

CHAPTER - XI

CRIMINAL CASES

1. REMAND

C.L. No. 58/VIIb-16 dated 17th April, 1974

In order to avoid harassment to persons arrested by the Police to be produced before a Judicial Magistrate, a time schedule should be fixed by the Judicial Magistrate with Superintendent of Police so that persons detained shall be produced within that schedule and if any Police Officer does not adhere to the time schedule without a reasonable cause, action should be taken against him. The duty of Magistrates extends even beyond the office hours and they should be available for purposes of remand without showing any reluctance in this regard.

C.L. No. 102/VIIb-47 dated 5th August, 1975

District Judges should impress upon all the Judicial Magistrates detained on duty for granting bails and remands and for the disposal of other urgent matters during holidays or on Sundays to do this work in court at a fixed time duly notified and intimated to all concerned, including the Public Prosecutors.

C.L. No. 123/VIIh-16 dated 25th September, 1975

The Court has noticed that generally the Judicial Magistrates do not take proper care in issuing warrants, while remanding a person to jail custody, with the result that sometimes persons are ordered to be released because of defective warrants, which either do not bear the seal of the court or are not on proper form or do not even contain full particulars. With a view to avoid such occasions, it is necessary that the Judicial magistrates should take proper care in issuing warrants while remanding a person to jail custody. It is also impressed upon them that all provisions of law in this respect should also be observed strictly.

C.L. No. 14/III-a-63(F) dated 19th January, 1978

It invites attention to the following observations made by Hon'ble Mr. Justice J.M.L. Sinha in his order (extract enclosed) in Criminal Miscellaneous Bail Application No. 6239 of 1977: Syed Ahmad Vs. State District Muzaffarnagar:

“Before, however, taking leave of this case, I would like to observe that the courts are expected to be more vigilant while signing the remand papers. It is true that normally it is the court moharrir who puts up remand orders for the signatures of the court concerned and it is the duty of the court moharrir to make proper entries in the warrant before putting up the same for signatures. It is, however, as much the duty of the Presiding officer of the courts to look into the papers before affixing their signatures thereon. They cannot be expected to sign the papers without satisfying themselves whether they meet the requirement of law or not. If this was done in the instant case, the accused applicant, who stands charged with the offence of murder and whose application for bail has been twice rejected, could not be granted bail.”

The Presiding Officers of the criminal courts should carefully examine and scrutinize warrants and remand papers before putting their signatures on them, so that the chances of bail applications being allowed solely on the ground of technical flaw, are eliminated.

C.L. No. 97/VIIb-16 dated 16th August, 1979

The Court has noticed that the Magistrates have authorized detention of the accused persons in jail custody without the accused being produced before them. Under paragraph (b) of proviso to sub-section (2) of Section 167 of Code of Criminal Procedure, 1973 no such detention order can be passed by a Magistrate unless the accused is produced before him. All the Judicial Magistrates should act strictly in accordance with the said provision of law.

C.L. No. 51/VIIb-47 dated 17th August, 1984

The court has noticed that when an accused is produced before the court for remand, normally the police papers are not available with the court, either because they are sent late or they are withheld by court-moharrir. In the absence of these papers the bail application cannot be entertained. At times this delay in receipt of papers and presence of accused brought for remand, results in non-consideration of application for bail, and not unoften leads to confrontation between the lawyers and the officers.

Attention of all the Presiding Officers is invited towards the provisions of section 167 and 172 of the Code of Criminal Procedure, 1973, and they are directed to see that in future no such violation of the law is permitted. The Presiding Officers should act in accordance with the provisions contained in section 167 of the Code, while remanding the accused in custody brought before them for remand.

C.L. No. 114/VIIb-47 Admn.(G) dated 7th October, 1978

The Court has noticed that very often warrants of intermediate custody and release orders sent by the subordinate, courts do not contain all the necessary details. They generally do not contain case number, name of Police Station, father's name, age and residential address of the prisoner. They also do not contain description of offences, crime number and section of Indian penal Code and other Acts and the date of conviction.

All the Presiding Officers are directed to clearly fill in all the aforesaid details in the warrants of intermediate custody and release orders issued by them.

C.L. No. 54/VIIIa-63 dated 30th April, 1980

As soon as the charge-sheet is filed, the Presiding Officers of criminal courts under your control should invariably draw a red line below the last remand entry in the warrant of custody (Form No. 47, Part VIII, of Appendix 'B' of the General Rules (Criminal) 1957 and mention the date of submission of charge-sheet below the red line on the left side.

C.L. No. 9/VIIb-16 dated 22nd February, 1989

The Court has noticed that warrants for intermediate custody on remand, prescribed as Form No. 47 under Rule 157 of the General Rules (Criminal), 1957 for the subordinate criminal courts, are not being used properly.

All concerned Presiding Officers are directed to comply strictly with the contents of the Prescribed Form No. 47. The Form should be used in its entirety, and it should not be split into two for use in respect of different prisoners.

To observe the mandate in Section 309(2) Code of Criminal Procedure, 1973.

C.L. No. 58/VIIIa-50/Admn. 'G' dated November 23, 1992

I am directed to enclose herewith a copy of the Order dated 28.9.1992 of this High Court passed in Habeas Corpus Writ Petition No.24268 of 1991 inviting the attention preferably to paragraph nos. 67 and 68 of the order* dated 28.8.1992 and to request you kindly to circulate the court's order to the concerned courts and they shall be specifically told to scrupulously observe the mandate provided in Section 309(2) Cr.P.C. and to ensure that remand is granted for a specific period coinciding with the adjourned date of hearing, and either a printed form of warrant be used or in case it is not available, the typed or cyclostyled copy be used in the exact reproduction of the same in both sides.

I am, therefore, to request you kindly to bring the contents of the letter in the notice of all the concerned judicial officers for their information and strict compliance. Mohd. Daud @ Mohd. Saleem v. Superintendent of District Jail Moradabad, 1993 All. LJ 430 (All) (DB).

Extracts of the Judgment

1. A production warrant issued under S.267 does not constitute a detention order authorising detention in prison of a person. The head note as well as the phraseology of the said section indicates that the order envisaged therein is an order to produce a person confined or detained in a prison before a criminal court for answering to a charge or for the purpose of any proceedings against him. An order under this section does not partake the character of a detention order by the Court seeking production qua the charge of the proceedings pending before it.
 2. Section 309 of the Cr. P .C. does not envisage or permit remand to custody for an indefinite period. The remand there under has to coincide with the duration of adjournment and not beyond it.
 3. The Court is required to record its reasons for postponement or adjournment of the trial, and not for remanding the accused. It is because a remand under Section 309, Cr .P .C. stands on a quite different footing than one under S.167 of the Cr.P.C. where remand is sought pending investigation and the Magistrate or Judge is required to apply its judicial mind to consider whether on the materials collected, remand is necessary and justified.
 4. An invalid initial order of remand of custody can be rectified by subsequent orders. The word "custody" in S.309 embraces both legal as well as illegal custody.
 5. Sections 267 and 270 of the Cr .P .C. read together thus contain a clear legislative mandate that when a prisoner already confined in a prison is produced before another criminal court for answering to a charge of an offence and is detained in or near such court for the purpose, on the court dispensing with his further attendance, has to be conveyed back to the prison from where he has been brought for such attendance.
 6. What S.354 (1) (d) of the Cr. P .C. means by the requirement of the judgment containing a direction that the accused be set at liberty, is liberty with reference to the case in which acquittal is recorded and not with reference to any other confinement or custody.
- (i) Order sheet of the cases to reflect the dates of the remand of the accused on jail custody (under section 309 Cr.P.C.)**

C.L.No. 53/2000 Dated, December 6, 2000

Hon'ble court in Habeas Corpus writ petition No. 236 of 1992, connected with Habeas Corpus writ petition Nos.237, 238 239 of 1992, 33 of 1993 and 8711 of 1989 (copy enclosed) deprecated about the non-maintenance of the order sheet as well as the record of the case as per the instructions issued by the court time to time in this regard. From the record at occasions it was noticed that there was no reference as to how long the under trial had suffered incarceration and continued to be remanded in judicial custody.

I am, therefore, to request you to kindly ensure the compliance of Hon'ble court's directions contained in the aforesaid writ petition

2. BAIL

(i) Entertainment and disposal of bail application etc.

C.L. No. 24/VII-b-47 dated 25th February, 1976

All miscellaneous application both civil and criminal shall ordinarily be taken up by the courts and disposed of between 10.30 and 11.30 a.m. and copies of the orders passed be delivered to the parties latest within 24 hours. Bail applications in pending cases, whether pending in courts or under investigation, shall also be taken up by Sessions Judges ordinarily between 10.30 and 11.30 a.m. The copies of the bail orders must invariably be dispatched to the courts of Magistrates latest by 2 p.m., and no bail application should ordinarily be entertained by them beyond 11.30 a.m. In appellate jurisdiction and in cases of bailable offences bail applications may be entertained even after the lunch break or at any time convenient to the court and copies delivered with greatest possible dispatch. The Chief Judicial Magistrates and Magistrates shall continue to abide by the directions contained in C.L. No. 78, dated 21st May, 1971.

C.L. No. 93/VIIb-47 dated 22nd July, 1975

Regarding entertainment and disposal of bail applications and verification of surety bonds in connection with such applications, the following instructions are prescribed:-

1. Bail applications may be disposed of after giving an opportunity to the parties for arguments in case they are present.
2. In case any Public Prosecutor does not submit his report or appear personally to oppose the bail application, the Magistrates, unless for reasons to be recorded he grants time, shall dispose of the applications.

C.L. No. 134/VIIb-15 dated 29th November, 1978

The Presiding Officers should invariably return the case diaries to the Police after being made use of by the courts, and the case diaries should not be made part of the judicial record.

C.L. No. 54/VIIIC-25 dated 31st August, 1984

It invites attention of all the Sessions Judges to Sections 6, 7 and 8 of the U.P. Dacoity Affected Areas Act, 1983, and directs that henceforth, no bail should be granted by the Sessions Judges in cases covered by the said Act, except when the office of Special Judge is vacant or the Special Judge is absent or is unable to act.

C.L. No. 78/VIIb/47 dated 21st May, 1971 and

C.L. No. 91/VII-b-47 dated 10th June, 1974

In order to bring uniformity in the matter of grant of bail, the following instruction read with the instruction contained in C.L. NO. 14/VII b-47, dated September 15, 1951 should be followed:-

Bailable offences

As far as possible, bail applications should be entertained after notice to District Government Counsel (Criminal)/Public Prosecutor, but in special circumstances, notice can be dispensed with. While passing bail order, only the specific offence with sections and the Act must be given.

Non-bailable offences

Magistrates

Applications required to be disposed of the same day, should be moved by 11 a.m., or 12 noon. Such applications should be handed over to the Public Prosecutor to enable him to oppose, if necessary, and taken up the same day at 2 p.m. Adjournment of the hearing should be refused if found to be on insufficient grounds. Twenty-four hours' time can be granted when the Public Prosecutor genuinely requires the same for obtaining instructions from the Police Station.

Sessions Judges

Sessions Judges should give a reasonable notice to the District government Counsel (Criminal) before passing orders on bail applications, keeping in mind the number of days required for obtaining instructions from the Police Station. Where it becomes necessary for the State to file affidavit during the course of hearing, further time can be given.

C.L. No. 194/VIIb-47 dated 8th December, 1976

All the District & Sessions Judges should henceforth ensure that a party applying for bail in the sessions court, shall annex to his application for bail a copy of the order, if any, passed by the Magistrate in the same matter.

C.L. No. 42/VIIb-47 dated 8th March, 1977

In order to enable a party applying for bail in the sessions court to annex to his application for bail a copy of the order passed by the Magistrate in the same matter, the Magistrates shall, while recording their order refusing bail, prepare a copy of such order by placing a carbon and paper below the paper on which they write the order in their own hand and deliver the same free of cost to the counsel for the accused immediately. Similarly a carbon copy of the order refusing bail shall also be prepared by the Sessions Judges and delivered free of cost to the counsel for the accused immediately so that the same may be annexed to the application for bail made to the High Court.

C.L. No. 10/VIIb-47 dated 20th January, 1976

The District and Sessions Judges are authorized to transfer bail applications to the Additional District and Sessions Judges as and when they consider expedient or necessary.

C.L. No. 145/VIIb-47 dated 19th December, 1979

The Sessions Judges and the Magistrates should insist that in applications for bail the fact whether the accused has obtained bail or has moved an application for bail in any other case or otherwise should be clearly stated.

C.L. No. 37/VIIb-47-Admn.(G) dated 25th August, 1988

All the District & Sessions Judges should henceforth ensure that the second bail application must state whether or not bail of the applicant has been rejected by the High Court or the Court of Sessions.

C.L. No. 95/IVf-69 dated 14th September, 1978

Attention of all the Presiding Officers is invited to the decision of Supreme Court concerning bail matter in case of Moti Ram and others Vs. State of Madhya Pradesh reported in 1978 Cr.L.J. 1703

C.L. No. 84/IXf-69 Admn. (G) dated 29th October, 1980

It brings to the notice of all Presiding Officers that in Writ Petition No. 57 of 1979 : Hussainara Khatoon and others vs. Home Secretary, State of Bihar, Patna Dated 12.2.1979, (reported in AIR 1979 Supreme Court 1360) in the context of pretrial release of accused persons, Hon'ble the Supreme Court has observed that if the court is satisfied after taking into account, on the basis of information placed before it, that the accused has his roots in the community and is not likely to abscond it can safely release the accused on his personal bond. To determine whether the accused has his roots in the community which would deter him from fleeing, the court should take into account the following factors concerning the accused:-

1. the length of his residence in the community,
2. his employment status, history and his financial condition,
3. his family ties and relationships,
4. his reputation, character and monetary condition,
5. his prior criminal record including any record of prior release on recognizance or on bail,
6. the identity of responsible members of the community who would vouch for his reliability,
7. the nature of the offence charged and the apparent probability of conviction and the likely sentence in so far as these factors are relevant to the risk of non appearance and ,
8. any other factors indicating the ties of the accused to the community or bearing on the risk of willful failure to appear.

C.L. No. 64/VIIIh-23 dated 13th June, 1979

Whenever the courts pass orders for bail, the readers should mention the name of Public Prosecutor, Assistant Public Prosecutor or D.G.C. or A.D.G.C. (Criminal) or Panel lawyer who do not oppose petitions for bail or admit any material fact pleaded in the bail petitions benefiting the accused.

C.L. No. 53/VIIb-47/Admn.(G) dated 25th August, 1989

The Court has noticed that the orders passed on a bail application by the Sessions Court are not tagged with the record of Sessions Trial depriving the Prosecution to take the benefit of statements given at the time of grant of bail by the defence and at the time of trial of criminal

cases. According to rule 24 of General Rules (Criminal) 1977, every paper in the case from the information on which cognizance was first taken, up to and including the warrant received back under section 430 of the Cr.P.C., are the contents of the record.

Therefore, all the presiding officers are directed to keep on record copies of the orders passed on bail applications.

(ii) Refusal of bail by the police

C.L. No. 14/VII-b-47, dated 17th February, 1968

In order to check deliberate refusal of acceptance of bail in a bailable offence by the investigating Police Officers, though offered by the accused persons, it is necessary that in cases where the Magistrate finds that there has been an unjustifiable refusal the matter should be brought to the notice of the Government for necessary action.

(iii) Bail or parole refused by superior court

C.L. No. 148/VIIIb-47, dated 21st September, 1974

Subordinate courts should grant bail or parole sparingly and only in exceptional circumstances after the same has been refused by the superior court in cases where;

- (1) a different stage in the proceedings has been reached at which different considerations arise for the grant or refusal of bail, or
- (2) new grounds appear subsequently which were not available at the time of the refusal of bail by the superior court and such new grounds make out a case for the grant of bail.

Requirements of Section 437, Cr.P.C., in such cases, should be fulfilled and reasons for granting bail or parole should be recorded. Orders of bail in cases beyond the territorial jurisdiction of the court should not be passed.

C.L. No. 125/VIIb-47, dated 22nd July, 1977

The directions contained in paragraph 2 of the aforesaid C.L. were meant for observance only by the Judicial Magistrates and not by, the Sessions Judges or the Chief Judicial Magistrates who have been given special power and jurisdiction under the second proviso to sub-section (1) of Section 81 of the Code of Criminal Procedure, 1973, in the matter of grant of bail even in cases relating to areas beyond their territorial jurisdiction. Para 2 of above-mentioned circular stands modified to this extent.

C.L. No. 28/VIIb-47, dated 27th April, 1983

Once bail has been refused to an accused person by a superior court, the inferior court, even if it technically has the jurisdiction to do so, should grant bail or parole sparingly and only in exceptional circumstance. Normally, it should be left to the Superior Court to reconsider the matter. Bail or parole applications may, however, be entertained by the inferior court even after refusal of bail by the superior court where:-

- (i) a different stage in the proceedings has been reached at which different considerations arise for the grant or refusal of bail, (for instance, if the High Court has refused bail at the investigation stage the Sessions Judge may grant bail at the trial stage, if a case for bail is made out.) or

- (ii) new grounds appear subsequently, which were not available at the time of the refusal of bail by the superior court, and such new grounds make out a case for the grant of bail.

The inferior court must in all such cases see that the case fulfils the requirements of Section 437, Criminal Procedure Code, 1973 and should record its reasons for granting bail or parole.

It has also come to the notice of the Court that in several cases officers, especially Chief Judicial Magistrates have granted bail in cases arising in territory beyond their territorial jurisdiction.

