: at ----------
C.C. No: of 20

Between:
State through P.S.

----- Complainant

And

------ Accused

MEMO FILED U/RULE 72 OF CRIMINAL RULES OF PRACTICE

May it please your honour,

It is submitted that as per rule 72 of Criminal rules of Practice, a copy of the judgment is to be furnished to the prosecution. The said rule is hereby reproduced for the convenience and perusal.

72. Copies to the Prosecution and the Accused:- Copies of judgments shall be given to the accused and the prosecution. When a person who has been convicted of an office, applies for another copy of judgment in addition to the one required to be furnished to him U/s. 363 of the code, with a view to memorializing Government, he shall be furnished with another copy in all cases free of cost except in summons cases.

It is therefore prayed that this Hon'ble Court be pleased to furnish a free copy of the judgment delivered in the present case, in the interests of justice.

Be pleased to consider.

Dt: APP.

APPEAL OPINION & GROUNDS PROFORMA

To, Date:
The Station House Officer,
P.S ----------
----------District.

Sir,

Sub: Preferring appeal against the judgment dated in C.C. No. of ,on the file of the _____ Magistrate, - regd.

*****

With reference to the subject cited above, the Hon'ble Trial Court ---------- Magistrate,----------, delivered a judgment dated in C.C. No. ….of …… , acquitting the accused of the offence U/Sec ----------IPC.

I am of the opinion that the said judgment is erroneous and there is every chance of success if we prefer an appeal, against the said judgment. I am enclosing the certified copies of the impugned judgment; evidence produced on behalf of the prosecution for your perusal.

I am also enclosing the draft of grounds of appeal for your perusal.

I therefore advise you take steps, to file an appeal, against the said judgment.

Thanking you,

Yours faithfully,

A.P.P.

Enclosed:
1. The certified copies of the impugned judgment.
2. The depositions

Draft GROUNDS of Appeal

1. The judgment of the court below is contrary to Law, weight of evidence and probabilities of the case.

2. The judgment of the lower court is based on only presumptions, surmises and conjectures, which are not relevant to the circumstances of the case.

3. The learned judge should have held that the circumstances relied upon by the accused are insufficient and not proved, to throw away the case of the prosecution.

4. The learned judge ought to have appreciated the evidence produced on behalf of the prosecution and convicted the accused.

5. .....

6. .....

7. .....

8. .....

9. ....

10. The learned judge ought to have observed that the accused has not brought out any defence to term them as reasonable doubts, except for blanket denials.

For these and other grounds that may be urged at the time of hearing the appeal, the appellant prays that the Hon'ble court be pleased to set aside the judgment dated in C.C. No. , on the file of the Magistrate, in the interests of justice.

Date: Public Prosecutor

< PROFORMA FOR REPORTING NO GROUNDS OF APPEAL >

To,
The Inspector of Police,
P.S- .....

Sir,

Sub: C.C. No..... of ..... on the file of the Hon'ble..... Court- Judgment Delivered - Accused Acquitted- opinion – regd.

*****

With reference to the subject cited above, I have perused the judgment dated ----------delivered in the above referred case, acquitting the accused of the charge U/Sec ---------- IPC, and the following are my observations as revealed by the said judgment:

1. *The defacto complainant had completely turned volte-face and went to the extent of denying of lodging the report to the police.*
2. *The case property is not produced into the court.*
3. *The only evidence available in the case is that of the I.O, which was disbelieved by the court as not inspiring and suspicious.*
4. *There was no proof that the seized property belonged to the complainant.*
5. *The case property does not contain panch slips.*
6. *The panch witness turned hostile.*
7. *There are no eye witness to the incident.*
8. *The pendency of the civil case was not investigated by the I.O.*
9. *The defacto complainant/Victim had not identified the accused.*

(Change according to the findings of the case)

I am of the opinion that in the event of preferring an appeal, we cannot expect a better adjudication than the one mentioned in the above said judgment, as they are irreparable.

However, the I.O. is advised to act accordingly in concurrence with superior officers.

Date: A P P

---------- Court, ------

LETTER FOR INSTRUCTIONS

To, Date:

The Station House Officer,

P.S -

……. District.

Sir,

Sub: C.C. No. of -------- (Cr.No.----- of ------- U/Sec. ---------- of P.S----------), on the file of the _____ Magistrate, - regd.