In future if any officer is found to have acted without jurisdiction or in contravention of the provisions of this circular letter, serious notice will be taken by the Court of such action.

C.L. No. 2934, dated 1st April, 1988

It invites attention of all the Sessions Judges to the case of Kamla Shanker Singh and another v. State of U.P., 1988 A.Cr.C. 133 decided by Allahabad High Court on 14.12.87. The relevant observation is given below.

“A Session Judge has no doubt a concurrent jurisdiction in the matter of bail u/s 439 Cr.P.C. and is competent to entertain the bail application of accused on fresh grounds even after the rejection of his bail application by the High Court but the power has to be exercised by the Sessions Judge in exceptional circumstances. Normally, the Session Judges should keep their hands off in bail applications, which stand rejected by the High Court.”

(iv) Acceptance and verification of surety bonds

C.L. No. 78/VIIb-47, dated 21st May, 1971 and

C.L. NO. 91/VIIb-47 dated 10th June, 1974

The litigant public should have sufficient time before hand for taking necessary steps to produce sureties. Magistrates can fix an amount up to which surety bonds may be accepted provisionally without verification or when the status of sureties are verified by the lawyer based on his personal knowledge. Non-acceptance of verification should be specified in the order of the Magistrate. Magistrates, however, will be justified not to accept even provisionally the verification by such legal practitioners, who have in spite of 2 or 3 warnings by the Magistrates been verifying surety bonds of persons, whose addresses contained in the bonds were found to be either fictitious or they were of dead persons.

Magistrates can accept surety bonds provisionally considering only the status with reference to the immovable properties possessed by the sureties.

C.L. No. 93/VII-b-47 , dated 22nd July, 1975

1. As far as possible the status of sureties should be verified by presiding officers themselves on the basis of documentary evidence produced in this behalf and supported by affidavits of sureties.
2. Receipts of income-tax, sales-tax, and house tax etc. and a certificate, receipt or any other document from Municipal Board or Notified area showing the financial status of a surety may be accepted in proof of status.

3. Receipts for payment of land revenue and extracts of Khataunis etc., proving the title of a surety to the land supported by his affidavits that the land in respect of which the land revenue has been paid by him or to which the extracts of Khatauni relate continues to be in his possession unencumbered, may be admitted as good proof of status.

4. The surety should disclose in his affidavit whether he has stood surety for any other accused in the same case or other case or cases and, if so, whether the surety bonds in question are still in force.

C.L. No. 3/VIIb-47 , dated 17th January, 1972

With regard to the acceptance of surety bonds, the Presiding Officers should exercise their discretion judicially, i.e., when the surety files a detailed affidavit as to his assets, movable and immovable, and it is found that the surety is reliable, the bond can be accepted without reference to the Tahsil. Where a reference to Tahsil is considered necessary steps should be taken that there is no corruption and the reports of the Tahsil should be judged on merit and the Magistrates should not be unduly moved by the report. Where a false affidavit has been filed or an incorrect report is received from the Tahsil, severe action should be taken.

C.L. No. 24/VIIb-47 , dated 25th February, 1976

For verification of surety bonds the following directions are issued in continuation of C.L. No. 3, dated 17th January, 1972:

- (i) The surety may be required to file an affidavit showing details of his property, movable and immovable, and its value indicating clearly whether he has stood surety in any other case or for any other accused in the same case and if so in what amount.
- (ii) When a lawyer appearing for the accused in the case verifies the status of the surety in any amount, further verification may not be insisted upon.
- (iii) The practice of sending surety bonds to Tahsil for verification is to be discontinued forthwith.

C.L. No. 82/VIIb-47, dated 8th August, 1972

Directions regarding verification of surety bonds should be complied with strictly. It is the personal responsibility of District Judges to see that the directions are carried out in true spirit

C.L. No.145/VIIb-47 , dated 19th December, 1978

Likewise, before releasing an accused on bail a declaration should be obtained from the surety to the effect that, apart from the case in which he is standing as a surety, he has not stood as a surety in any other case or otherwise he should indicate in which and in how many other cases and for which accused person or persons he has stood surety.

C.L. No. 12/VIIb-47 , dated 17th January, 1978

It encloses a copy of confidential Circular Letter No. 25022/99/77-F, I, dated 27th September, 1977, from Government of India, Ministry of Home Affairs, New Delhi. This letter says that it would not be desirable to accept the passport of a foreigner as surety for any purpose even when a foreigner offers himself to stand guarantee for any other foreigner for any purpose.

(v) Young criminals

C.L. No. 77/IVh-36 , dated 28th May, 1976

Young criminals in the age group of 16 to 21 who are unable to furnish bail after passing of bail order may be entrusted to the Probation Officer (Government have been moved to post a Probation Officer in each district and also to amend suitably the First Offenders Probation Act and Section 360, Cr.P.C., 1973).

(vi) Bail in cases under Defence of India Rules, 1971

C.L. No. 19 , dated 31st January, 1975

Bail in cases under the Defence of India Rules should be granted only within the framework of the limitations imposed by clause (b) of rule 184 of the Defence of India Rules, 1971.

(vii) Compliance of Court's order dated 8.2.90 passed in Crl. Misc. Bail Application Nor. 1704 of 1990 Guddu v. State of U.P. arising out of Case Crime No.492 of 1989, U/Ss. 379/411 I.P.C., P.S., Mutthiganj, District Allahabad.

G.L.No. 2296 dated February 28,1990.

I am directed to enclose herewith a copy of the Court's order* dated 8.2.90 for guidance and also to see that the provision of Juvenile Justice Act are followed strictly and according to the spirit and mandate of the Act.

(viii) Grant of bail in the cases triable by the Special Chief Judicial Magistrates, Allahabad and Kanpur

C.L.No. 81/Admn. (A) dated August 17,1990

I am directed to say that the two Special Courts of Chief Judicial Magistrate, one at Allahabad and the other at Kanpur were established for the trial of 'economic offences' under the specified 12 Central Acts including Customs Act, 1962. The territorial jurisdiction of these two special courts was defined by the U .P .Government Notification No. 1764/VII-A.M. 707/87, dated 7th August, 1987. It has been brought to the notice of the Court that the Chief Judicial Magistrates/Judicial Magistrates of other districts not empowered to try the case while granting first remand to the accused under the aforesaid Central Acts grant interim bail to the accused and order their release without ensuring/verifying their correct identity and reliability of the sureties. In a number of cases the bail bonds are not even sent to the said courts of Special Chief Judicial Magistrates empowered to try the accused with the result the accused of such offences never turn up for trial. In the absence of bail bonds these Special Courts can also not take any step for their arrest.

It has also come to the notice of the Court that one Chief Judicial Magistrate granted bail to an accused under Customs Act when the accused had already been produced before the Special Chief Judicial Magistrate, Allahabad and the remand had also been granted by him. Grant of bail by such Magistrate after first remand was highly improper. The Court after considering the matter is of the view that Judicial Magistrates, First Class/Chief Judicial Magistrates not empowered to try the accused can exercise their discretionary powers under Section 187 of the Code of Criminal Procedure or any other law for the time being in force in a

* For perusal of order see, Guddu v. State of U.P., 1991 All LJ 457.

judicial manner for cogent reasons but they cannot grant bail to an accused after he has been produced before the Special Chief Judicial Magistrate having jurisdiction to try the case.

With regard to the acceptance of the surety bonds, the attention is drawn towards circular Letter No. 24/VII -B-47 dated 25.2.76 and it is directed that in such 'Economic Offences' under the aforesaid 12 Central Acts, Judicial Magistrates should ascertain correct identity of the accused and the sureties before issuing the release order and whenever an accused is granted bail a copy of such order along with bail bonds and other necessary papers invariably be sent to the Special Chief Judicial Magistrate having jurisdiction to try the case. I am, therefore, to request you kindly to bring the contents of this circular letter to the notice of all the Judicial Magistrates/Chief Judicial Magistrates working under your administrative control and ensure its compliance. I am to add that it will be your personal responsibility to see that the directions given herein are carried out in true spirit.

(ix) Bail applications and verification of surety bonds in connection with bail applications

C.L.No. 24/VII b-47, dated February 25, 1976

In partial modification of the Court's Circular letter No. 73VII b-47, dated May 21, 1971 and Circular Letter No. 3VII b-47, dated January 17, 1972, on the above subject, I am directed to say that henceforth all miscellaneous applications, both civil and criminal, shall ordinarily be taken up by the courts and disposed of between 10.30 and 11.30 a.m. and copies of the orders passed be delivered to the parties concerned latest within 24 hours.

So far as bail applications in pending cases, whether pending in courts or under investigation, are concerned they too shall be taken up by the Sessions Judges ordinarily between 10.30 and 11.30 a.m., the copies of the bail orders must invariably be dispatched to the courts of the Magistrates latest by 2 p.m. and no bail application should ordinarily be entertained by them beyond 11.30 a.m. In the matter of exercise of appellate jurisdiction, however and in cases of bailable offences, bail applications may be entertained even after the lunch break or at any time convenient to the Court and care be taken that copies delivered with the greatest possible dispatch. The Chief Judicial Magistrates and Magistrates shall continue to abide by the orders of the Court contained in Circular Letter No. 78/VIIb-47, dated May 21, 1971.

In regard to verification of surety bonds the following directions may be followed:-

- (i) The surety may be required to file an affidavit showing details of his property, moveable and immoveable, and its value indicating clearly whether he has stood surety in any other case or for any other accused in the same case and if so, in what amount. If the Court finds that the surety is reliable the bond furnished by him may be accepted.
- (ii) When a lawyer appearing for the accused in the case verifies the status of the surety in any amount further verification may not be insisted upon.
- (iii) The practice of sending surety bonds to the Tahsil for verification may be discontinued forthwith.

I am further to say that as already directed in Court's Circular Letter No.3/VIIb-47, dated January 17, 1972 if the affidavit sworn by a surety is ultimately found to be false he should be severely dealt with according to law.

These directions may kindly be brought to the notice of all concerned for further guidance and strict compliance.

(ix-a) Guidelines for verification of address and status of sureties.

C.L. No. 3/Admin. (G)/Dated: Allahabad: 16.2.2009

Upon consideration of the direction of Hon'ble Court in Criminal Misc. Case No. 4356/08 Shiv Shyam Pandey versus State of U.P. and others and in the wake of receipt of representation of the Bar complaining against considerable delay taking place in respect of verification of the address and status of the sureties filed before the Subordinate Courts, the Hon'ble Court has been pleased to direct that in supersession of earlier Circular Letter No. 44/98 dated 20.8.1998 and Circular Letter No. 58/98 dated 5.11.1998, the following guidelines shall be followed by the Judicial Officers of Subordinate Courts:-

1. In serious cases such as murder, dacoity rape and cases falling under NDPS Act, two sureties should normally be directed to be filed and the amount of the surety bonds should be fixed commensurate with the gravity of the offence.
2. The address and status verification of the sureties shall be obtained within reasonable time, say seven days in case of local sureties, 15 days in case of sureties being of other district and one month in case of sureties being of other State, positively from the concerned Police and revenue authorities and in case of non receipt of the report within given time, the concerned Court may call for explanation for the delay from the concerned authorities and take suitable action against them and at the same time may consider granting provisional release of the accused person in appropriate cases subject to the condition that in case of any discrepancies being reported by the verifying authorities, the accused shall surrender forthwith.
3. The Courts must insist on filing of black and white photographs of the sureties which must have been prepared from the negative.
4. The copies of the title deeds filed in support of solvency of status should be verified.
5. In cases where the Court feels that there are chances of plantation of drugs to implicate a person in a case covered under the NDPS Act, the amount of surety bonds may be suitably reduced.

I am, therefore, to request you to kindly bring the contents of the Circular Letter to all the Judicial Officers working under your administrative control for strict compliance of the directions.

Guidelines for verification of address and status of sureties

C.L. No. 28/2010/Admin.'G-II' Dated 18.9.2010

In continuation of the Court's earlier Circular Letter No. 44/98, dated 20.08.1998, Circular Letter No. 58/98, dated 05.11.1998 and Circular Letter No. 3/Admin.(G), dated 16.02.2009 which propounded certain guidelines in respect of verification of the address and status of the sureties filed before the Subordinate Courts, upon consideration, the Hon'ble Court has been pleased to direct that it is imperative for the Sessions Judges and Addl. Sessions Judges to be circumspect enough in directing release of the accused in appropriate cases, in which

specific direction had been issued by the High Court for releasing the accused on interim bail pending hearing of regular bail consistent with the mandate of the circulars of this Court which has basis in the decision of this Court in **Shiv Shyam Pandey; 2009 (5) ALJ 70**, by accepting the bonds provisionally and no person who has been on interim bail should be relegated to jail custody simply for purpose of verification of sureties failing which they would make themselves liable to be hauled up for showing insensitivity to the interest of litigant public besides being liable to be hauled up for showing disobedience to the mandate as contained in the decision. The Sessions Judges/Addl. Sessions Judges must invariably mention in their orders in such cases that the accused persons must be released without the least delay and they should not be detained just for verification of sureties.

The above instructions may kindly be brought to the notice of all the Magistrates and Sessions Judges under your administrative control for guidance and strict compliance in future.

(x) Disposal of old cases and bail application

C.L. No. 64/VIIIg-48/Admn. (G), dated November 11, 1991

Disposal of cases & old cases :

1. C.L.No. 69/X-a-14 dated 13.7.1953
2. C.L.No. 65, dated 31.10.1962
3. C.L.No. 61/VIIIh-13, dated 29.5.1972,
4. C.L.No. 4, dated 3.2.1976
5. C.L.No. 104/IVh-36, dated 16.6.1976
6. C.L.No. 13, dated 22.1.1977, and
7. C.L.No. 8/IVf-80, dated 18.2.1981.

Disposal of Criminal cases:

1. C.L.No. 23/VIIIb-249, dated 3.2.1975,
2. C.L.No. 17/VIB-13, dated 27.2.1979,
3. C.L.No. 114/VIIb-3, dated 5.9.1975,
4. C.L.No. 28/VIIIh-18, dated 7.3.1979
5. C.L.No. 90/VIIIg-38, dated 1.12.1980
6. C.L.No. 59/VIIIg-38, dated 16.9.1981
7. C.L.No. 85/VIIIg-38, dated 24.12.1982,
8. C.L.No. 66/VIIb-2, dated 24.9.1984.

Bail Application:

1. C.L.No.55/VIIIh-37, dated 2.11.1988,
2. C.L.No.44/VIIIa-14, dated 23.3.1971,
3. C.L.No. 22/VIIIa-14, dated 8.2.1971,
4. C.L.No. 10/VIIb-47,dated 20.1.1976, and
5. C.L. No. 75/VIIb-47, dated 3.11.1989

I am directed to invite your attention to Court's Circular Letter noted on the margin and printed at pages 380 to 383 and 472 to 478 of the Book of Circular Orders of the High Court, 1990 Edition, published by JTRI, Lucknow on the above subject and to say that instructions already issued in the matter be adhered to and the judicial officers are directed to pay more attention in the disposal of old cases and bail applications.

I am, therefore, to request you kindly to bring in the notice of all Concerned, the contents of this letter for their information and strict compliance in future.

(xi) Return of Case Diary to the

Police

C.L. No. 43/VIIb-15/Admn.(G) dated May 31, 1991

I am directed to refer to Court's Circular letter No. 134/VII b- 15, dated November 27, 1978, on the above subject, and to say that the Court reiterates its earlier view for return of Case Diary to the Police and directs that the Case Diaries should invariably be returned to the Police after being made use of it by the courts and should not be made part of the Judicial record.

Kindly bring the contents of this letter to the notice of all Criminal Courts working under your supervision, for compliance.

(xii) Criminal Misc. Writ Petition No. 16259 of 1992 Dr. Hidayat Husain Khan v. State of U.P.*

C.L. No. 38/VIIIa-50/Admn.(G), dated June 17, 1992

I am directed to enclose herewith a copy of judgment dated 14.5.1992 passed by a Division Bench of this Court in the above noted case in the matter of disposal of bail applications by the Subordinate Courts on the day the accused surrendered before the court, and to say that a copy of this Judgment be circulated to the Chief Judicial Magistrate and other concerned Magistrate under your supervision for their information and necessary compliance.

(xiii) Information in regard to filing of the fake bail orders of Hon'ble High Court.

C.L. No.13/ dated March 13, 1996

Recently the Hon'ble High Court while disposing the Bail Application No.9973 of 1984 Kashmir Singh v. State relating to Bareilly District and Bail Application No. 6630 of 1995 Om Pal v. State relating to District Meerut noticed that fictitious bail orders, which have not been passed by Hon'ble High Court, have been issued by some agency not connected with the High Court. The Court has taken a serious view of this matter and an enquiry has been ordered into the whole matter to be conducted by C.B., C.I.D.

The Court has desired that all such cases, if come to the notice of any court situated in your District they be brought to the knowledge of the Hon'ble High Court for comprehensive enquiry and action.

I am, therefore, to request you to bring this fact to the knowledge to each Presiding Officer of your Judgeship so that any such case may not escape from the notice of the Hon'ble Court.

(xiv) Practice of granting pre-emptive bails

C.L. No. 36/dated September 8, 1995

Hon'ble Court in Criminal Revision No.181 of 1995 *Prem Narain v. State of U.P.*, have been pleased to observe that pre-emptive bails are not permissible as has been held by Hon'ble Supreme Court in the case of *Dasharath Pandey v. State of Bihar*, JIC 1995 page 353. The copy of the said order is annexed with this letter.