*****

With reference to the subject cited above, the case file had been perused for the purpose of preparing the counter/ briefing the witness/ ---------- and it is detected that the proper ingredients necessary to attract the offences registered/ charged are not available, some of which are:

1.
2.
3.

So, you are requested to furnish instruction for the basis of the said registration/ charging of the case under the said provisions of law, for enabling me to present the case before the Hon'ble Court for proper and correct adjudication of the case.

If the said registered/charged offences are proceeded against the accused, in the manner as it is filed, then the said case is bound to result in acquittal, at the cost of justice.

If you also express that the ingredients to attract the registered/ charged offences are lacking in the case, then you are advised to conduct further investigation to find out whether the said offences are attracted or not and file supplementary charge sheet or take steps for withdrawal of the case, in concurrence with superior officers.

An early reply is solicited, in view of the case being posted on --------- for further proceedings.

(Assistant Public Prosecutor)

---------- Court

PETITION FOR IMPOUNDING THE PASSPORT

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE : ---------- DISTRICT

: At ----------.

Crl.M.P. No: of 202

In

C.C. No: of 20

Between:

State of Telangana
Thru P.S.- ----- Petitioner/Complainant
And

----- Respondent/Accused.

PETITION FILED UNDER SEC 10(3)(e) & (h) OF THE PASSPORTS ACT.

May it please your honour,

1. The above case is split-up case against the respondent/Accused for the offence under Section ----------, and the same is coming up for the appearance of the accused.

2. The Police filed charge sheet against three accused including the respondent herein, without arresting the respondent herein. This Hon'ble court was pleased to issue notices and then NBW for the respondent herein and ultimately the case was split up.

3. It is submitted that the respondent/accused despite the knowledge of the issuance of NBW by this Hon'ble court, through other accused in the case, is evading the same and thus creating a hindrance in the progress of the case. Hence, it is just and necessary that in order to secure his presence before this Hon'ble court for progress of the case and for delivery of justice, the passport of the respondent/accused should be revoked.

4. It is submitted, except for revoking the passport of the respondent, there is no other way to procure the presence of the respondent/accused for the progress of the case.

It is therefore prayed that this Hon'ble court be pleased to direct the passport authority, ……, to revoke the passport of the respondent by acting under the provisions of Sec 10(3)(e) & (h) of the Passports Act, in the interests of justice.

Place:
Date: A.P.P.

COUNTER TO PETITION FILED FOR RETURN OF PASSPORT

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE : ---------- DISTRICT : At ----------.

Crl.M.P. No: of 202

In

C.C. No: of 20

Between:

----- Petitioner/ Accused.

And

State Thru

P.S. - ----- Respondent/ Complainant

COUNTER FILED ON BEHALF OF RESPONDENT/COMPLAINANT.

May it please your honour,

1. The above case is pending investigation/trial against the respondent/Accused for the offence under Section ----------, and the same is coming up for the appearance/ ..... of the accused.
2. The petition, as filed by the petitioner for return of the passport is neither maintainable under law or on facts and the same is liable to be dismissed inlimini. This respondent denies all the adverse allegations contained in the petition under reply and humbly submit that nothing contained therein should be deemed to have been admitted by the respondent, unless done so specifically herein.

3. The accused had deposited his passport as a condition for bail/ the police have seized the passport of the accused and had produced before this Hon'ble Court. The petitioner/accused had now filed the above petition under reply for return of the passport on the pretext that he requires the same for ----------.
4. It is submitted that as the said passport had been deposited as a condition for bail, the petition for relaxation of conditions of bail has to be preferred only by filing appropriate petition before the Sessions or High Court, as such the petition is liable to be dismissed as not maintainable. / It is submitted that if the passport is returned to the petitioner/accused, then the entire proceedings would be stalled and it is apprehended that the petitioner/accused may abscond, thus creating a hindrance in the progress of the case. Hence, it is just and necessary that in view of the further proceedings of the case and for delivery of justice, the passport of the respondent/accused should not be returned to the petitioner/accused.
5. It is submitted that if the said passport is returned to the petitioner/accused, it will cause severe prejudice to the defacto complainant/victim.