Kindly bring it to the notice of all the officers of your Judgeship for their future guidance.

Dasharath Pandey v. State of Bihar, 1995 JIC 353 (SC)

Criminal Procedure Code, 1973, Section 439, Power of High Court to grant bail- Bail granted by the order of High Court- Release made effective on a future date ranging between 6 months to one year-Validity of the order.

If the accused is due for bail, then he should get it then and there. In case he is not due for bail instantly then the petition should be dismissed that the prayer of bail be reiterated at a future date. The orders impugned herein are somewhat pre-emptive of the duties of the Court. In this

* Overruled by F.B. in Vinod Narain vs. State of U.P., 1995(32) A.C.C. 375

view of the matter all such orders of High Court are set aside and orders are passed to remit these matters back to it for individual consideration on merits of each case.

(Paras 2 and 3) JUDGMENT

M.M. Punchhi, J.-Leave granted.

2. Similarity of the order passed by the learned Single Judge strikes us. The learned Judge has ordered release on bail of the respective appellants on furnishing a bond, but the effective release has been ordered on a future date ranging between 6 months to one year. We have noticed identical orders earlier also. This seems to have become a pattern with the High Court in the manner of dealing with such matters. We regret to record that we are not appreciative thereof. If the accused is due for bail, then he should get it then and there. In case he is not due for bail instantly then the petition should be dismissed suggesting that the prayer of bail be reiterated at a future date. The orders impugned (herein) are somewhat pre-emptive of the duties of the Court.

3. In this view of the matter, we set aside all these orders of the High Court and remit matters back to it for individual consideration on merits of such case. The appeals stand allowed accordingly.

4. Copies of the order be supplied to learned counsel within a day and also be dispatched to the High Court within the same duration for appropriate orders.

(xv) Disposal of bail application

C.L.No.50/Allahabad, Dated: 11.6.1998

As directed by the Hon'ble Court, copy of the Judgment given in Criminal Misc. Bail Application No.12985 of 1998, Amit Vs. state of U.P., is being enclosed for information and the same be also circulated amongst all the judicial Officers.

(See for Judgment.)

Circulation of the order dated 23.3.2006 passed in Criminal Misc. Application No. 8810 of 1989 – Babu Lal and others v. Smt. Momina Begum and Criminal Misc. Application No. 8811 of 1989 – Parasnath Dubey and others v. State of U.P. and others

C.L. No. 33 /2006: Dated: 7-8-2006

In supersession of the Court's earlier Circular Letter No.45/ Admn. (A), dated July 28, 1989, I am directed to say that in Criminal Misc. Application No.8810 of 1989 -Babu Lal and others Vs. Smt. Momina Begum and Criminal. Misc. Application No.8811 of 1989 -Parasnath Dubey and others. Vs. State of U.P., and others the Hon'ble Court has been pleased to observe as under:-

"that the cases, where Sections 436 and 437 Cr .P .C. under the provisions of Chapter XXXIII would be applicable would not be dealt with by the procedure under Section 88, inasmuch as, the considerations for granting bail are different and includes several other aspects, which are not to be considered while applying Section 88. For example, where a person is accused of a bailable offence and processes are issued, as and when he appears before the Court either after his arrest or after detention or otherwise, if he shows his readiness to give bail to the Court, he shall be released on bail. Therefore, a person accused of a bailable offence needs to be personally present before the Court and

has to be ready to give bail before he has to be released on bail. But where a person is accused of non-bailable offence, as and when he appears before the Court whether by arrest or detention or otherwise, he may be released on bail by a Court other than High Court and the Court of Sessions under Section 437, Cr.P.C subject to satisfaction of certain conditions, namely that he does not reasonably appear to have been guilty of an offence punishable with death or imprisonment for life. The condition of not releasing the person on bail with respect to offence punishable with death or imprisonment for life is not applicable where such person is under 16 years of age or is a woman or is sick or infirm subject to the conditions, as the Court may deem fit, may be imposed: Therefore, the power to release on bail under Section 437, Cr.P.C. is restricted and subject to certain conditions which cannot be made redundant by taking recourse to Section 88 Cr.P.C. where process has been issued taking cognizance of a complaint, where the allegations of commission of non cognizable offence has . been made against a person. These are illustrative and not exhaustive but are necessary to demonstrate that Section 88, in all such matters will have no application. This also shows that by necessary implication Section 88 in such general way, cannot be applied and has no scope for such application. Where there is overlapping power or provision, but one provision is specific while other is general, the law is well settled that specific and special provision shall prevail over the general provision in the matter of accused. Since the procedure with respect to bail and bonds, is provided under Chapter 33 of Cr.P.C. in our view, section 88 would not be attracted .

The Hon'ble Court has also been pleased to observe that:

"..... as to whether the cognizance is taken on a police report or on a complaint or otherwise, the process has to be issued as per the procedure prescribed under Section 204 Cr. P .C. The provisions with respect to bail and bonds have been made under Chapter XXXIII of Cr.P.C., 1973 i.e., Sections 436 to 450. Section 436 deals with cases where the bail is to be taken by an accused other than a person accused of a non-bailable offence and Section 437 Cr.P.C. applies to non- bailable offence cases."

The Hon'ble Court further observed:-

"..... the power under Section 88 is much wider. When the accused approaches the Court for bail, the Magistrate in its discretion may require him to execute bail bonds, since the language of statutes under Section 88 Cr.P.C. is wider and the objective and purpose is to ensure the presence of the person concerned. Therefore, speaking generally, it may be said that where an accused is entitled to approach the Court for bail under Sections 436 and 437 Cr.P.C., he may also be governed by Section 88 Cr.P.C., which is not qualified and encompass within its ambit an accused, a witness or any other person. However, Sections 436 and 437 Cr.P.C. deal only with the "accused person". Although the word 'person' has also been used in Sections 436 and 437 of Cr. P.C. but it is qualified with the word "accused" and therefore, the aforesaid provisions are applicable only to such category of persons, who are accused of bailable or non-bailable offence. It may thus be said, referring to Section 88, in respect of accused, that, it may have applicable where the Court has issued process to an accused but it has not actually been served upon him and yet if he appears before the Court, in such cases the Court is empowered to ask for bail bonds from such accused person to ensure his presence before

the Court in future. This is one aspect and demonstrates that the scope of Sections 88 and 89 Cr .P .C. is much wider qua Section 436 and 437 Cr .P .C."

The Hon'ble Court has further observed:-

"....However, to read Sections 88 and 89 Cr.P.C. in such a manner so as to confine it to the matters, which are to be dealt with by Sections 346 and 437 Cr.P.C would amount to give a narrow construction to the objective and scope enunciated under Section 88 and 89 of Cr .P .C. Such a construction, in our view is neither desirable nor permissible. Whenever proceedings are initiated by the Magistrate, the accused has a right to approach the Court; for bail. Whether the summon or warrant is actually served upon the accused, may itself be not relevant but as soon as the same are issued by the Court, the accused has a right to approach the Court and request for bail."

"Thus, we are of the view that the case which will be governed by the Sections 436 & 437 Cr.P.C. it is not necessary to apply the provisions of Section 88 of Cr.P.C. for the reason that Sections 436 & 437 Cr.P.C. are specific provisions and deal with particular kind of cases, whereas the scope of Sections 88 and 89 Cr.P.C. is much wider as discussed above. The case in which Section 436 Cr.P.C. is applicable, an accused person has to appear before the Court and thereafter only the question of granting bail would arise. Anyone, who is an accused, has been conferred a right to appear before the Court and if the Court is prepared to give bail, he shall be released on bail. The same equally applies with respect to Section 437 Cr. P.C also. Therefore where a summon or warrant is issued by a Court in respect of an accused, the procedure under Section 436 and 437 Cr. P .C. has to be followed and summons or warrant, which have been issued by the Court, have to be executed and honoured. The necessary corollary would be that Sections 88 and 89 Cr. P .C. as such, would not be attracted in such cases. However, we make it further clear that considering the language of aforesaid provisions, whether the bail bond is required to be executed under section 88 Cr. P.C. or the Court gives bail under Section 436 and 437 Cr. P.C., the appearance of the person before the Court is must and cannot be dispensed with at all."

I am, therefore, directed to send herewith a copy of the judgment and order dated 23.03.2006 passed in the Criminal Misc. Applications aforesaid by the Hon'ble Court for your information and strict compliance of the directions as contained therein. The directions of the Court may kindly be brought to the notice of all the Judicial Officers in the Judgeship for their guidance and strict compliance.

(xvi) Verification of bail orders at the cost of State.

C.L. No. 13/2005 Dated 1st April, 2005

I am directed to say that upon a careful consideration of matter pertaining to a complaint that for getting the genuineness of bail orders seemingly passed by the Hon'ble High Court a sum of Rs. 100/- is required to be deposited in the District Judgeship of Azmagarh, the Hon'ble Court has been pleased to provide that the genuineness of bail orders seemingly passed by the Hon'ble Court shall be verified at the cost of the State.

I am, therefore, to request that the measure so provided, be brought to the notice of every Judicial Officer under your administrative control, for compliance faithfully and punctually.

3. RELEASE ORDER

C.L. No. 124/VIIb-47, dated 24th October, 1979

In order to rule out the possibility of a prisoner securing his release from jail on the basis of a forged release order, the Court has issued following instruction, which should be strictly and faithfully followed by the presiding officers and the officials concerned in issuing and scrutinizing release orders.

- (a) The release orders must contain the full name of the Presiding officer of the issuing court below his signature and bear the seal of the court invariably in a distinct manner;
- (b) When an order for the release of a prisoner, who has already been transferred to another jail outside the district, is received and returned by the Superintendent of Jail to the issuing court, with a report indicating the date of transfer and the name of the jail to which the prisoner was transferred, the court shall then send the release order by post to the jail concerned and at the same time follow the procedure laid down in para (c) below;
- (c) When a release order is issued by post to a jail outside the district, the Presiding Officer of the court shall immediately give an intimation about its dispatch by radiogram to the Superintendent of that jail.
- (d) In addition to supplying a list containing the names and specimen signatures of all Presiding Officers of courts to the Superintendent of local district jail (and also to any other jail or similar institution that functions in the district), changes in the post of Presiding Officer should also be intimated from time to time as they occur.

C.L. No. 73/VIII-47 , dated 18th November, 1982

To avoid release of convicts on forged bail orders more than ordinary care should henceforth be taken before convicts are released on the basis of orders which purport to have been passed by the Supreme Court of India. The concerned authority should also satisfy himself carefully whether the bail orders in fact have been passed by the Supreme Court and the convicts should be released upon such satisfaction. Convicts ought not to be released mechanically without a close scrutiny of the bail orders and satisfaction in regard to the authenticity thereof.

C.L. No. 53/VIIIa-18-Admn. 'G', dated 7th August, 1986

All the presiding officers should ensure that henceforth release orders are prepared by the court clerks only and not by the court moharrirs (police constables); and all the papers concerning any case, viz., F.I.R., remand papers, final reports, bail bonds, etc., are kept by the court clerk in his custody and not by the court moharrirs (police constables).

C.L. No. 42/VIIb-47 , dated 28th April, 1978

All the presiding officers should put their signatures on the release or remand orders quite legibly as required under rules 9 and 66 of the G.R.(Criminal). A rubber seal indicating the name and designation of the presiding officer and also the name of the district should invariably be affixed to such orders below their signatures and they should ensure that the remand or release orders are dispatched punctually so as to reach the jail authority latest by 4.00 P.M. in winter and 5.00 P.M. in summer.

C. L. No. 12 Dated March 31, 2007

In continuation of C.L. No. 4 dated February 3, 2004, now Sri S. Farid Raza, Joint Registrar, Sri S.K. Srivastava, Sri Rajiv Kumar Tandon and Sri Zia Ullah Khan, Deputy Registrars whose signature at gibe below are authorized to countersign on the bail orders.

Specimen signature of Sri S. Farid Raza		Specimen signature of Sri S.K. Srivastava		Specimen signature of Sri Rajiv Kumar Tandon		Specimen signature of Sri Zia Ullah Khan	
1		1		1		1	
2		2		2		2	
3		2		2		2	

4. BAIL ORDERS OF HIGH COURT**C.L. No. 7 , dated 15th January, 1978**

Accused or appellant should not be released on bail by a Magistrate only on production of a copy of the order of bail passed by High Court. It is necessary for a Magistrate to know the nature of an offence with which the person to be released has been charged. For this purpose he should consult his own records, or insist on the applicant's supplying him with a copy of the grounds of appeal or of the application for bail whenever a copy of the bail order alone is produced.

Guidelines for transfer of bail applications in important matters and revision in matters at admission stage by the District Judges**C. L. No.60/2007Admin(G) : Dated :13.12.2007.**

The practice developing of transferring important bail applications in serious matters and revisions at the admission stage in routine by the District and sessions Judges has been deprecated by the Hon'ble Court and it has been desired that all the sensitive matters should invariably be tried by the District Judge himself or by the Senior Additional. District Judge for exercising effective control on the administrative of justice. Transfer of such work to additional Courts would be permissible only in the unavoidable circumstances.

Therefore, I am directed to request you to kindly to ensure compliance of the above directions of Hon'ble Court in letter and spirit .

5. RELEASE OF MOTOR VEHICLES**C.L. No. 24/VIII-108 Admn.(G), dated 30th April, 1988**

The District Judge should ensure that in Motor Accident claim cases, the courts, as far as possible make Photostat copies of driving licence, registration certificate and the insurance certificate before releasing the vehicle involved in the accident and place them on the record of the case.

Embossing Seal of the Court**C. L. No. 3/2007 : Dated : 20th February , 2007**

While enclosing herewith a copy of order and judgement dated 29.1.2007 passed by the Hon'ble Court in Criminal Misc. Bail Application NO.1031 of 2007 - Bechan Prasad S/o Late Pati Ram Vs. State of U.P., I am directed to say that the High Court of Judicature at Allahabad vide Circular Letter No. 41/IX e-7 (Admin. 'F'/Allahabad dated August 18, 2000 had introduced

embossing seal placed at the blue sticker affixed on certified copy of the order/judgment prepared by the Copying Department of the Court with the directions to the District Judges that the certified copy/judgement issued on or after 01.09.2000 bearing the embossing seal at the blue colour sticker be given recognition. But the Hon'ble Court has noticed with concern that the directions in this respect are not being followed in letter and spirit that no notice of such orders without having embossing seal of the High Court be taken.

I am, therefore, directed to request you to kindly ensure strict compliance of the direction as contained in the circular letter and bring its contents to the notice of all the Judicial Officers under your supervision and control in Judgeship for their guidance and strict compliance.

C. L. No. 33/2007 : Dated 29th August, 2007

While deciding the First Appeal From Order No.2087 of 2007 United India Insurance Company Ltd. Vs. Krishna Kumar and Others, Hon'ble Court has been pleased to record that experience has shown that in most of the cases one line order is being passed by the learned Judges of the Motor Accident Claims Tribunal accepting or rejecting the application under Section 170 of the Act without giving any reason. It has been observed by the Hon'ble Supreme Court in 2003 {7} SCC 212 (United India Insurance Co. Ltd. Vs. Jyotsnaben Sudhirbhai Patel) that there is mandate in such section to give minimum possible reason's to accept or reject such application. Therefore an specific direction is required to be issued to all the District courts to comply with the requirement of Section 170 of the Motor Vehicle Act, 1988

Therefore, enclosing herewith a copy of the above judgement and order of the Hon'ble Court, I am to request you to kindly bring to the notice of all the Presiding Officer of the Motor Accident Claims Tribunal under your administrative control the above mandate of the Hon'ble Court for strict compliance.

Auction of the old condemned Government vehicles

C.L. No. 8/Admin. (B-11) Section: Dated 18.03.2010

I am directed to invite your kind attention to the G.O. No. 1914/30-4-2002-38/90, dated 5th August, 2002, on the above subject and to say that the Government order provides for a 3-Member Committee to be appointed at the District level which is to make arrangement for Auction of the old condemned Government vehicles.

I am further to say that since there is already a Government Order for disposal of such vehicles, the procedure provided in the Government order dated 5th August, 2002 and other relevant Government Orders be adopted for disposal of old condemned vehicles of the respective Judgeships. Intimation in this regard may be sent by the District Judges to the High Court and in case if no objection is raised by the High Court with regard to the auction proposed by the District Judge within one month, the District Judge shall proceed to auction the old condemned vehicle (s) in accordance with the Government Order dated 5th August, 2002 and other relevant Government orders. This procedure may be adopted by the District Judges of all the districts of the State and they need not wait for disposal of such vehicle(s) beyond a period of one month after having sent the intimation to the High Court.

6. MOTOR ACCIDENT CLAIMS

(i) Payment of compensation amount to the party in Motor Vehicles Act cases.

C.L. No. 101/VII-f-69/Admn.(G) dated: November 16, 1990

I am directed to say that instances have come to the notice of the Court that the amount of compensation in Motor Vehicles Act cases has been taken away by false persons depriving the claimants of the said compensation to whom the actual amount is to be paid. The Court has considered the matter and after consideration of the matter it has decided that henceforth the amount of compensation awarded under the Motor Vehicles Act should be paid by Crossed Cheque 'Account Payee only' in the name of party.

Kindly bring in the notice of all concerned the contents of this Circular letter for information and strict necessary compliance.

Deprecation of practice by Accident claims Tribunals directing the Petitioners to pay certain percentage out of the awarded amount to the counsels who represented the petitioners in the form of payment of fee

C. L. No. 8/2006 : Dated : 21st February, 2007

In continuation of the Court's earlier Circular Letter No. 48/2006 dated, 01.11.2006 which propounded certain guidelines In respect of Motor Accident Claims cases, I am directed to say that while passing order dated 22.11.2006 in Civil miscellaneous Petition No.63537 of 2006 Smt. Niranjana Tiwari Vs. Rajiv Upadhyay and Another, the Hon'ble Court has been pleased to communicate it's displeasure on practice by presiding officers of the Motor Accident Claims Tribunals, of directing petitioners to part away with certain percentage of the awarded amount in favour of the counsels who pleaded the Petitioners case, in the form of payment of fee.

Therefore, I am to send herewith a copy of the order passed by the Hon'ble Court in the above mentioned writ Petition with direction that the same be circulated among all the Judges presiding over the Motor Accident claims Tribunals under your supervisory control for their guidance and necessary action.

(ii) Expeditious disposal of cases.

C.L No. 4/Admn. (A), dated January, 1990

It is a matter of common knowledge that a large number of cases for payment of compensation under the Motor Vehicles Act are pending in each District. These cases from their very nature require expeditious decision.

You can realise the agony of the parties by long delay in disposal of these cases. It is only in the fitness of things that compensation to the injured should be provided without undue delay. It is also in the interest of the Insurance Companies that such disputes are settled quickly. These cases do not take long in disposal. The difficulty is that in the absence of dates being fixed for hearing, they pile up and go on accumulating.

You may consider the desirability of distributing such cases amongst Additional District Judges and at least ten cases per court should be got ready. Counsel for Insurance Companies should also be requested for co-operation. It is true that private owners of vehicles are also entitled to be heard, but the aforesaid suggestions are worth attempting and will go a long way in quicker disposal of cases.

(iii) Instructions of Hon'ble Mr. Justice B.L. Loomba, Executive Chairman, U.P., Legal Aid & Advice Board relating to achieve commandable results in disposal of Motor Accident Compensation Claims (MAC. Claims) through Lok Adalat in U.P. in his letter No. D.O. No. 152/PS/LAAB/ 177-A/91 dated 3.8.1995.

C.L. No. 35/VIID-108/Admn. 'G', dated September 5,1995

I am directed to send herewith a copy of D.O. No. 152/PS/LAAB/177-A/91 dated 3.8.95 of Hon'ble Mr. Justice B.L.Loomba, Executive Chairman, U.P. Legal Aid & Advice Board on the above subject for compliance.

I am, further to request you kindly to bring the instructions contained in the aforesaid letter to the notice of all concerned.

D.O. No. 152/PS/L.AAB/177-A/91 of Justice B.L. Loomba (Retd), Executive Chairman, U.P. LEGAL AID & ADVICE BOARD, Jawaher Bhawan Lucknow, dated August 3, 1995.

A copy of the statement received from the 'CILAS' which gives comparable figures of disposal of Motor Accident Compensation Claims (MAC Claims) through Lok Adalats in the various States of the country is enclosed. As would appear there from, such disposal in this State is far below of what it is in the states like Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh & Tamil Nadu. No doubt, total disposal of cases of all these categories put together through Lok Adalats in this State is highest in the country, nevertheless a lot more needs to be done in regard to MAC Claims and this is what is occasionally pointed out to us by the 'CILAS' also.

A copy of the report received from the Karnataka Legal Aid Board about the performance and achievement of a Lok Adalat organised in District Tharwad in the year 1993 is also enclosed. As would appear from this report, Tharwad is one of the forefront Districts where Lok Adalat had endeared itself to the litigant public. In this district, at one Lok Adalat and its preliminary sittings held between 25/9/93 and 24/12/93, 1564 MAC Claims were disposed of with a total compensation of Rs. 3,15,29,786/-. The valedictory function of this Lok Adalat was graced by the presence of high dignitaries, including Hon'ble Mr. Justice A.M.Ahmadi, the then Executive Chairman of the 'CILAS' (Now Hon'ble Chief Justice of India).

Our State is comprised of 66 districts and during the year 1994-95 only 4049 MAC Claims (highest in any year) could be disposed of through Lok Adalats (copy of statement enclosed). The performance at the said Lok Adalat in district Tharwad (Karnataka) carries a valuable message of inspiration for us. I feel we can also do a substantially high work in this area of litigation if efforts are made with enthusiasm, commitment and in a concentrated way as was done in district Tharwad. But if, our efforts are confined to only 15 districts of the State where pendency of MAC Claims is very high, the disposal figures can easily go up by 100% more.

How we can go about this work is like this:

This work may be initiated in chosen 15 districts (as per the list enclosed) where pendency of MAC Claims is very high. District Judges (who are also Chairman of the District Legal Aid Committees) need to be especially motivated for this work. They may have freedom to select two or at the most three Additional District Judges for this work keeping in view their interest and commitment for this work and all the pending MAC Claims may be transferred to their docket. The selected ADJs may be required to do this work almost exclusively so that they may be able to concentrate on and effectively monitor this work in a committed and organised fashion. Unlike the normal way of taking up the matter on the date fixed they should do/ensure all the necessary spade work, and do the monitoring until the cases are ready to be taken up for settlement/disposal. As a first step, the records will require to be closely examined of all the cases in which pleadings of the parties have been completed. The next step may be to ensure that

copies of the documents, which are inevitably necessary for settlement, being FIR, Insurance Cover/Policy, and Driving Licence of the driver at the time of the accident, registration and worthiness certificates of the vehicle become available on record. For obvious reasons the claimants are not in a position to get at these documents. The work of MAC Claims generally speaking, is in the hands of a limited number of Advocates in a district and with requisite interest taken; these documents can be obtained through the police, the owners of the vehicles and with the help of the Advocate who represent the owners of the vehicles. In good number of cases, copies of these documents are available in the criminal record, obtained at the time of release of the vehicle. Once these documents come to be placed on record, the rest of the work becomes much easier and with the co-operation of the Insurance Companies/Roadways Corporation, settlement can be achieved at the Lok Adalats/its preliminary sittings without much difficulty.

Periodical meetings are held by us in this Board with the Officers of the Insurance Company/Roadways Corporation and it can be ensured that meaningful co-operation is extended in this work by them at the Lok Adalats/its preliminary sittings.

The advantages underlying the settlements at the Lok Adalats are obvious, not only for the victim families but also for the Insurance Companies/Roadways Corporation and infact for the system. If 10,000 MAC Claims are settled through compromise, nearly half, about 5,000 appeals are prevented from coming to the High Court.

A letter about this matter was written by me to the Hon'ble Chief Justice, a copy thereof is enclosed for reference. I had the privilege of meeting the Hon'ble Chief Justice when he was at Lucknow on July 24, 1995. Amongst other matters, I mentioned about this proposal and he was pleased to agree that as an experiment this work can be taken up in some districts.

It is requested that this matter may be placed before the Hon'ble Chief Justice and he may very kindly give 'green signal' in this respect. The District Judges of the specified districts may then be advised and directed to do the needful and co - ordinate with us. Once the 'green signal' is given, we will take up the work in these districts and organise Lok Adalats in the coming months of the current financial year. We should be able to ensure requisite co-operation of the Insurance Companies/Roadways Corporation in this work and I feel reasonably confident that we should be able to achieve commendable results.

Guidelines for proper utilization of interest amount earned on the deposit made by the parties in Motor Accident Claim Petition Account being maintained in the Bank by the District Judges of different Judgeships

C.L. No. 22/Admin. (B-VI): Dated 10.08.2010

I am directed to inform you that while considering the above matter the Hon'ble Court has been pleased to direct you to ensure that henceforth the interest accruing on the amounts deposited by the Insurance Companies should also paid alongwith deposited amount to the party concerned.

I am therefore, to request you kindly to take further necessary actions in this regard in accordance with the above guidelines.

(iv) Re: Amount of interest accrued upon the amount of compensation in Motor Accident Claims Cases

C.L.No. 3/ VIIf-69/Admin.(G) dated 22nd January, 1997

I am directed to refer to court's Letter NO.9527/VIIf-69, dated 22.7.1994 on the above subject and to inform you that the Hon'ble Court by his decision has instructed the Motor Accidents Claims Tribunal to open separate accounts casewise in any nationalized bank for disposed of advances in Motor Accidents Claims Cases.

It is, therefore, requested that the instructions of the court be communicated to courts of Judgment dealing with the matter of Motor Accident Claims Cases for strict compliance.

Guidelines in respect of Motor Accident Claims Cases

C.L. No. 48/2006 Dated 1st November, 2006

It has been noticed by the Hon'ble Court that the Judicial Officers exercising power of Motor Accident Claims Tribunal are passing non-speaking orders without following the legal norms. Hon'ble Court has given the following directions for compliance:-

- 1- All the District Judges While assessing the work of all the Additional District Judges (Motor Accident Claims Tribunals), for recording their annual confidential remarks, they should minutely scrutinize some of the records of the Motor Accident Claims cases decided by them during the relevant year related to death/injury to make sure that orders regarding the deposit of part of the awarded compensation in nationalized banks for certain length of time are passed for valid and sustainable reasons, and not whimsically simply to harass the claims(s).
- 2- All the District Judges Additional District Judges working as Motor Accident Claims Tribunals Shall adhere to the settled legal norms while awarding compensation. Further, award should be well reasoned, instead of being non-speaking, sketchy or perfunctory.
- 3- All the District Judges should also monitor this matter in the monthly meetings of the Judicial Officers for strict compliance as mentioned at serial no.1&2.
- 4- All the District Judges are further directed to record the performance of the officer with regard to decision of Motor Accident Claims related to death/injury in Annual Confidential Remarks as amended in column no. (e)(vii) (copy enclosed).

You are, therefore, requested to kindly instruct all the concerned Judicial Officers under your administrative control to abide by the above directions of the Hon'ble Court in right earnest.

7. PRIVILEGES OF LEGISLATURES

(i) Arrest, detention etc. of members

C.L.No.114/VIII-c-24-1-51,dated 16th November, 1951 read with

C.L. No.91/51 read with C.L. No. 70/VIII-e-24 dated 29th November, 1954 and

C.L. NO.103/VIII-e-24 dated 13th October, 1953,

C.L. No. 22 dated 19th March, 1960,

C.L.No.79/VIII-e-24 dated 14th August, 1961

C.L. No.8/VIII-e-24 dated 23rd January, 1965,

C.L.No.127/VIII-e-24 dated 6th December, 1969 and

C.L. No.104/VIII-e-24 dated 15th July, 1974

Immediately after the arrest on a criminal charge or imprisonment consequent upon a sentence passed by a Court or in the case of detention under executive order or transfer from one jail to another of a member of parliament, the House concerned is entitled to be informed of the event. Such a communication regarding arrest, imprisonment, detention or transfer of a member should be made by a letter addressed to the Hon'ble the Speaker/the Chairman by the committing judge or Magistrate or other executive authority and in the case of conviction, the offence and sentence should also be communicated. It is also necessary, in case the judgment is reversed by a superior court and the member concerned is consequently released, that further intimation is immediately sent to the Hon'ble the Speaker/the Chairman by the same committing judge, Magistrate or executive authority, and in the same manner, Non-compliance with the requirement of the law of privilege results in a breach of the privilege of Parliament.

Besides the information that should be communicated to the Hon'ble the Speaker/the Chairman by the authorities concerned after the arrest, imprisonment, detention or transfer of a member, it is necessary that the form in which the communication should be sent also observed very strictly. In case the form of the communication from the authority concerned is not strictly complied with, the Hon'ble the Speaker/the Chairman may hold that a breach of privilege has occurred notwithstanding the fact that a communication has been sent to him. The specimens of such communications addressed to the Hon'ble the Speaker/the Chairman are reproduced below. The communications invariably disclosed the reasons and place of arrest, detention or imprisonment and the sentence passed by the court.

In Civil case, the privilege of freedom from arrest extends during the continuance of the session of Parliament and forty days before its commencement and after its conclusion.

It is also pointed out that the privileges of the State Legislatures and their members are also the same as those of members of the parliament. Similar action should be taken mutatis mutandis in cases where a member of State legislature is arrested or detained.

The extreme importance and necessity of strictly observing the above procedure is impressed upon the authorities concerned.

FORM OF COMMUNICATION

(See Rules 229 and 230 OF RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN LOK SABHA)

Place -----

Date -----

To,

THE CHAIRMAN,
THE SPEAKER
COUNCIL OF STATES,
HOUSE OF THE PEOPLE,
NEW DELHI.

FORM 'A'

DEAR MR SPEAKER,

I have the honour to inform you that I have found it my duty in the exercise of my powers under section ----- of the ----- (Act), to direct that Sri ----- Member

of the Council of States/House of the People be arrested/detained for ----- (reasons for the arrest or detention as the case may be).

Sri ----- M.P., was accordingly arrested/taken into custody at ----- (time) on ----- (date) and is at present lodged in the -----(Jail) -----(Place).

FORM 'B'

I have the honour to inform you that Sri ----- Member of the Council of States/House of the People was tried at the -----Court, before me on a charge (or charge of) ----- (reasons for the conviction).

On ----- (date) after a trial lasting for ----- days, I found him guilty of ----- and sentenced him to imprisonment for -----(period).

His application for leave to appeal to ----- (Name of the Court) is pending consideration.

FORM 'C'

I have the honour to inform you that Sri ----- Member of the Council of States/House of the People who was arrested/detained/convicted on ----- for ----- -(reasons for arrest/detention/conviction) was released on -----(date) on ----- (grounds for release).

Yours faithfully,

(Judge, Magistrate or Executive Authority).

Where intimation of arrest or detention is sent by telegram, it is necessary that information on all the points mentioned in the appropriate forms should be given succinctly but clearly. The Speaker and Members of Parliament always desire to know whether an arrested member has been released on bail pending prosecution or trial. The authority giving intimation of the arrest of a Member of Parliament should, therefore, invariably furnish this information also.

C.L. No. 37/VIII-e-24, dated 30th May, 1963 and

G.Os. (1) B-955XXV/CX-55-B-55 dated 24th July, 1958,

(2) B-1679-XXV-CX-55-B-55 dated 13th October, 1958, and

(3) B-712-XXV/CX-A-55-B-55 dated 9th July, 1961

Drawing their attention to the G.Os. noted in the block, it is brought to the notice of all the subordinate courts by way of general clarification that according to the Government of India when a bail is cancelled and the person surrenders to custody, he is arrested "in the legal sense of the term" and, therefore, rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha are attracted, in case the person is a Member of Parliament. This view is supported by the Third Schedule to the Rules, as the Form of Communication regarding arrest, etc. of a Member given in it refers to "arrested/taken into custody".

C.L. No. 95/VIII-e-24, dated 15th November, 1958

Intimation of arrest, detention, conviction, release, etc. of a Member of Parliament should be sent in two stages:

1. By telegram giving in case of arrest, the information of -

- (a) Place of arrest,
- (b) Law and section under which arrest was made,
- (c) Name and designation of the sender of the intimation,
- (d) Authority, which ordered the arrest.
- (e) Formal communication giving brief reasons for arrest, conviction or detention to the Speaker/Chairman Lok Sabha/Rajya Sabha.

C.L. No. 156/VIII-c-24, dated 16th October, 1974

Information regarding arrest, detention, etc. of a Member of Parliament or State legislature should be sent in typed letters so that it may be legible.

C.L. No. 29/VIII-c-24, dated 9th June, 1967

As envisaged in G.O. no. 65(1)/1-66-CX, dated January 16, 1957, intimation about the arrest, detention and release of Members of Parliament should be sent to the Speaker, Lok Sabha in prescribed form. In this connection, attention is invited to rule 229 and 230 of Rule of Procedure and Conduct of Business in the Lok Sabha for scrupulous compliance. A similar procedure is to be adopted in respect of Members of Rajya Sabha and State Legislature. Information about the arrest, detention, release, etc. of members of the Lok Sabha/Rajya Sabha, Members of State Legislature, should invariably be sent either by telegram or wireless to Speaker/Chairman immediately followed by a formal written communication in the prescribed form in terms of G.O. no. 65/1-66-CX, dated November 18, 1966.

C.L. No. 41/Eight-E-24, dated 2nd March, 1977

The instruction contained in G.O. No. 65/1/66-CX-(2) dated 25th April, 1968, 4th Oct., 1975, 16th July 1976 and 24th Dec., 1976 of confidential Section-2 regarding arrest, detention and handcuffing of M.Ps./M.L.As. should be strictly complied with.

C.L. No. 85/VIII-E-24, dated 25th August, 1970

As Hindi is the language of the U.P. Legislative Assembly, information about arrest and detention of members should be given in Hindi only.

C.E. No. 99/VIII-e-24, dated 21st December, 1973

Information regarding arrest, detention and release of the Member of Parliament should be communicated to the Chairman/Speaker in Hindi language.

(ii) Arrest detention etc. of members within precincts of the house.

C.L. No. 64/VIII-e-24, dated 23rd July, 1959

The correct procedure regarding execution of warrants of arrest against Members of Parliament and State legislature within the precincts of the House is as follows:

Rule 232 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition) provides that "No arrest shall be made within the precincts of the House without obtaining the permission of the Speaker". Rule 233 lays down that "A legal process, civil or criminal, shall not be served within the precincts of the House without obtaining the permission of the Speaker".

The term 'precincts of the House' has been defined as follows in rule 2 of the Rules of Procedure of Lok Sabha (Fifth Edition) and Direction 124 of the Directions by the Speaker (Second Edition):

“Rule 2(1) – In these rules, unless the context otherwise requires – ‘Precincts of the House’ means and includes the Chamber, the Lobbies, the Galleries and such other places as the Speaker may from time to time specify.”