It is therefore prayed that this Hon'ble court be pleased to dismiss the petition under reply as devoid of merits, in the interests of justice.

Place:

Date: A.P.P.

CANCELLATION OF BAIL

IN THE COURT OF THE HON'BLE DISTRICT AND SESSIONS JUDGE: ---------- DISTRICT: AT ----------

CRL.P. NO: OF 202

IN

CRL.M.P. NO: OF 202

IN

CR.NO. OF 202

(P.S-)

Between:
State of A.P.
Thru P.S- ----- Petitioner/Respondent/Complainant

And

----- Respondent/Petitioner/Accused.

A F F I D A V I T

I,---------- S/o. Sri ----------, aged ----------years, Occ: Sub-Inspector of Police, P.S----------, do hereby solemnly affirm and state on oath as follows:

1. I submit that I am the Investigation officer in the above case and as such I am acquainted with the facts of the case.
2. I submit that basing on the petition preferred by the defacto complainant , the facts of which in brief are that On ---------- the accused have threatened Sri ----------, who is a witness in the above said case, from giving evidence against him and threatened him of dire consequences, a case in Cr.No. ---------- U/Sec 195A IPC,---------- has been registered at our P.S- ----------.

3. It is submitted that the accused was enlarged on bail on ----------in the present case. The defacto complainant further complained that the accused has been threatening the defacto complainant to withdraw the case or face dire consequences.

4. It is submitted that the accused is trying to interfere or attempting to interfere with the due course of administration of Justice and trying to evade or attempting to evade the due course of justice by abusing/misusing the concession granted to the accused by way of bail.

5. It is submitted that the supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

6. It is submitted that if the accused's bail is not cancelled, the investigation would be hindered and it would be a futile exercise and the cause of justice would be suffered.

7. It is therefore prayed that this Hon'ble court be pleased to cancel the bail dated ---------- granted to the accused in Crl.M.P.no.---------- in Cr.No. ---------- of P.S----------, in the interests of justice.

Sworn and signed before me

On this ---------day of --------,202 DEPONENT

At ----------

Attested

Superior officer/ Advocate

SECTION 91 CRPC PETITION

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE : ---------- DISTRICT

: At ----------.

Crl.M.P. No: of 202

In

C.C. No: of 20

Between:

State

Thru P.S.- ----- Petitioner/Complainant

And

----- Respondent/Accused.

PETITION FILED U/SEC 91 Cr.P.C.

May it please your honour,

1. The above Case is pending against the accused for the offence U/Sec ----------, and the same is coming up for further evidence of prosecution.

2. The brief facts of the case are that ----------

---

3. It is submitted that the documents pertaining to the case have not been collected during the course of investigation. The same are in the custody of ----------.

4. It is submitted that the same is very much essential for the correct adjudication of the case and hence the same is liable to be directed to be produced into the court.

It is therefore prayed that this Hon'ble Court be pleased to direct the ---------- to produce the original documents

S.No.	Description of Document
01.	
02.	
03.	

, in the interests of justice, as otherwise the defacto complainant would be put to much hardship and irreparable loss.

Place APP

Date:

PETITION UNDER SECTION 311A Cr.P.C.

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE : ---------- DISTRICT

: At ----------.

Crl.M.P. No: of 20

In

C.C. No: of 20

Between:

State

Thru P.S.- ----- Petitioner/Complainant

And

----- Respondent/Accused.

PETITION FILED U/SEC 311A Cr.P.C.

May it please your honour,

1. The above Case is pending against the accused for the offence U/Sec ----------, and the same is coming up for further evidence of prosecution.
2. The brief facts of the case are that ----------

---

3. It is submitted that the case hinges on the ---------- document. It is the specific case of the prosecution that the said document is false and fabricated. In order to prove that the same had not been signed by ----------, it is just and necessary that the signatures of ---------- and also that of the accused be obtained in open court, for the purpose of comparison with the disputed signatures/ handwriting for better adjudication of the case.

It is therefore prayed that this Hon'ble Court be pleased to obtain the specimen signatures of ---------- and the accused, in open court, in the interests of justice, as otherwise the defacto complainant would be put to much hardship and irreparable loss.

Place: APP

Date:

SEC 45 of INDIAN EVIDENCE ACT

IN THE COURT OF THE HON'BLE MAGISTRATE

---------- DISTRICT : At ----------.