“Direction 224 – The term ‘Precincts of the House/Parliament House’ used in the Rules of Procedure shall, except for the purposes of rule 374, include in addition to places specified in rule 2, the following:

- (i) the Central Hall and its Lobbies;
- (ii) Members’ Waiting Rooms;
- (iii) Committee Rooms;
- (iv) Parliament Library;
- (v) Members’ Refreshment Rooms;
- (vi) Lok Sabha offices located in Parliament House and the hutments adjoining the Parliament House;
- (vii) Corridors and passages connecting or leading to the various rooms referred to in (i) to (vi) above; and
- (viii) Parliament House Estate and approaches to the Parliament House.”

To enable the Speaker/Chairman to decide whether he should grant or withhold permission for arrest within the precincts of the House, it is necessary that in making a request for such an arrest, the warrant should be accompanied by a brief and concise statement containing a well reasoned request setting out the grounds therefore and explaining why it is desired that the arrest be made within the precincts of the House and why the matter cannot wait till the House adjourns for the day. In absence of such a statement, it is often not possible for the Speaker/Chairman to come to a decision whether permission should be granted or withheld.

Since provisions similar to the aforesaid rules 232 and 233 of the Rules of Procedure and Conduct of Business in the Lok Sabha exist in rules 87 and 88 of the Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Assembly, a similar procedure may be followed in respect of the members of the State Legislature also. The term 'precincts of the House' as defined in rule 3 of the said Rules of the Uttar Pradesh Legislative Assembly as also under the directions of the Speakers is as follows:

"Precincts of the House" means and includes the Chamber, the Lobbies, the Galleries and approaches leading thereto and all other accommodation in possession of the Speaker or the officers of the Assembly Secretariat in the Vidhan Bhawan and such other places as the Speaker may from time to time specify.

DIRECTION

"The Precincts of the House" means clearly the Assembly Hall, Lobbies, the rooms in occupation of the Legislature Secretariat, Speaker's room, Deputy Speaker's room. Committee room, Library, Party rooms and approaches thereto.

"Precincts of the House" means and includes the Chamber, the Lobbies, the Galleries, Reading room and Legislature Library and approaches leading thereto, and all accommodation in

possession of the Chairman or officers of the Council Secretariat in the Vidhan Bhawan and such other places as the Chairman may from time to time specify.

(iii) Mode of addressing non-officials

C.E. No. 19/VIII-h-23 dated 27th March, 1962

Replies sent to non-officials including Members of Parliament and the State Legislature as well as representatives of foreign countries in India should be in form of an official letter or semi-official letterform, as the circumstances of the case may be. A communication in the form of an office memorandum cannot as a rule be regarded as a proper communication when addressee belongs to the categories of persons mentioned above. Such communications besides, being polite, should be in proper style and form.

(iv) Communication addressed to Speaker, etc., by a member under judicial custody

C.L. No. 70/VIII-f-9 dated 12th November, 1963

All communications addressed by a member of Parliament/ State Legislature who is in judicial custody to Speaker or Chairman of the House shall immediately be forwarded by the Presiding Officer under whose orders he is under arrest or detention in judicial custody, to Government in Judicial Department, so as to be dealt with, with regard to his rights and privileges as a member of the House to which he belongs.

(v) Interrogation of a Member of Parliament by the Police

C.L. No. 120/VIII-c-24 dated 30th November, 1969

When it is found from disclosure made by a Member of the Rajya Sabha that he is in possession of a vital information in a criminal case which is under investigation the matter should be referred by the concerned Superintendent of Police to the State Government/Union Territory Administration and if he is also of the opinion that the information in possession of a member is of such vital importance that his assistance should be sought, a detailed report may be sent to the Ministry of Home Affairs enclosing a list of points on which the information is sought from the member. The matter will then be taken up by the Minister of Home Affairs with the Member concerned through the Chairman of the Rajya Sabha. The information that might be made available by the member will be* communicated to the State Government/Union Territory Administration and the extent to which it might be used in the investigation of case will also be indicated."

(vi) Sending of timely information of arrest, detention, conviction and release of the Members of Parliament and Members or Legislative Assembly to the Parliament and Assembly.

C.L. No. 62/VIIIe-24, Admn.'G' dated July 22, 1994

I am directed to send herewith a copy of Government letter No. 76/1/93-c-x-2, dated 30.3.1994 along with two proformas and to request you kindly to bring the contents of the aforesaid letter to the notice of all concerned with the direction that information with regard to arrest, detention, conviction and release of Members of Parliament and Members of Legislative Assembly may be sent on prescribed proforma provided with the Government letter dated 30.3.1994 to the Speaker/Chairman immediately.

I am further to say that a copy of aforesaid letter along with proforma may be given to each Presiding Officer working under you for strict compliance in future.

संसद सदस्यों एवं विधायकों के बन्दीकरण, निरुद्धि, दोष सिद्धि एवं रिहाई आदि के सम्बन्ध में सूचना प्रेषित किया जाना।

शासनादेश संख्या -76/1/93-सी0एक्स0-2/ (गोपन अनुभाग)-2 दिनांकित 30 मार्च 1994

कृपया शासनादेश संख्या 76/1/93-सी0एक्स0-2/ -2 दिनांकित 31 मार्च 1993 का सन्दर्भ ग्रहण करें जिसमें कि माननीय सांसदों एवं विधायकों के बन्दीकरण, निरुद्धि, दोष सिद्धि एवं रिहाई आदि के सम्बन्ध में तत्काल सूचना प्रेषित किये जाने का अनुरोध किया गया था किन्तु शासन द्वारा निर्गत निर्देशों के बावजूद शासन के संज्ञान में ऐसे प्रकरण आये हैं जिनमें माननीय सांसदों/विधायकों की गिरफ्तारी/रिहाई की सूचना विलम्ब से प्रेषित की गयी है। यह स्थिति अत्यन्त खेदजनक है और इससे शासन की छवि भी धूमिल होती है।

2- उपरोक्त के अतिरिक्त विशेषाधिकार समिति ने विशेषाधिकार के बारे में अपनी दूसरी रिपोर्ट में माननीय संसद सदस्यों की गिरफ्तारी तथा रिहाई के बारे में सूचना न दिये जाने के प्रकरणों पर चिन्ता व्यक्त की है। इस सम्बन्ध में भारत सरकार, गृह मंत्रालय के पत्रांक- 1/16012/13/93- आईएस (डी):- 111 दिनांक 18.1.1994 की प्रतिलिपि संलग्न करते हुए मुझसे यह कहने का निदेश हुआ है कि माननीय सांसदों-विधायकों की गिरफ्तारी एवं रिहाई आदि के बारे में शासन द्वारा समय-समय पर जारी किये गये समस्त निर्देशों का अक्षरशः व कड़ाई से पालन सुनिश्चित किया जाय। माननीय सांसदों की गिरफ्तारी एवं रिहाई की सूचना संलग्न प्रारूप पर माननीय अध्यक्ष, लोक सभा / माननीय सभापति, राज्यसभा नई दिल्ली को ताकि इसी प्रकार माननीय विधायकों / माननीय सदस्य, विधान परिषद के सम्बन्ध में निर्धारित प्रारूप पर सूचना माननीय अध्यक्ष, विधान सभा / माननीय सभापति, विधान परिषद को त्वरित साधन से प्रेषित की जाय।

3- कृपया उपरोक्तानुसार प्रेषित की जाने वाली सूचना की प्रतिलिपि गोपन अनुभाग-2 उ0प्र0शासन को भी अवश्य पृष्ठांकित की जाय।

4- कृपया इस पत्र की प्राप्ति स्वीकार करें।

अनुसूची

(नियम 80 तथा 81)

किसी सदस्य के, यथास्थिति, बन्दीकरण, निरोध, दोष सिद्धि या रिहाई के बारे में

सूचना का प्रपत्र

स्थान.....तिथि.....

सेवा में,

अध्यक्ष विधान सभा / सभापति, विधान परिषद, लखनऊ।

‘क’

प्रिय महोदय,

मुझे आपको यह सूचना देनी है कि(अधिनियम) की धारा.....के अन्तर्गत अपनी शक्तियों के प्रयोग में मैंने यह निदेश देना अपना कर्तव्य समझा है कि विधान सभा /परिषद के सदस्य, श्री..... को (यथास्थिति बन्दीकरण या निरोध के कारण) के लिये / बन्दी / निरुद्ध कर लिया जाय।

तदनुसार श्री विधान सभा / परिषद सदस्य को (तिथि) को पर (समय) बन्दी कर लिया गया है।

हवालात में रख दिया गया है। और उन्हें इस समय जेल (स्थान) में रखा गया है।

‘ख’

मुझे आपको सूचना देनी है कि विधान सभा / परिषद सदस्य, श्री पर (दोष सिद्धि) के कारण दोषारोप (या दोषारोपों) के लिए न्यायालय में मेरे सामने मुकदमा चलाया गया है।

..... दिन तक मुकदमा चलने के बाद (तिथि) को मैंने उन्हें का अपराधी पाया और उन्हें (कालावधि) के कारावास का दंडादेश दिया।

..... को अपील करने की अनुमति के लिये उनका प्रार्थना पत्र विचारार्थ लम्बित है।

‘ग’

मुझे आपको सूचना देनी है कि विधान सभा / परिषद सदस्य, श्री को, जिन्हें(तिथि) को सिद्धदोष ठहराया गया था और के लिये दोषसिद्धि (के कारण)(कालावधि) का कारावास दिया गया था,(तिथि की अपील लम्बित होने तक जमानत पर रिहा कर दिया गया था) या, यथास्थिति अपील पर दंडादेश रद्द होने पर रिहा कर दिया गया।

आपका विश्वासपात्र न्यायाधीश,
दंडाधिकारी या कार्यपालिका,
प्राधिकारी

प्रतिलिपि सचिव, उOप्रOशासन, गोपन अनुभाग-2, लखनऊ को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

आपका विश्वासपात्र न्यायाधीश,
दंडाधिकारी या कार्यपालिका,
प्राधिकारी

तृतीय अनुसूची

(नियम 229 तथा 230)

किसी सदस्य के, यथास्थिति, बन्दीकरण, निरोध, दोष सिद्धि या रिहाई के बारे में

सूचना का प्रपत्र

स्थान.....

दिनांक.....

अध्यक्ष लोकसभा / सभापति, राज्य सभा,
नई दिल्ली।

‘क’

प्रिय महोदय,

मुझे आपको सूचना देनी है कि(अधिनियम) की धारा.....के अन्तर्गत अपनी शक्तियों के प्रयोग में मैंने यह निदेश देना अपना कर्तव्य समझा है कि लोकसभा /राज्य सभा के सदस्य, श्री..... को के लिये / बन्दी / निरुद्ध कर लिया जाय।

निरुद्ध

(यथास्थिति बन्दीकरण या निरोध के कारण)

तदनुसार श्री सांसद सदस्य को (तिथि) को पर (समय) बन्दी कर लिया गया है और उसे इस समय हवालात में रख दिया गया है। जेल (स्थान) में रखा गया है।

‘ख’

मुझे आपको सूचना देनी है कि लोकसभा /राज्य सभा के सदस्य श्री पर (दोष सिद्धि के कारण) दोषारोप (या दोषारोपों के लिए) न्यायालय में मेरे सामने मुकदमा चलाया गया।

{..... दिन तक मुकदमा चलने के बाद (तिथि को मैंने उसे)..... का अपराधी पाया और उनसे (कालावधि) के कारावास का दंडादेश दियाको अपील करने की अनुमति के लिये उनका प्रार्थना पत्र विचारार्थ लम्बित है।}

‘ग’

मुझे आपको सूचना देनी है कि लोकसभा /राज्य सभा के सदस्य श्री को, जिसे(तिथि) को(बन्दीकरण / निरोध /दोषसिद्धि के कारण) बन्दी बनाया गया निरुद्ध किया गया है / सिद्धि दोष ठहराया गया था,(तिथि) को(रिहाई के कारण) रिहा कर दिया गया था।

भवदीय

(न्यायाधीश दंडाधिकारी) या कार्यपालिका प्राधिकारी

न्यायालय का नाम

प्रतिलिपि सचिव, उत्तर प्रदेश शासन, गोपन अनुभाग-2,
लखनऊ को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।
न्यायाधीश दण्डाधिकारी या
कार्यपालिका प्राधिकारी

8. INTENDED ARREST OF A PUBLIC SERVANT

C.L. No. 83/VIII-b-10 dated 7th September, 1953

Whenever there is an occasion to give notice of the intended arrest of a Government servant under rule 13*. Chapter III, General Rules Criminal, 1957, ** to the Head of his Office or Department, an informal letter should be sent on the lines indicated below :-

Dated _____ date of _____ 19 _____

In the course of the hearing of the case noted on the margin, it has been decided to issue a warrant of arrest against Sri..... (Name)(Designation) who is serving under you. He is an accused/ witness in the said case. Before issuing the warrant I consider it necessary to inform you so that you may be able to make proper arrangement for the discharge of government work and relieve him before the warrant of arrest is issue.

Case No.....
Of.....
V.....
In the Court of

You may kindly arrange to relieve Sri..... with as little delay as possible and inform me when I may expect him to be so relieved.

Yours sincerely,
(Signature of the Presiding Officer of the Court)

9. DYING DECLARATIONS AND IDENTIFICATION PROCEEDINGS

C.L. No C. L.61/Admn. (B) dated 24th April, 1974 and

C.L. No. 70/Admn. (B) dated 7th May, 1974 (modified)

Recording of dying declarations and identification proceedings should continue to be done by the Executive Magistrates as was done by them prior to April 1, 1974, and that the Judicial Magistrates need not do this work.

10. PRESERVATION OF IDENTIFICATION MEMOS

C.L. No. 45 dated 19th August, 1960

All Magistrates, Sessions Judges, Additional District and Sessions Judges and Assistant Sessions Judges should note that the identification memos particularly in dacoity cases are important documents.

* Now rule 14.

** Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

By constant and careless use in subordinate courts, those memos are sometimes reduced to tatters by the time they reach the High Court in appeal or revision. The result is that the most important information required by the Court is not available on the record.

They should, therefore, take proper care to see that the identification memos are properly preserved.

11. CHEMICAL EXAMINER'S REPORT

C.E. No. 44/VIIb-53 dated 11th August, 1964

Para 14 of Annexure V of the Hand Book for Criminal and Revenue Courts enjoins upon the Police to send all articles suspected to be stained with human blood in a case under investigation, to the Magistrate within 24 hours of recovery and the latter should send the same to the Chemical Examiner within 24 hours of their receipt from the Police.

It is also added that no case should be committed to the court of Sessions, until the entire prosecution case is completely ready and includes the reports of the Chemical Examiner and the Serologist where it is necessary to rely on these for deciding the case. If a case is committed without these reports the Sessions Judge would proceed with the case on the assumption that these reports are not needed for deciding the case.

C.L. No. 168/VIIb-53 dated 28th October, 1976

The Magistrate should dispatch authority letter to the Chemical Examiner and Serologist, expeditiously.

12. Medico Legal Report

C.L. No. 62 dated 18th July, 1968

The procedure decided upon with regard to disposal of reports of medico-legal analysis with a view to lessen the time taken to reach the reports to the courts is that the original copy of the report will be sent to the original sender (S.Ps., Chief Judicial Magistrates, Munsif Magistrates, etc., as the case may be) while a copy will be sent to the Chemical Examiner concerned. In case of non-receipt of or mislaying of the reports, the courts concerned should contact the original sender and the Chemical Examiner concerned and the Chemical Examiner will correspond with the Department of Serologist and Chemical Examiner to the Government of India, 3, Kyd Street, Calcutta-16. If the report has been mislaid, the Chemical Examiner will supply the copy lying with him to meet the emergency and will ask the Serologist to replenish the report. In case the report has been received by the court concerned through a channel other than the original sender an intimation to that effect should be sent to the Serologist. All correspondence to the Serologist should be routed through the Chemical Examiner concerned.

(i) Medical aid to injured

C.L. No. 68/IX f-69/Admn.(G) dated 9th September, 1989

It encloses copy of judgment dated 28.8.89 of the Supreme Court in the case of Parmanand Katara Vs. Union of India, (reported in A.I.R. 1989 SC 2039) and says that the District Judges should give wider publicity to the contents of judgment and also ensure action as directed by the Hon'ble Supreme Court in the above noted judgment.

(ii) Central Food Laboratory

Compliance of the Provisions of Prevention of Food Adulteration Rules, 1955 while forwarding legal samples by the Courts to Central Food Laboratories for analysis.

C.L. No. 24/VII-f-227/Admn.(G-2), dated April 26. 1993.

I am directed to send herewith a copy of letter No. P.15025/131/92-P.H. (F&N) P.F.A. dated 3.12.92 from the Directorate, General of Health Services, New Delhi for necessary guidance and compliance by the Presiding Officers working under your supervision.

Directorate General of Health Services, Government of India Nirman Bhawan New Delhi. Compliance of the Provisions of the Prevention of Food Adulteration Rules, 1955 while forwarding legal samples by the courts to Central Food Laboratories for analysis.

L. No.P.15025/131/92-PH (F&N) PFA Directorate General of Health, Services, Government of India, dated 3rd December, 1992

It has been brought to the notice of this Directorate by the Central Food Laboratory, Mysore that there are certain shortcomings in receiving legal samples from the Subordinate Courts under your jurisdiction for analysis under the provisions of section 13(2) of the Prevention of Food Adulteration Act, 1954.