Crl.M.P. No: of 20

In

C.C. No: of 20

Between:

State of Telangana

Thru P.S.- ----- Petitioner/Complainant

And

----- Respondent/Accused.

PETITION FILED U/SEC 45 of INDIAN EVIDENCE ACT.

May it please your honour,

1. The above Case is pending against the accused for the offence U/Sec ----------, and the same is coming up for further evidence of prosecution.

2. The brief facts of the case are that ----------

---

3. It is submitted that the case hinges on the ---------- document. It is the specific case of the prosecution that the said document is false and fabricated.

4. It is submitted that the signatures/ Handwriting on the questioned documents, the admitted documents and the Specimen signatures/ Handwriting obtained in open court of the defacto complainant and the accused, be sent for the expert opinion to FSL, for arriving at the correct adjudication of the case.

5. It is submitted that the same is very much necessary in view of the specific offences charged in this case.

It is therefore prayed that this Hon'ble Court be pleased to send the questioned documents, admitted documents and specimen signatures/handwriting of the defacto complainant and the accused, for expert opinion to TSFSL, Hyderabad, for opinion about the same, in the interests of justice, as otherwise the defacto complainant would be put to much hardship and irreparable loss.

Place: APP

Date:

WITHDRAWAL PETITION
IN THE COURT OF THE HON'BLE MAGISTRATE
---------- DISTRICT: At ----------.

Crl.M.P. No: of 202
In
C.C. No: of 20

Between:
State
Thru P.S- ----- Petnr/complt

And

----- Respt/Accused.

PETITION FILED U/SEC 321 CR.P.C.

May it please your honour,

1. The above case is charged against the respondent/Accused for the offences U/Sec.---------- and the same is coming for appearance of the accused.
2. It is submitted that the Government had issued a G.O. No. ------- ---------- directing the withdrawal of the above case. A copy of the same is enclosed for kind perusal.
3. It is submitted that in the case -----< Facts of the case suitable for forming an opinion for withdrawing the case>----------
4. In these circumstances, keeping the case pending for trial, further despite the said policy of government would be nothing but subjecting the valuable time of this Hon'ble court to criminal waste, which is against the public policy as the same could be used for adjudicating other issues pending before this Hon'ble court. Hence, the above case may be permitted to be withdrawn.

It is therefore prayed that this Hon'ble court be pleased to permit the prosecution to withdraw the above case, in the interest of justice, and pass such other order or orders as are just and reasonable in the circumstances of the case.

Place:
Date: A.P.P.

Enclosed: G.O. directing the withdrawal of the above case.

OPINION for REFERRING THE CASE

To,
The Station House Officer,
P.S----------
---------- .

Sir/Madam,

Sub: Opinion in Cr.No.---------/20....U/Sec.----------, of P.S- regd.
Ref: Your requisition dated ----------

*****

I have perused the sent case file pertaining to the referred crime no, and the following are my observations, basing on the investigation done by the I.O.

1. < Facts of the case leading to the registration of the Case>
2. < revelations of the investigation >
3. As seen from the investigation, the ingredients necessary to attract the offences registered against the accused are not revealed. The case has reached a dead end and according to the I.O. the case cannot be proceeded further.
4. In the above circumstances, I concur with the conclusion of the I.O. that the case is fit to be referred to as
    A. Non-Cognizable
    B. Mistake of Fact
    C. Civil nature
    D. False
    E. Undetectable
    F. Evidence not sufficient to charge sheet the case
    G. Any other
5. The I.O. is advised to take further steps, in concurrence with superior officers and act solely as per their counsel, as this opinion is not binding, in case of any difference of conclusion arrived at by the superior officer.

Needless to add that this opinion cannot be reproduced either in part or full, anywhere, as the same is hit by Section 129 IEA.

Date: APP

OPINION FOR FURTHER INVESTIGATION

To,
The Station House Officer,
P.S----------
---------- .

Sir/Madam,

Sub: Opinion in Cr.No.---------/20....-U/Sec.----------, of P.S- regd.
Ref: Your requisition dated ----------

*****

I have perused the sent case file pertaining to the referred crime no, and the following are my observations, basing on the investigation done by the I.O.

1. < Facts of the case leading to the registration of the Case>

2. < revelations of the investigation >

3. As seen from the investigation, It has not been able to enquire and discover the ingredients necessary to attract the offence registered against the accused. According to me, the following steps in investigation can be endeavoured in the case:
   1. Examine ----------
   2. Collect ----------
   3. Conduct ----------
   4. Get expert opinion on----------
   5. Others----------
   6. Other incidental further investigation.

4. The I.O. is advised to conduct further investigation in the above lines, in concurrence with superior officers and act solely as per their counsel, as this opinion is not binding, in case of any difference of conclusion arrived at by the superior officer.

Needless to add that this opinion cannot be reproduced either in part or full, anywhere, as the same is hit by Section 129 IEA.

Date: APP

SECTION 53 CRPC AND SECTION 45 OF INDIAN EVIDENCE ACT

IN THE COURT OF THE HON'BLE MAGISTRATE
---------- DISTRICT : At ----------.
Crl.M.P. No: of 20
In
C.C. No: of 20

Between:
State
Thru P.S.- ----- Petitioner/Complainant

And

----- Respondent/Accused.

PETITION FILED U/ SECTION 53 CRPC AND SECTION 45 OF INDIAN EVIDENCE ACT

May it please your honour,

1. The above Case is pending against the accused for the offence U/Sec ----------, and the same is coming up for further evidence of prosecution.
2. The brief facts of the case are that ----------
   ----
3. It is submitted that the DNA/voice samples of the respondent/accused are required for the purpose of investigation regarding the offence committed against the victim.
4. It is submitted that the same is very much necessary in view of the specific offences charged in this case.

It is therefore prayed that this Hon'ble Court be pleased to direct the respondent/accused to be present before the TSFSL for the purpose of drawing the samples of DNA/Voice, for the purpose of comparison with the DNA/Voice sample found in the material objects pertaining the case, and opinion thereof, in the interests of justice, as otherwise the defacto complainant would be put to much hardship and irreparable loss.

Place: APP
Date:

MEMO INTIMATING FURTHER INVESTIGATION
IN THE COURT OF THE HON'BLE MAGISTRATE
---------- DISTRICT: At ----------.
C.C. No: of 20

Between:

The State

Thru P.S. ----- Petitioner/Complainant

And

----- Respondent/Accused

MEMO INTIMATING FURTHER INVESTIGATION

May it please your Honour,

It is submitted that in the above case, basing on the information of the defacto complainant, a case in Cr. No. ---------- U/Section..... was registered and the case investigated into.

It is submitted that a prima facie case was revealed against the accused in the investigation done in the case, and a Final Report was filed into the case.

It is submitted that, on ----------, it has come to the information of the investigation officer about the fact of ----------, which was not revealed during the course of investigation. Basing on the new facts revealed now, further investigation has been commenced in the case and after further investigation, a supplementary charge sheet would be filed.

It is therefore submitted for the kind information of the Hon'ble Court, about the further investigation commenced in the above case.

Be pleased to consider.

Place: I.O.
Date:

APP

WRITTEN ARGUMENTS

IN THE COURT OF THE HON'BLE---------- MAGISTRATE,

----------DISTRICT: AT----------

Cr. No. Of 20

Between:

The State

Thru P.S.

----- Complainant

And

----- Accused

WRITTEN ARGUMENTS FILED U/SEC 314 CR.P.C.

ON BEHALF OF THE DEJURE COMPLAINANT

May it please your honour,

The Hon'ble court has taken cognizance of the case against the accused for the offence U/sec.----------.

The prosecution examined PW1 to PW------ and marked Ex. P1 to P------.

The accused did not lead any defence evidence.

The case is charged for the offence under section and the main ingredients to prove the offence are as follows:-

1. section …… IPC-
2. section ….. IPC-

in respect of the offence under section ---------- IPC, the following witnesses stated as follows:-

PW1 –

PW 2-

as such, the ingredients necessary to attract section ---------- IPC have been made out. The defence though cross-examined the witnesses at length could not bring out anything favouring their plea. Defence has given only blanket suggestions which cannot be taken into consideration without any substantive proof of the same.

in respect of the offence under section ---------- IPC, the following witnesses stated as follows:-

PW1 –

PW 2 –

as such the offence under section ---------- has been made out by the prosecution. The defence during the cross examination of the witnesses had made an unsuccessful attempt to shake the credibility of the witnesses, but they stood the test and the offence is proved against the accused. Some of the untenable pleas of the accused are:

1:----------, this plea has to fail, as ----------

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2: ----------, this plea has to fail, as ----------

In view of the above the prosecution has proved the case beyond all reasonable doubt. It is therefore prayed that this honorable court be pleased to punish the accused for the offences under section section ---------- and -------- as laid down by law.