2. A few of the shortcomings as observed by Central Food Laboratory, Mysore is as follows:-

- (a) Receipt of memorandum from the courts with incomplete address as a result of which the test certificates sent by Central Food Laboratory by Registered post with A/D are sometimes returned to Central Food Laboratory indicating that the addressee is not available.
- (iii) Some of the Hon'ble courts are not sending the specimen seal of the Hon'ble court used to seal the container and the parcel along with the memorandum while forwarding the sample parcels. The Central Food Laboratories are not in a position to open such registered parcels unless the specimen seal impression from the Hon'ble court are received by them. This had led to the prolonged correspondence with the Hon'ble courts and by the time the specimen seal impression is received, the sample is spoiled and Central Food Laboratories are forced to give the test certificate to the effect that the samples are unfit for analysis.

1. In this connection, your kind attention is invited to Rule 4 of PF a Rules, 1955 an extract of which is reproduced below for ready reference:-

- 1. (a) Samples of food for analysis under sub-section (2) of Section 13 of the Act shall be sent either through a Messenger or by registered post in a sealed packet, enclosed together with a memorandum in Form I in an outer cover addressed to the Director.
- 1.(b)Samples of food for analysis under sub-section (2) of Section 6 of the Act or under clause (a) of Rule 3 shall be sent either through a Messenger or by registered post in a sealed packet enclosed together with a memorandum in Form I-A in an outer cover addressed to the Director.

- (2) The container as well as the outer covering of the packet shall be marked with a distinguishing number.
- (3) A copy of the memorandum and a specimen impression of the seal used to seal the container and the cover shall be sent separately by registered post to the Director.
- (4) On receipt of a package containing a sample for analysis the Director or an officer authorised by him, shall compare the seals on the container and the outer cover with specimen impression received separately and shall note the condition of the seals thereon.
- (5) After text or analysis the certificate thereof shall be supplied forthwith to the sender in Form II.
- (6) The fees payable in respect of such a certificate shall be Rs. 40 per sample of food analysed.
- (7) Certificates issued under these rules by the Laboratory shall be signed by the Director.

3. According to the provisions of Section 13 (2-B), the Director of the Central Food Laboratory has to send a certificate of analysis to the court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis. To adhere to the statutory period for sending the certificate of analysis, it will be appropriate, if the subordinate courts dealing in food cases under your jurisdiction are requested to strictly follow the rules prescribed for sending legal samples for analysis by the Central Food Laboratories. They may also be requested to mention complete address with the names of the Magistrates in Block letters together with their signature and seal of the court. This will help us to perform our duties in proper implementation of the PF A Act, 1954.

Action taken may please be intimated to this Directorate.

(iii) Forensic Science Laboratory

Prescribing an Amount as Fee for Examination of the Documents in Civil/Departmental Cases by Forensic Science Laboratory, Andhra Pradesh, and Hyderabad.

G.L. No. C-50/1994, dated January 19, 1994

I am directed to send herewith a copy of letter No. CAMP/FSL/93/938, dated 16.11.1993 along with a copy of G.O. Ms. No.335, Home (Police-C) Department, dated 5.8.1993 of Govt. of Andhra Pradesh, Hyderabad, received from Dr. K.P.C. Gandhi, Director. Forensic Science Laboratory, Red Hills, Hyderabad and to request you kindly to circulate the same to all the Judicial Officers working under you for their kind information.

G.O. Ms. No.335 Home (Police-C) Department. Government of Andhra Pradesh, dated August 5, 1993

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

POLICE DEPARTMENT- State Forensic Science Laboratory- Examination of documents in Civil cases by Forensic Science Laboratory collection of fees - Revised Order -Issued.

HOME (POLICE C) DEPARTMENT, G.O. Ms. No.335, dated 5th August, 1993.

1. G.O. Ms. No.2033, Home (Police B) Deptt. dated 30-3-1958
2. G.O. Ms. No.682, Home (Police B) Deptt. dated 27-3-1959
3. G.O. Ms. No.1248, Home (Police B) Deptt. dated 30-5-1959
4. From the Director General and Inspector General of Police, Letter No. 446/A2/92, dated 6-11-1992

Government, after examination of the proposal of the Director General and Inspector General of Police in the letter fourth read above and in super session of the orders issued prescribing the fees for examination of documents in civil cases by the State Forensic Laboratory in the G.Os. First to third read above, hereby order that the following shall be the rates of fees to be levied for examination of the documents by the Forensic Science Laboratory in civil cases as noted against each:

(1) Examination of documents received from the Courts in Civil Suits, Departments (other than Police Department) irrespective of the number of documents which includes cost of photographs, slide transparencies, charts etc., for each case. In cases where the costs of photographs are, exceptionally high actual cost of photographs shall be charged. As decided by the Director, Forensic Science Laboratory... Rs. 750/- (Rupees seven hundred and fifty only)

(2) If the workload is high, complicated, and time taken is more, the exact additional amount to be decided by Director, Forensic Science Laboratory not exceeding Rs. 2,000/- in a case in all. In case, the amount exceeds Rs. 2,000/-, the Director, FSL, shall obtain approval of the Director General & Inspector General of Police by giving sufficient reasons.

(3) Evidence Fee for attendance of Expert before the Court per day. In addition to this, T.A. and D.A. shall be paid as per T.A. Rules. The evidence fees, T.A. and D.A. should be deposited in Court in advance before the day of evidence and should be paid in cash by the Court to the expert after the evidence is completed.

Rs.250/- per day to each case. (Rupees Two hundred and fifty only)

(4)

- (i) Where the experts are unable to attend courts for some reason and in case where the Court decides, evidence shall be taken up on Commission at Forensic Science Laboratory, Hyderabad, the usual evidence fees of Rs. 250/- (Rupees two hundred and fifty only) per day shall be paid by the Commission to the expert after the evidence is completed. The decision whether the evidence be taken on Commission or not will be decided by the Director, Forensic Science Laboratory.
- (ii) The fees of Rs. 750/- per case shall be payable in advance and remitted under the Head of Account "M.H. 0055- Police- (103) Fees- Fines and Forfeitures".
- (iii) The experts shall attend the Courts to give evidence in civil cases without detriment to their other official work. They will be considered as on duty while doing so and need not apply any kind of leave.
- (iv) In deserving cases in which the parties are economically poor, the fees may be waived by the Director, Forensic Science Laboratory on the recommendation of

Government authorities of the rank of Superintendent of Police, District Collector or District Judge.

- (v) The Director General and Inspector General of Police shall take necessary action for the proper maintenance of accounts and records on the above and arrange production before audit.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

(iv) Transmission of criminal exhibits to Forensic Science Laboratory for examination.

C.L. No. 9/2009 Admin. G-II Dated: 7.4.2009

While enclosing here with a copy of D.O. Letter No. DG-Seven-S-4(FSL)-2003, dated September 23, 2003 of Sri Abhai Shanker, the then Inspector General of Police, Technical Services, Uttar Pradesh, Lucknow on the above subject, I am directed to say that all the criminal exhibits sent to be examined by the Forensic Science Lab. Uttar Pradesh, Lucknow relating to one and the same matter ought to be sealed first in various smaller bundles/packets and thereafter they will be put in a larger sealed bundle which shall contain all the specimen of so used seals because that would facilitate the identification of exhibits sent for examination.

I am, therefore, to request you to kindly bring to the notice of all the judicial Officers working under your supervisory control and all concerned the contents of the above-referred letter and to impress upon them to strictly adhere the instructions in right earnest.

Evidence of experts of Forensic Science Laboratories in civil matters, to be recorded by commissioners appointed by the court.

C.L. No. 25/2009/Admin. 'G-II': Dated: May 16, 2009

While enclosing a copy of the Circular Letter No. ROC No. 5924/OPCELL-E/2003 DT. 22.12.2003 issued by the Hon'ble High Court of Andhra Pradesh on the above subject, the Government of India, Ministry of Home Affairs, Directorate of Forensic Science vides Letter No. CFI/19(2)/2004 dated 27.09.2004 has brought to the notice of the Hon'ble Court that the time of the experts working in the Forensic Science Laboratory is very precious and the same can be conserved by requesting for appointing commission in civil cases for recording their evidence in laboratory itself and has requested for issuance of a Circular Letter similar to the one issued by the Andhra Pradesh High Court.

Upon consideration of the above request, the Hon'ble Court has desired that a direction be issued to all the Judicial Officers of the State to take recourse to issuance of the commissions for recording the evidence of the Scientific Experts in Civil Cases wherever it is necessary, instead of summoning them to courts, by following the provisions of Order XXVI Rule 10-A and newly introduced provision of Order XXVI Rule 4-A under Act 22 of 2002, Civil Procedure Code in particular.

While enclosing a copy of the above Government Letter dated 27.9.2004, I am directed to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control for strict compliance.

13. CHARGE-SHEETS AND FINAL REPORTS

As modified by C.L. No. 51/IV h 36 dated 10th March, 1977

Charge sheets should be accepted even though they have been filed without copies of documents, but they should invariably be accompanied by the original documents. The receipt of every charge sheet shall be acknowledged by the ahalmads.

C.L. No. 88/VII-b-107 dated 8th July, 1975

Summonses should not be issued to the accused until the charge sheets are received in the courts from the police.

C.L. No. 96/VII-b-21 dated 19th July, 1971

Magistrates should pass orders on final reports submitted to them by the Police within one month of their submission.

C.L. No. 10/VII-c-/25/Admn. (G) dated 24th January, 1986

Attention of all the Presiding Officers is invited to the judgment of Supreme Court in the case of Bhagwant Singh v. Commissioner of Police, reported in A.I.R. 1985 S.C. 1285 regarding issue of notice to the informant in cases where the Magistrate to whom a report is forwarded under Sub-Sectioned) of Section 173, decides not to take cognizance of the offence and to drop the proceedings or takes the view that there is no sufficient ground for proceeding against some of the persons named in the F.I.R.

C.L. No.45/VI-h-36 dated 8th March, 1977

On each charge sheet filed in the courts, a rubber seal indicating the following should be impressed:-

- (a) Charge-sheet received on.....
- (b) Paper sent for copying on.....
- (c) Papers and copies received back on

Numbering of criminal cases

C.L. N0.75/VIII-8-108 Admn.(G)(B) dated 29th October, 1984

All the criminal courts should strictly comply with rule 21 and rule 91 of the General Rules (Criminal),* with regard to numbering of criminal cases.

14. COMMITTAL OF CASES

C.L..No. 60/VII-d-21 dated 16th September, 1948**

On the commitment of a case by the Magistrate, a date should be fixed for its hearing without waiting for the evidence under section 219 of the Code of Criminal Procedure. If such evidence is not recorded by the Magistrate by the date of hearing Sessions Judges may use their discretion and either proceed with the trial or adjourn it for the remaining evidence only. The

* Now 1977vide notification no. 504/Vb-13 dated 5.11.83.

** This C.L. should be read in context of the charges made by Cr. P.C.of 1973

entire hearing is to be adjourned only in very exceptional circumstances. It may, however, be borne in mind that after commitment the trial in the sessions court is by no means to depend on the proceedings in the court of the committing Magistrates.

C.L. No. 120/VIId-68 dated 16th November, 1970

Instructions contained in G.O. No. 1166/VI-6-19-1964, dated the July 15. 1964 should be strictly followed while committing cases to the- court of Sessions keeping in mind that the entire prosecution case is completely ready and includes the reports of the Chemical Examiner and the Serologist where it is necessary to rely on these for deciding the case.

Sessions Judges should, however, impress upon Judicial Magistrates that cases should not be committed to Sessions Courts unless all the evidence and specially the important evidence has been completed and that if in any particular case evidence under section 219* of the Code of Criminal Procedure remains to be recorded, it should be finished before the date fixed by the Sessions Judge for the hearing of the case.

G.L. No. 54/T, and 56/T dated 30th August, 1948

The calendar and the record of the case committed to sessions are generally sent by committing Magistrates to the courts of sessions long after the date of commitment in contravention of the provision of rule 35, Chapter V of the General Rules (Criminal), 1957,* which requires that the record should be submitted within eight days of the order of commitment. This is highly objectionable.

In cases where the record is likely to take long in preparation or when it is required for recording evidence under section 219 of the Code of Criminal Procedure, it should not be allowed to be detained in the Magistrate's court. The sessions court should get it for fixing dates and may return it when not required to the committing court for preparation or for the taking of proceedings under section 219 of the Code of Criminal Procedure as the case may be.

C.L. No. 151/VIIIa-99 dated 15th December, 1975

Separate registers for F.I.Rs., statements under section 164, Cr.P.C., dying declarations,, report of Chemical Examiner Serologist and other experts including ballistic experts, affidavits and identification memos should be maintained in the court of every Magistrate and all those documents, whichever may be available at the time of passing of the committal orders, be submitted to the courts of Sessions along with the committal orders.

C.L. No. 8/iv f 80 Admn. (A) dated 18th February, 1981

There should be a regular flow of commitment of cases to the sessions so as to avoid increase or decrease in pending sessions trials all of a sudden. If cases are committed to the court of sessions regularly, the pending files of sessions trials may not increase or decrease from month to month-necessitating withdrawal or posting of additional courts at short intervals.

* Now 1977 vide notification 504/Vb-13 dated 5.11.83

(i) Expeditious disposal of Criminal cases and avoiding delay in committing cases to the sessions.

C.L. No. 27/VIIb-47 Dated; Alld. Nov., 05, 1973

I am directed to refer to Court's Circular Letter No. 96, dated July 19, 1971 and to say that it has come to the notice of the Court that due to unnecessary delay caused in the committal proceedings, the accused, who are on bail, get an opportunity to win over the prosecution witnesses and weaken the evidence against them. In consequence, the prosecution is unable to establish charges leveled against the accused. Such difficulties can be obviated to a great extent in case committal proceedings are finalised expeditiously.

I am, therefore, to request you kindly to impress upon all the committing Courts under your control to see that committal proceedings are finalized expeditiously, so that the disposal of Criminal cases is not unnecessarily delayed.

(ii) Disposal of committal cases by the Judicial Magistrates.

C.L No. 25/VIII -106/ Admn./96 dated May 18, 1996

I am directed to say that a large number of cases are pending in your judgeship for committal. The delay in committing the cases to the Court of Sessions results in tampering the witnesses and furnishes a ground to the accused to seek bail. The Hon'ble Court has taken a serious note of the aforesaid facts and has directed as under:

1. The committal proceedings in which the role of the Magistrate is limited should not take more than two months time and the cases should be committed to the Court of Session within two months.
2. In the monthly and quarterly return of the Subordinate Court the number of enquiries, which are pending for more than one year, six months and three months must be given specifically.
3. The arrear of committal enquiries must be disposed of by the Chief Judicial Magistrates/all other Magistrates within the next three months.

Therefore, you are requested to ensure the compliance of the above observations.

(iii) Quarterly return of pending committal enquiries in the Subordinate courts for more than one year, six months and three months.

C.O.No.46/Admin (E)/96 Dated: August: 13, 1996

In continuation of C.L. No. 25/VIII Admin. Dated May 18, 1996 on the above subject, I am directed to say that the requisite figures of pending committal enquiries in your judgeship for the quarter ending June, 1996 have not been received here so far.

I am, therefore to request you to kindly send immediately the figures of pending committal enquires for the quarter pending June, 1996 in your judgeship for more than one year, Six months and three months in the prescribed proforma, attached herewith to the Joint Registrar, Administrative (E) Section of the court and the same may also be sent henceforth regularly.

(iv) To ensure strict compliance of the Judgment and order of Hon'ble Supreme Court passed in petition for special Leave to Appeal (C) No.9140 of 2003: Ch.

Venkateshwar Rao Vs. The Registrar (Administration) High Court of Andhra Pradesh, Hyderabad, A. P. & anr.

C.L.No. 30 /2003 Dated: Aug19, 2003

The Hon'ble Supreme Court in Petition for special leave to appeal (C) No.9410 of 2003: Ch. Vakateshwar Rao Vs. The Registrar (Administration) has observed with concern that in district Courts charge sheets have been found lying with the concerned staff without any action having been taken by verifying and placed them before the presiding officer and in not sent to the sessions court even after committal of the cases. The Hon'ble Supreme Court has further observed that several private complaints, criminal petitions in maintenance cases and criminal petitions were not called and were not placed before the officer.

I am, therefore, directed to a copy of order dated 5.5.2003 passed by Hon'ble Supreme court in Petition for Special Leave to Appeal (C) No 9140: Ch Vakateshwar Rao Vs. The Registrar (Administration) High court of Andhra Pradesh, Hyderabad, U. P. & Anr. For your Information and necessary action.

(v) Direction regarding committal of cases pending in the Court of C.J.M./Judicial Magistrate.

C.L. NO. 44/Admn. (E-2) Dated 21st September, 2000

I am directed to invite your attention to the Court circular letter No. 27 dated 14.10.99, on the above subject and to request you kindly to send the court time to time fortnightly consolidated statement regarding committal of cases pending in the court of C.J.M./Judicial Magistrate in your Judgeship.

(vi) Submission of reports with regard to committal of Sessions Trials.