Be pleased to consider.

Place

Date: APP

POLICE CUSTODY

IN THE COURT OF THE HON'BLE---------- MAGISTRATE,

----------DISTRICT: AT----------

Crl. M.P. No. Of 2021

In

Cr. No. Of 2021

Between:

The State

Thru P.S. ----- Complainant

And

----- Accused

PETITION FILED U/SEC 167(2) Cr.P.C

May it please your honour,

1. It is submitted that the above Crime is pending investigation against the respondent/accused for the offence U/Sec ----------
2. It is submitted that on ---------- the accused was apprehended and as he was to be produced before the Hon'ble court within statutory period, the accused was produced and sent for Judicial Custody.
3. It is submitted that the case property is not recovered / some of the specific facts relating to the case are within the exclusive knowledge of the accused and as such his custodial interrogation is very much necessary for the investigation of the case.
4. It is submitted that ……
5. It is submitted that IO assures that he will not use any third degree methods for interrogation of the accused and further assures that he will subject the accused for medical examination every 48 hours.
6. It is submitted that for the reasons mentioned above, the Police Custody of the accused ---------- is just and necessary.

It is therefore prayed that the Hon'ble court be pleased to issue an order of custody of the accused for ------- days for further investigation in the interests of justice .

Place: Investigation Officer

Date:

APP

IN THE COURT OF THE HON'BLE MAGISTRATE
……DISTRICT : AT ……
CRL. M.P. No. OF 2022
IN
C.C. NO. OF 20

Between:
State through
P.S.- ----- Petitioner/ Complainant

And

----- Respondent/Accused

PETITION FILED UNDER SECTION 300(5) OF CrPC

May it please your honour,

1. The above case was filed for the offence under Sections ……..
2. It is submitted that this Hon'ble court was pleased to stop the proceedings of the above case vide order dated ……., for non-production of witnesses.
3. It is submitted that the witnesses were not produced earlier as their details were insufficient/ they shifted their residence and their whereabouts were not known/
4. It is submitted that the non-production of the said witnesses on the said date was neither intentional nor wanton but for the reason stated above, hence the same is liable to be condoned.
5. It is submitted that no prejudice will be caused to the defence, as they will have their valuable right of cross-examination. It further paves way for better adjudication of the case. On the other hand, if the said orders dated ……. are not set aside, the Victim will suffer loss which cannot be compensated in any terms.

It is therefore prayed that this Hon'ble Court be pleased to set aside the orders dated ……. and permit the prosecution to produce the witnesses in the above case, in the interests of justice.

Place
Date: I.O.

APP

Check List for Charge Sheet

S. No	Question	Yes, No, Remarks
1.	G.D. entry of the report is made	
2.	FIR is issued.	
3.	Any Preliminary enquiry is made.	
4.	The progress of Preliminary enquiry is entered in G.D.	
5.	The preliminary enquiry is completed in 14 days.	
6.	If preliminary enquiry takes more than 14 days, permission from DSP/ACP is taken.	
7.	Result of the preliminary enquiry.	
8.	REMARKS	
	FIR	
9.	Is there any delay in reporting the matter to Police	
10.	The reasons for delay in reporting the matter to police is elicited and recorded in the report, 161 CrPC statement and Charge Sheet.	
11.	Is FIR registered promptly or is there any delay.	
12.	The reasons for the delay in registering the FIR are mentioned in Part-I CD and Charge Sheet.	
13.	Are all columns especially Col. No. 8, 10, 14 are filled up as required wherever applicable.	
14.	REMARKS	
	I.O. eligibility	
15.	Which Rank officer has to investigate the case.	
16.	When was the CD file handed over to the said I.O. for investigation.	
17.	REMARKS	
	161 CrPC Statements	
18.	The mandatory provision of mode and method of recording the 161 CrPC statement has been followed, if any.	
19.	Audio-Video methods are utilised for recording the 161 CrPC Statements.	
20.	Neighbours of all scenes of offence have been examined.	

21.	If unknown offender, Identification particulars of accused are mentioned.	
22.	The copies of the AAdhaar/ Identity cards of the witnesses are collected.	
23.	The I.O. has signed on all the statements.	
24.	REMARKS	
	164 CrPC Statements	
25.	164 CrPC statements of Victim is got recorded.(Mandatory in Sexual Offences)	
26.	All Eye Witnesses are got examined U/Sec164 CrPC statements.	
27.	When was the application made	
28.	When was it recorded.	
29.	REMARKS	
	Search	
30.	Purpose of the Search	
31.	Permission from superior officers/court obtained in writing.	
32.	Search proceedings were prepared, where and with whose help,	
33.	Two respectable citizens residing near the scene are procured to act as Panch Witness.	
34.	Where, when and how the panch witnesses were procured.	
35.	The copies of the Aadhaar/Identity cards of the Panch Witnesses were collected.	
36.	Inmates of searched placed received the Search proceedings.	
37.	The searched object/property/person etc found.	
38.	Search panchanama drafted along with rough sketch showing the position of material objects/ property/ person.	
39.	REMARKS	
	Scene of offence	
40.	Visited	
41.	Any delay in visiting the Scene.	
42.	Conducted any Observation panchanama.	

43.	Drafted any Rough Sketch, showing the presence of material objects, weapons, crime vehicle, corpus-delecti etc.	
44.	Any photographs were taken- by whom, by which instrument.	
45.	Where, when and how the panch witnesses were procured.	
46.	The copies of the Aadhaar/ Identity cards of the Panch Witnesses were collected.	
47.	Any incriminating material found.	
48.	The incriminating material was packed by due care and caution to safe guard the same from contamination.	
49.	The recovered/seized material was sent for Expert opinion/FSL-when, through which authority; through whom and mode of transmission.	
50.	REMARKS	
	Apprehension of Accused.	
51.	Whether search slips of the accused was sent to the Bureau and has any reply received?	
52.	The accused is known person/unknown person.	
53.	Reasons for issuing 41 A CrPC notice.	
54.	The conditions mentioned in 41 A CrPC are complied. Steps	
55.	The conditions in 41A CrPC Notice are not complied and permission of Magistrate is procured for arrest of the accused.	
56.	Reasons for Arrest.	
57.	Steps for apprehension- Special teams etc.	
58.	Arrested at which place and time.	
59.	Whether Accused volunteering to confess.	
60.	Where, when and how the panch witnesses were procured.	
61.	The copies of the Aadhaar/ Identity cards of the Panch Witnesses were collected.	
62.	The Confession panchanama is recorded.	

63.	What is the discovery of fact, that is revealed in the confession.	
64.	Any material object is seized in pursuance of the said confession.	
65.	The Seized material object was packed by due care and caution to safe guard the same from contamination.	
66.	The seized material was sent for Expert opinion/FSL-when, through which authority; through whom and mode of transmission.	
67.	REMARKS	
	Remand Report.	
68.	Requisite reasons for remand are mentioned in RCD.	
69.	Check list (as envisaged in Arnesh Kumar Judgment) is enclosed.	
70.	Copy of the same is furnished to the concerned Prosecutor.	
71.	Any written instructions to oppose the bail have been passed to the Prosecutor.	
72.	Any counter is prepared on the said instructions and filed.	
73.	REMARKS	
	Police Custody.	
74.	Reasons for requisition- and for how many days.	
75.	When the requisition is made.	
76.	Reasons for delay if any.	
77.	Orders of the court.	
78.	Any steps for adverse orders-result.	
79.	REMARKS	
	TIP	
80.	Reasons for requisition	
81.	When the requisition is filed.	
82.	Reasons for delay if any.	
83.	Orders of the court.	
84.	Any steps for adverse orders-result.	
85.	REMARKS	