C.L. No. 10/VIII-C-114/Admin.(G)/Dated: Allahabad: 20.3.2008

In continuation of the Court's earlier Circular Letters (C.L. No. 77/VII-b, dated 5.11.1973; C.L. No. 25/VIII-106/Admin./96 dated 18.5.1996), I am directed to say that upon consideration of the matter the Hon'ble Court has desired that the District Judges concerned shall report back within one week from the receipt of the letter as to how many cases (with year-wise break up) in that district are pending for committal to the Court of Sessions of their Judgeships. Also, the District Judges will instruct all the concerned Presiding Officers to take steps to commit all such matters to the court of Sessions forthwith in accordance with law. Further, the position as it reaches by the end of April, 2008 be reported back so as to positively reach the Court by the 1st week of May, 2008. Similar follow up reports shall be sent in the first week of September, 2008 and January, 2009. The Magistrates will be instructed by the District Judges for expediting the committal of cases.

I am therefore to request you to kindly submit compliance report as per schedule prescribed by the Hon'ble Court and bring the contents of this Circular Letter to all concerned and impress upon all the Magistrates working under your administrative control to expedite the committal of cases and follow the directions in true letter and spirit.

15. SUPPLY OF COPIES OF RELEVANT PAPERS TO D.G.C. (CRIMINAL)

C.L. No. 77/VI-b-35 dated 20th May, 1974

Copies of relevant papers in cases committed to sessions should invariably be prepared by the additional staff provided for the purpose and supplied to the District Government Counsel (Criminal) by the committing courts themselves.

16. USE OF BALL POINT PROHIBITED

C.E. No. 62/VIII-a-68 dated 31st May, 1972

For preparation of copies of statements to be supplied to the D.G.C. (Criminal) the use of ballpoint pens is prohibited.

17. PREPARATION OF CALENDAR BY MAGISTRATES

C.L. No. 1 dated 4th January, 1957

It is the duty of the Magistrates committing a case to inform the Sessions Judge who is the witnesses to be examined for the prosecution and for the accused. He is required under section 207-A(6)* to consider all the documents referred to in section 173 and it is on the basis of this consideration and the evidence given before him by the witnesses to the actual commission of the offence alleged that he decides to commit the case to the court of session. He is therefore, in the best position to know who will give evidence for the prosecution in the sessions court. If he cannot obtain a complete list of witnesses from the documents referred to in section 173 he may consult the public prosecutor; but the duty of ascertaining who will be the witnesses for the prosecution' in the sessions court is his and must be performed by him. He must state in the calendar the names of the witnesses to the actual commission of the offence examined by him and gist of the evidence given by them; he must also mention the remaining witnesses to be examined for the prosecution including formal witnesses and state what they are likely to depose about. It is not enough to state in the calendar that a particular witness is a formal witness or that he will give formal evidence; the gist of the evidence to be given by him should be stated, for example, that he will prove the identification proceedings or confession or dying declaration or carrying the dead body for post mortem examination and so on. If he has considered all the documents referred to in section, 173 he must know what evidence they are likely to give for the prosecution. Though the law regarding inquiries into cases triable by courts of sessions has been altered by the Amendment Act (No. XXVI of 1955), there is no alteration in the rules regarding preparation of the calendar. The attention of all the District Judges and District Magistrates is drawn to rule 35 in the General Rules (Criminal), 1957* which requires that the entries under heads 9 and 11 of the calendar must be full and accurate.

Their attention is also drawn to the new section 510-A** of the Code which should be used in appropriate cases. In sessions inquiries also Magistrates may accept evidence of formal witnesses by affidavit: When they do so, the fact that the witness has given evidence by affidavit should be stated in the calendar and the affidavit should be marked with an exhibit number and included among the documents.

C.L. No. 118/VIII-a-99 dated 6th August, 1974

Under rule 35 of General Rules (Criminal) the committing Magistrates shall continue to send along with the record of the case a calendar in the prescribed form (Part IX, No. 3) to the court of sessions as they have been doing prior to the commencement of the Code of Criminal Procedure, 1973. The words "examined in this court" shall, however be ignored from head no. 11 of the form in view of Section 209 thereof.

C.L. No. 6 dated 19th January, 1965

* Since replaced by Cr. P.C. 1973

* Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

** Now 296 Cr.P.C. 1973

The Sessions Judge on receipt of calendar from the committing Magistrate will carefully scrutinize in the presence and with the help of D.G.C. (Criminal) and eliminate such witnesses as are unnecessary for the trial and only such witnesses as are considered necessary for trial be summoned.

C.L. No. 77/VII-b dated 5th November, 1973

Committing courts should finalize the committal proceedings expeditiously so that the disposal of criminal cases is not unnecessarily delayed. Delay in committal proceedings gives an opportunity to the accused, on bail, to win over the prosecution witnesses and weaken the evidence against them.

C.L.*No. 156/VII-b-21 dated 21st December, 1971

Committing courts should exercise their discretion judicially while committing a case to the court of sessions and should keep in mind the total evidence, direct or circumstantial. If a case cannot result in conviction even though the evidence relied upon by the prosecution is accepted it should not be sent up for trial.

18. RECORDING OF STATEMENT U/SS 200 AND 202 Cr.P.C.

C.L*. No. 6/Admn. (B) dated 1st May, 1971

In every case the statement of the complainant, u/s 200 Cr.P.C. be recorded on the same day on which the complaint is made. Where for some good reason the statement cannot be recorded on the same day, it should be recorded on the following day. It should be ensured that the complainants do not have to come to the court often for this purpose and minimum inconvenience is caused to them.

The recording of statement of witnesses' u/s. 202 Cr.P.C. should not become a matter of routine. If the case is one in which notice shall be issued to the accused no detailed enquiry u/s 202 Cr.P.C. need be conducted and soon after recording the statement of the complainant notice can be issued to the accused. Where an enquiry u/s 202 Cr.P.C. is considered necessary the Magistrates must take personal interest while recording the statements of witnesses. They can, on their own, put a few questions and find out the status of the witnesses and also whether they had an opportunity to see the[^] occurrence. By so doing a much larger number of complaints can be dismissed u/s. 203 Cr.P.C.

Further, the complaint cases should be kept pending without date only after the accused persons have been served so that such cases can be taken at short notice whenever necessary.

Recording of statements U/s. 200 Cr.P.C.

C. L. No.53/2007Admin(G): Dated: 13.12.2007

The Hon'ble Court has been pleased to observe that section 200 Cr.P.C. mandates that the substance of the information/statement only is required to be recorded by the magistrate which should be done by him in his handwriting as that would facilitate in pinpointing the controversy and check frivolous complaints .

* This C.L. should be read in context of the change made by Cr. P.C. of 1973

* This C.L. should be read in context of the change made by Cr. P.C. of 1973

Therefore, in continuation of earlier Circular letter no. 6 Admn.(B) dated 1st May 1971 , I have been directed to say that all the Magistrate working under your administrative control may please be directed to record statements under Section 200 Cr.P.C. in their own handwriting.

I am, further, to request you to kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control for strict compliance.

19. INSTITUTION OF SESSIONS TRIAL

C.L. No. 54/D-1950 dated 28th August, 1950

In the case of Additional Sessions Judges (Additional District Judges) not at headquarters of a Sessions division the Government have issued a notification under sections 193(2) (new section 194) and 409 (new section 381) of the Code of Criminal Procedure 1898, authorizing Additional Sessions Judges to try all cases committed by, and hear appeals arising from judgments passed by the magistrates of their respective districts. Notifications issued under the above provisions of the Code do not authorize Additional Sessions Judges to receive institution of cases direct but merely empower them to try the cases and hear the appeals after their institution in the Court Of Sessions.

To avoid inconvenience to the residents of the districts not at the headquarters of a Sessions Division, Sessions Judges should direct an official on the staff of such courts of Additional District and Sessions Judges to receive on their behalf sessions trials and criminal appeals and also revisions. Sessions Judges may also pass a general order of transfer in respect, of revisions under section 438(2) (new section 400) Code of Criminal Procedure.

C.L. No.16/D-2 dated 4th February, 1952 as amended by

C.L. No. 69/26-B dated 9th June, 1952

As under rule 21 Chapter IV General Rules (Criminal), 1957* a separate series of numbers is to be allotted to each district, a separate register in Form No. 15 should be maintained for each revenue district in a sessions division.

C.L. No. 70/VII-F-229/Admn.(A) dated 4th November, 1982

Sessions trials and other work may, as usual, be transferred to the courts of Special Judges, if and when necessary to keep them fully engaged.

C.L. No. 38/VIIa-21 dated 19th May, 1984

It encloses a copy of Government letter no. Bhasa 15/VIII-9-3 (3)/84, dated 5.3.1984 along with its enclosure, a copy of the Criminal Law (Second Amendment) Act, 1983, No. 46 of 1983, and says that the provisions contained in the aforesaid Act with regard to cruelty to married woman and dowry death, etc. should be brought to the notice of all officers concerned, for their information and strict compliance.

(i) Non-adjournment of the Sessions Trial by the Sessions Judges.

G.L. No. C-73/1990, dated July 26, 1990.

* Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

I am directed to say that it has come to the notice of the Court that the Sessions Trial, after is opened, is being frequently adjourned by the Sessions Judges. This practice is contrary to law and is also not desirable.

I am, therefore, to request that Sessions Judges may kindly be directed that the Sessions Trials should proceed from day to day, once it is commenced and should be not ordinarily adjourned.

The Sessions Judges may also be directed to follow the said direction, strictly.

20. HEARING OF CASES

C.L. No. 151/VII-a-18 dated 28th September, 1974

Criminal courts, while taking up kidnapping and abduction cases, may consider the desirability of conducting proceedings in camera in case they are satisfied that the said procedure would be helpful in the dispensation of justice.

C.L. No. 104/VII-c-33 dated 30th August, 1971

In order to avoid hindrance in the rehabilitation of the deviant women, cases under S.I.T. Act* should be disposed of early.

C.L. No. 46/VII a-19/Admn.(G) dated 4th June, 1986

The District Judges should ensure strict compliance of the provisions of section 327(2) Cr.P.C. as amended by Section 4 of Criminal Law (Amendment) Act, 1983 prescribing clearly, that the trial of cases under sections 376-376A-376B-376C, or 376-D, I.P.C. should be held in camera, by all the concerned judicial officers.

C.L. No. 52/VII c-9 dated 6th May, 1969

In order to obviate the difficulty of witnesses showing reluctance to depose against Goondas in open court the presiding officers should allow increasing recourse to trial of cases against Goondas in camera whenever it is considered necessary by the court trying them.

In case it becomes necessary to start the trial in Jail, prior permission should be obtained from the Court.

21. NOTICE TO D.G.C. (CRIMINAL)

C.E. No. 77/VIII-f-11 dated 20th December, 1962

The necessity of strict compliance of the directions contained in paragraph 161 and 162 of the Legal Remembrancers' Manual regarding notice of date of hearing of cases to Government Pleaders [D.G.C. (Criminal)], hearing of the cases on the date fixed, cases to be taken up in succession, reasonable notice when the Presiding Officer does not propose to attend the court on days on which criminal work is fixed etc. is impressed on all the presiding officers.

22. RECORDING THE AGE OF AN ACCUSED

C.L. No. 52/VII-b-32 dated 28th September, 1954

In the first instance, each accused in a murder case at the time of his examination by the Magistrate or the Sessions Judge should be specifically asked as to what his age is, and that age

* Now Immoral Traffic (Prevention) Act, 1956 vide Amendment Act 44 of 1946

should be recorded. If the Magistrate or the Sessions Judge suspects that the age stated by the accused, having regard to the general appearance of the accused or some other reason, has not been correctly stated it is either an over-estimate or under-estimate then the Magistrate or the Sessions Judge should note his own estimate and if he considers it necessary order medical examination of the accused about his age. If any documentary evidence on the point of age is readily available, the prosecution should be asked to produce it.

C.L. No. 11/VIII-a-16 dated 25th February, 1965

Under Rule 53* of General Rules (Criminal), 1957,** Volume I, Presiding Officers of the Criminal Courts are required to record, *inter alia*, the age of the accused persons while examining them under section 342 (new section 313) of the Code of Criminal Procedure. Recording of age is an important factor in awarding sentence and considering the petition for mercy of a condemned prisoner and for remission of unexpired portion of the sentence by the Government.

C.L. No. 69 dated 13th August, 1968

Sessions Judges and Magistrates should give their estimate of the ages of the accused persons while recording their statements.

23. CASES OF JUVENILE

C.L. No. 89 Admn. (A) dated 3rd April, 1977

While dealing with the cases of the child offenders, the provisions of the U.P. Children Act, 1951 should be kept in view and acted upon by the courts concerned.

C.L. No 71/VII c-34 Admn. G dated 7th November, 1981

Government's Notification No. 3532/XXVI-2 55(P)/74 dated July 1981 empowers the Sessions Courts of the districts where the provisions of the U.P. Children Act, 1951* are in force to act as Juvenile Courts and to try offences punishable with death or life imprisonment.

C.L. No. 33/Admn. (G)VIIIf-45 dated 13th May, 1986

It invites attention to the fact that the children below the age of sixteen years should not be confined in jail and also to the directions given in this regard by the Supreme Court in the case of Sheela Barse v. Union of India (Reported in AIR 1986 S.C. 1773).

The Supreme Court has been pleased to direct the District Judges in the country to nominate the Chief Judicial Magistrate or any other Judicial Magistrate to visit the District Jail and Sub-Jail in his District for the purpose of ascertaining how many children below the age of 16 years are confined in jail; what are the offences in respect of which they are charged; how many of them have been in detention whether in the same jail or previously in any other jail before being brought to the jail in question; whether they have been produced before the children's Court and if so, when and how many times; and whether any legal assistance is provided to them.

* Now Rule 50 vide notification no. 504/Vb-13 dated 5.11.83

** Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

* Replaced by Section 63 of the Juvenile Justice Act, 1986.

The report shall also state as to whether there are any children's - Home, Remand Home or Observation Homes for children within his District; and if there are any such homes, he shall inspect them for the purpose of ascertaining as to¹ what are the conditions in which children are kept there and whether facilities for education or vocational training exist.

Hon'ble the Supreme Court has further directed that the State Legal Aid & Advice Board in each State or any other legal aid organization existing in the State concerned, to send two lawyers to each jail within the State once in a week for the purpose of providing legal assistance to children below the age of 16 years who are confined in the jails. District Judges as Chairmen of the Legal Aid and Advice Committee of their Districts, should in consultation with the Administrative Chairman of the Legal Aid and Advice Board, take necessary steps to implement the aforesaid directions.

The Hon'ble Supreme Court has also observed that if there are other persons confined in jails who are there merely because they are suffering from some handicap (physical or otherwise) they should be released immediately and placed in appropriate home or place where they can receive suitable medical assistance or other educational training. Such persons shall also be medically examined in the home or place where they are kept in order to determine what medical assistance is necessary to be provided to them. District Judges should issue directions and take steps accordingly.

(i) Implementation of Juvenile Justice Act, 1986

C.L. No. 89/Admn.(A) dated 20th December, 1989

I am directed to send herewith a copy of Government Letter No. 3250/26-2/88/26 (P) 187, dated August 10, 1988, along with its enclosure, on the above subject, and to request that the contents of the said Government letter and the enclosure, may kindly be brought to the notice of all the concerned subordinate courts for their information and guidance in the matter of disposal of cases of Juvenile offenders.