	Examination by Doctor.	
86.	When was the injured/Victim was referred to the Dr.	
87.	With whom was the accused sent.	
88.	When was the victim examined (Date and Time) by Dr.	
89.	When was the Medical certificate collected.	
90.	Was the Victim shifted to/taken treatment in, some other Hospital.	
91.	Whether the Medical certificate obtained from that Hospital.	
92.	REMARKS	
	Inquest report	
93.	When was the requisition made to Executive Magistrate, in cases pertaining to suspicious deaths.	
94.	When was the Inquest done.	
95.	Who were the Panch Witness.	
96.	REMARKS	
97.	**Absconding accused.**	
98.	Request for NBW's has been made.	
99.	REMARKS	
	Deletion of Accused or Section of law.	
100.	Requisition is made to the court with reasons.	
101.	Its result.	
102.	Notice of such deletion is served on defacto complainant.	
103.	REMARKS	
	Charge Sheet.	
104.	The report u/s 173 is duly signed / verified by a gazetted Police Officer	
105.	All required papers/documents are attached to the Report.	
106.	Copies of all papers are retained in CD file.	
107.	All the columns of the report u/s 173 are duly and correctly filled in.	
108.	The list of case property entered in the report u/s	

	173 tallies with the list sent to Court.	
109.	The Property Index number	
110.	Any orders as to Safe custody.	
111.	REMARKS	
112.	Whether the medico legal reports, post mortem reports, inquests reports statements of injuries, chemical examiner's report, serologist report, DNA/RNA report are attached?	
113.	Is the documentary evidence part of public record? If so, have certified copies been obtained.	
114.	Has all the documentary evidence relied upon by police attached with the police report? Who is in possession of original documents?	
115.	REMARKS	
116.	In murder and hurt cases, whether the Investigation Officer inspected the place of occurrence and entered all details in his Inspection Note?	
117.	In case of Abduction / Kidnapping whether the statements of recovered abductee recorded under section 161 and 164 of the Code of Criminal Procedure	
118.	In rape cases whether the victim has been medically examined with final opinion of the Doctor?	
119.	In rape cases whether any DNA/RNA tests got conducted, if required for evidence?	
120.	In rape cases whether potency test of the accused person been conducted by the Medical Officer?	
121.	REMARKS	
122.	Are the marginal witnesses to a document or those familiar with the handwriting of the executants of the document are prosecution witnesses and will they be available to testify?	
123.	Whether the list of property recovered, produced or seized in the case has been correctly prepared, dated and signed by witnesses and the officer(s) preparing them?	

124.	If recovery of weapons of offence has been effected, has the place, where from recovery effected, given in recovery memo?	
125.	Has the weight of recovered weapon entered in recover memo?	
126.	Has the sketch of recovered weapon drawn and attached to the Challan?	
127.	Have the recovered articles properly sealed?	
128.	Whether all recovered weapons and all other case property been entered in Register of the concerned Police Station and corresponding number is mentioned in the relevant memos in red ink?	
129.	Whether the identification certification certificates of the accused have been attached to the challan?	
130.	Which of the accused are previous convicts and whether evidence regarding the same has been attached?	
131.	Whether the confession of the accused attached ?	
132.	Whether copies of statements (legible and duly verified by the Investigation Officer) for delivery to the accused attached to the Challan?	
133.	Was the challan prepared in time?	
134.	If there is delay is submission of challan whether reasons given?	
135.	Whether all necessary witnesses have been listed and their connection with the complainant/case noted?	
136.	Whether a motive for commission of alleged offence been established by Investigation Officer?	
137.	Whether all the bail bonds and personal bonds of the accused persons and addresses of the accused and witnesses have been attached to the challan or not?	
138.	Whether full description of the absconding accused, list of property owned by him/them attached for taking proceedings if necessary u/s	

	82/83 of the Code	
139.	Whether age of the charged accused has been ascertained in appropriate cases?	
140.	Whether statements of prosecution witnesses were properly recorded?	
141.	Whether evidence of witnesses corroborated by the medical evidence and recoveries?	
142.	Whether information regarding the transfer of the police officer who prepared report u/s 173 is available.	
143.	Whether more than one person / agency has investigated the case and if so are all the investigation results available?	
144.	Whether the Challan was thoroughly scrutinized, before submitting to the Trial Court, keeping particularly in view the deficiencies/omissions/lacunas pointed out in different judgments of Hon'ble Apex Courts from time to time?	
145.	Any Other details	
146.		
147.		
148.		
149.		