शासकीय पत्र संख्या-3250/26-2/88/26 (पी)/87, दिनांक 10 अगस्त, 1988

(ii) किशोर न्याय अधिनियम, 1986 का कार्यान्वयन।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि किशोर अपराधियों के साथ अच्छा बर्ताव करके उन्हें सुयोग्य नागरिक बनाने के उद्देश्य से इस प्रदेश में भारत सरकार द्वारा पारित किशोर न्याय अधिनियम, 1986 दिनांक 2 अक्टूबर, 1987 से लागू कर दिया गया है। इस अधिनियम के लागू होने के फलस्वरूप उOप्रO बालक अधिनियम, 1951 निरसित हो गया है। किशोर न्याय अधिनियम भारत सरकार के असाधारण गजट दिनांक 3 दिसम्बर, 1986 को उक्त गजट के खण्ड-1, भाग-2 में प्रकाशित हुआ है। इस अधिनियम की धारा -62 में प्रदत्त शक्तियों के अनुसरण में प्रदेश सरकार ने किशोर न्याय उत्तर प्रदेश में नियमावली, 1987 को भी 19 जनवरी, 1988 के असाधारण गजट में प्रकाशित कर दिया है। इस नये अधिनियम में लागू हो जाने के कारण किशोर अपराधियों के रख रखाव, उनकी शिक्षा एवं प्रशिक्षण तथा उनके पुनर्वासन के क्षेत्र में महत्वपूर्ण परिवर्तन आ जायेंगे। इन महत्वपूर्ण परिवर्तनों तथा अधिनियम की विशेषताओं का उल्लेख संलग्नक में कर दिया गया है।

2- अतएव अनुरोध है कि कृपया इस अधिनियम की अपेक्षाओं एवं आकांक्षाओं के अनुरूप कार्यवाही सुनिश्चित कराने के उद्देश्य से आप कृपया सभी अधीनस्थ न्यायालयों के संज्ञान में प्रमुख विशेषताओं को लाते हुये उनसे यह अनुरोध करने का कष्ट करें कि वे किशोर अपराधियों के मामलों के निस्तारण के समय उक्त अधिनियम की इन विशेषताओं तथा महत्वपूर्ण परिवर्तनों को देखते हुए आवश्यक कार्यवाही करें।

किशोर न्याय अधिनियम, 1986 के विशिष्ट प्राविधानों का विवरण

1. किशोर जो किसी भी अपराध के संबंध में पकड़ा जाए, हथकड़ी या बेड़ी नहीं लगायी जायेगी।

2. यदि किशोर को जमानत पर नहीं छोड़ा गया है तो उसे पुलिस स्टेशन या जेल में नहीं रखा जायेगा वरन् सम्प्रेक्षण गृह में निरुद्ध किया जायेगा।

3. किशोर के संबंध में न्यायिक कार्यवाही न्यायालय में सामान्य कक्ष में नहीं की जायेगी वरन् सम्प्रेक्षण गृह परिसर में की जावेगी। यह कार्यवाही ट्रायल के रूप में न होकर जॉच की तरह की जायेगी, जिसका निर्णय सामान्यतः तीन माह की अवधि में कर दिया जावेगा।

4. किसी भी किशोर को किसी अपराध में दोषी पाए जाने पर यदि उसे सलाह देकर या भर्त्सना देकर घर जाने की अनुमति नहीं दी गई है अथवा उसे परिवीक्षा पद पर नहीं छोड़ा गया है तो उसे किसी भी स्थिति में कारावास का दण्ड नहीं दिया जावेगा। किशोरों को उनकी स्थितिनुसार हरिजन एवं समाज कल्याण विभाग द्वारा संचालित राजकीय किशोर गृह/विशेष गृह में रखा जा सकेगा।

5. कोई भी पुलिस अधिकारी जो किशोर की जॉच के संबंध में किशोर न्यायालय/किशोर कल्याण बोर्ड के समक्ष उपस्थित होगा, पुलिस की वर्दी में नहीं होगा।

6. उपर्युक्त उपेक्षित किशोर को आवश्यकतानुसार किशोर न्याय अधिनियम की धारा 152 के अन्तर्गत किशोर कल्याण बोर्ड के आदेश से किशोर गृह में रखने के लिए भेजा जायेगा।

7. अधिनियम की धारा -253 के अनुसार कोई भी वकील अथवा जन अधिवक्ता किशोर वेलफेयर बोर्ड में जॉच के समय उपस्थित नहीं होंगे जब तक कि इसके लिए अनुमति न दे।

8. अधिनियम की धारा 24 के अनुसार एक ही प्रकरण में यदि दो या अधिक व्यक्ति सम्मिलित हैं जिसमें से एक किशोर हो, तो उस प्रकरण में किशोर एवं अन्य व्यक्ति की जॉच एक साथ नहीं की जावेगी।

9. अधिनियम के अनुसार किसी भी अपराध में दोषी पाये गये किशोर की जॉच सामान्य न्यायालय द्वारा नहीं की जायेगी। इस हेतु अधिनियम की धारा 5 के अनुसार किशोर न्यायालय तथा धारा-4 के अनुसार किशोर कल्याण बोर्ड के गठन का प्राविधान किया गया है तदनुसार अपचारी किशोर के लिए किशोर न्यायालय तथा उपेक्षित किशोर के निमित्त किशोर कल्याण बोर्ड का गठन किया जा चुका है।

10. किशोर न्याय अधिनियम के अन्तर्गत अपचारी अथवा उपेक्षित किशोरों के साथ व्यवहार करने के लिए किशोर न्यायालय व किशोर कल्याण बोर्ड के गठन होने के बाद इन किशोरों के संबंध में वर्तमान में संबंधित 57 जनपदों के सामान्य न्यायालयों के पीठासीन अधिकारी अथवा कोई भी दण्डानायक विचार करने के लिए सक्षम नहीं होगा। यदि किसी दण्डानायक के समक्ष कोई ऐसा किशोर लाया जाता है तो ऐसे किशोरों से संबंधित प्रकरण को उक्त कारण उल्लिखित करते हुए संबंधित बोर्ड/कोर्ट को स्थानान्तरित कर दिया जायेगा।

11. ऐसे किशोर जिनके मामले किशोर कल्याण बोर्ड/किशोर न्यायालय में विचाराधीन होते हैं और जिनको जमानत पर नहीं छोड़ा गया है, उनको रखने के लिए जिस स्तर पर सम्प्रेक्षण गृह स्थापित हैं। बोर्ड/कोर्ट से निर्णय हो जाने के उपरान्त उपेक्षित किशोरों के लिए किशोर गृह एवं अपचारी किशोर हेतु विशेष गृह की राजकीय व्यवस्था उपलब्ध है।

(iii) Arbitrary function of the Presiding Officer/Principal Magistrate (A.C.J.M.) of Juvenile Court constituted under Notification No. 1402/26—2-88-32 (P)/87, dated 25th May 1988 by Harijan Evam Samaj Kalyan Vibhag.

C.L. No. 49/IV-1565/Admn.(A) dated July 21, 1991

I am directed to enclose herewith a copy of Government Letter No. UO-72/VII-Nyay-2, dated May 20, 1991 along with a copy of each of the notice in criminal miscellaneous petition No. 888 of 1991 and petition filed by Executive Director, Legal Aid and Service Clinic Faculty of Law, Banaras Hindu University, Varanasi in writ petition (Criminal) No. 1451 of 1985 in the Hon'ble Supreme Court of India on the above subject, and to request you kindly to give appropriate instructions to the officers dealing with these matters in your Judgeship.

माननीय उच्चतम न्यायालय में लम्बित क्रिमिनल मिसलेनियस पिटीशन नम्बर 888/1991 इस रिट पिटीशन क्रिमिनल नम्बर-1451/1985 में पारित माननीय उच्चतम न्यायालय के आदेशों का अनुपालन।

शासकीय पत्र संख्या यूओ-7/सात-न्याय-2, दिनांक 20 मई, 1991

लीगल एण्ड सर्विस क्लीनिक ला स्कूल बनारस हिन्दू विश्वविद्यालय बनारस ने अधिशासी निदेशक की ओर से मा० उच्चतम न्यायालय में एक प्रार्थना-पत्र देकर किशोर न्यायालय के प्रिंसपल मजिस्ट्रेट (एसीजेएम) की मनमानी कार्य प्रणाली की ओर ध्यान आकृष्ट कराते हुए ए०सी०जे०एम० सहित संबंधित व्यक्तियों को निर्देश जारी करने की प्रार्थना की है और मुख्यतः यह शिकायत की है कि किशोर न्यायालय के प्रिंसपल मजिस्ट्रेट अपनी शक्तियों एवं अधिकारों का प्रयोग नहीं कर रहे हैं। जो जुविनाइल जस्टिस एक्ट 1986 की धारा 5(2) के अन्तर्गत उनसे अपेक्षित है बल्कि वे उक्त अधिनियम की धारा 7(2) के अधिकारों का प्रयोग कर रहे हैं और इस प्रकार किशोरों को सामान्य फौजदारी के कानूनों के अन्तर्गत विचारित किया जा रहा है तथा जुर्माना किया जा रहा है और जुर्माना अदा न करने पर उन्हें जेल भेजा जा रहा है। प्रार्थना -पत्र में कुछ वादों के उदाहरण भी दिये गये हैं।

2- हरिजन एवं समाज कल्याण विभाग द्वारा उनकी अधिसूचना संख्या 1402/26-2-88-32 (पी)/87 दिनांक 25 मई 1988 के द्वारा जुविनाइल जस्टिस एक्ट, 1986 की धारा 5 के अन्तर्गत प्रत्येक मण्डलीय मुख्यालय पर किशोर न्यायालय का गठन किया गया है। उक्त अधिसूचना में वाराणसी मण्डल में वाराणसी स्थित किशोर न्यायालय में अपर मुख्य न्यायिक मजिस्ट्रेट एवं प्रथम न्यायिक मजिस्ट्रेट तथा दो अवैतनिक सामाजिक कार्यकर्ताओं को दर्शाया गया है जो न्यायालय की सहायता करेगा।

3- माननीय उच्चतम न्यायालय में विचाराधीन क्रिमिनल मिसलेनियस पिटीशन नम्बर 888/1991 रिट पिटीशन क्रिमिनल लॉ 1451/1985 सुप्रीम कोर्ट लीगल एन्ड कमेटी बनाम यूनियन आफ इंडिया, में असिस्टेंट रजिस्ट्रार महोदय माननीय उच्चतम न्यायालय द्वारा जो नोटिस दिनांक 15-4-91 प्राप्त हुआ है उसकी प्रति एवं डा. सुरेन्द्र नाथ अधिशासी निदेशक लीगल एन्ड सर्विस क्लीनिक ला स्कूल बनारस विश्वविद्यालय के प्रार्थना पत्र की प्रति आपको सुलभ संदर्भ हेतु भेजी जा रही है।

4- कृपया माननीय उच्चतम न्यायालय द्वारा उक्त रिट याचिका में पारित आदेशों के अनुपालन हेतु जनपद न्यायाधीश वाराणसी तथा श्री नरेन्द्र चन्द्र दुबे तत्कालीन एडिशनल चीफ जुडीशियल मजिस्ट्रेट वाराणसी वर्तमान में सिविल जज अलीगढ़ के माननीय उच्चतम न्यायालय के आदेशों के अनुपालन हेतु तथा आवश्यक कार्यवाही किये जाने हेतु समुचित निर्देश जारी करने का कष्ट करें।

IN THE SUPREME COURT OF INDIA CRIMINAL ORIGINAL JURISDICTION

Criminal Miscellaneous Petition No.888 of 1991 (Letter dated 1-2-1991 along with an application for directions received from Dr. Surrender Nath, Executive Director, Legal Aid & Service Clinic, Faculty of Law, Banaras Hindu University, Varanasi)

In

Writ Petition (Criminal) No.1451 of 1985 (under Article 32 of the Constitution of India)

Supreme Court Legal Aid CommitteePetitioner,

Versus

Union of India and Ors..... Respondents.

1. Chief Secretary, Government of U.P., Lucknow (U.P.)
2. Mr. Naresh Chandra Dubey, Additional Chief Judicial Magistrate, Designated as Principal Magistrate of Juvenile Court (Varanasi), U.P.

Whereas a letter dated 1.2.1991 along with an application for directions (copy enclosed) was sent and received in this Registry on 1.2.1991 from Dr. Surrender Nath, Executive Director, Legal Aid & Service Clinic, Faculty of Law, Banaras Hindu University, Varanasi and treated as Criminal Miscellaneous Petition above- mentioned in the Writ Petition (Criminal) No.1451 of 1985.

And whereas the said petition came up for preliminary hearing before this Court on the 8th April, 1991 when the Court was pleased to pass the following Order-

"Issue notice, returnable within three weeks. In the meantime a copy of the petition sent by Executive Director, Legal Aid and Service Clinic, Faculty of Law, Banaras Hindu University, Varanasi may be forwarded to the District Judge for guidance and with a direction that he may collect the particulars keeping the information disclosed in the letter in view and send his report to the Court. The matter is adjourned for four weeks and the report is expected to be received by them."

NOW, THEREFORE, TAKE NOTICE that the above Petition is posted for hearing before this Court on Monday, the 6th May, 1991 and will be taken up by this Court at 10.30 O' Clock in the forenoon or so soon thereafter as may be convenient to the Court for orders when you may appear before this Court either personally or through Counsel and Show Cause to the Court why the prayer of the petitioner should not be granted.

Take further notice that in default of appearance the matter will be decided and determined in your absence.

Dated this the 15th day of April, 1991.

The Legal Aid and Service Clinic,

Law School, Banaras Hindu University, Varanasi-22100S (U.P.)

Through: Dr. Surendra Nath, Executive Director and Mr. A.K. Shukla, Advocate and Panel Lawyer of Clinic..... Applicants

BEFORE THE REGISTRAR, SUPREME COURT OF INDIA, NEW DELHI

Subject: Non-Implementation or partial implementation of the Juvenile Justice Act, 1986 in Varanasi Mandal (division), disobedience of the directives of the Hon'ble Supreme Court regarding the trials of Juveniles by the A.C.J.M. Varanasi .Sri Naresh Chandra Dubey (designated as Principal Magistrate of the Juvenile Court established under J .J .Act) Particularly and illegal procedure adopted by other courts generally in the trial of delinquent juveniles.

The applicants associated with the Legal Aid and Service Clinic, Law School, B.H.U, Varanasi wish to bring to the kind notice of the Honourable Registrar and through him to the knowledge of the Honourable Justice of the Supreme Court- particularly Honourable Justice Rang Nath Misra and Honourable Justice M.N. Venkatchalliah who are at present considering identical issues in Criminal Writ Petition No.1451 of 1985- Supreme Legal Aid Committee v. Union of India and others- the mode and manner in which the cases of the delinquent juveniles are being tried in Varanasi Mandal contrary to the provisions of law prescribed by the Juvenile Justice Act, 1986 and the directives laid down by the Honourable Supreme Court.

It is respectfully submitted that the Honourable Supreme Court has been deliberating on the above stated subjects concerning delivery of justice to juveniles since 1986 and in the celebrated judgment given in the case of Sheela Barse v. Union of India (reported in AIR 1986 SC 1573) the Hon'ble Supreme Court issued specific necessary directions to be followed by the State agencies and the subordinate judiciary. These directions have provided guidelines for the trial of delinquent juveniles and have prescribed a time frame for continuing such trials. Recently, in the same case, vide its order dated 29.8. 1988, the Hon'ble Supreme Court had sought information for every State regarding the implementation of the Juvenile Justice Act, 1986, framing of the relevant Rules and the establishment of Juvenile Courts as per provisions of the Juvenile Justice Act, 1986 (referred hereinafter as J.J.Act) in response to which, it is

understood that (The State of Uttar Pradesh had filed an affidavit that J.J. Act has been implemented in the State since October 2, 1987 and Juvenile Courts have also been established and the trials of delinquent Juveniles are being conducted by these courts and neglected juveniles are being dealt with Juvenile Welfare Boards in accordance with the provisions of the J.J. Act and the J.J. Rules made there under. However, the Legal Aid and Service Clinic through this petition wishes to bring to the kind notice of the Hon'ble Supreme Court- which is at the moment overseeing the matter concerning juveniles at the initial stage in the interest of children as per orders recently issued in Criminal Writ Petition No.1451 of 1985--S.C. Legal Aid Committee v. Union of India -- on 17.3.1989 the real state of affairs in operation concerning the implementation of the J.J. Act and the trial of unfortunate lot of children as delinquent juveniles particularly in the Varanasi Mandal (division) comprising of five districts-Varanasi, Ghazipur, Jaunpur, Ballia and Mirzapur as given below:-

(1) That in spite of the establishment of the juvenile courts in the State of Uttar Pradesh at every Mandal headquarter, the Additional Chief Judicial Magistrate, Varanasi -Sri Naresh Chandra Dubey - who has also been designated as Principal Magistrate of the Juvenile Court, Varanasi (having jurisdiction over five districts) has blatantly refused to function as Juvenile Court under J.J. Act on some untenable grounds given below although the State Government had also notified the other members of the Juvenile Court and the names of the two social workers--as given in Appendix IV enclosed herewith.

(2) That in spite of the notification issued by the Government of Uttar Pradesh issued with the concurrence of the Hon'ble High Court of Allahabad, the said A.C.J.M. has declined to call the meetings of the Juvenile Court, so established and function as Principal Magistrate during the past one year on the ground that the learned said Magistrate has sent some representation to the Honourable Court of Allahabad and unless specific instructions are received from the High Court and the Juvenile Courts are established according to Section 5(2) of the J. J .Act, the learned Magistrate would not function as such, although in the specific terms it has been made clear by the learned CJ.M. in his orders that Juvenile Court has been established u/s 5 of JJ. Act and the powers of the A.CJ .M. being exercised u/s 7 (2) of J. J .Act have come to an end. However, till today the newly established Juvenile Court has not started functioning due to the rigid attitude of the said A.CJ.M. who has decided not to act as such till he is posted at Varanasi as is evident by his version shown on 26-4-1990 in a case sponsored by the Legal Aid & Service Clinic (the details of which are given below in para 5 of this application and duly supported by the affidavit).

(3) That the trials of the delinquent juveniles of Varanasi district and other districts falling under the jurisdiction of the newly established Juvenile Court are being conducted in total contravention of the specific provisions of the J. J .Act and the directives of the Hon'ble Supreme Court given in the various orders in the above noted Criminal Writ Petition No.1451 of 1985, due to the adamant attitude and untenable stand taken by the learned A.C.J.M. of Varanasi-Sri N.C. Dubey -who is disposing the cases of the delinquent juveniles alone according to his own whims and procedure. It is to point out that prior to establishment of the Juvenile Court in Varanasi, the said learned A.CJ.M. was authorised to hear and try the cases of delinquent Juveniles u/s 7(2) of J.J. Act and the A.CJ.M. is still acting under the same section although the Juvenile Court has been notified and established by notification May 25, 1988.

(4) That the learned A.C.J.M. not only has refused to function as the Principal Magistrate of the Juvenile Court or to call the meeting of the Juvenile Court, he has even declined to apply the

specific directives given by the Hon'ble Supreme Court regarding the conduct of trials of delinquent juveniles and the conclusion within a maximum period of time. The relevant directions of the Hon'ble Supreme Court, which have not been complied with by the learned A.C.J.M. in the case sponsored by the Legal Aid and Service Clinic and many others, in spite of repeated requests made are as follows:

"...So far as a child-accused of an offence punishable with imprisonment of not more than 7 years is concerned, we should regard a period of 3 months from the date of filing of the complaint or lodging of the First Information Report as the maximum time permissible for investigation and a period of 6 months from the filling of the charge-sheet as a reasonable period within which the trial of the child must be completed. If that is not done, the prosecution against the child would be liable to be quashed...' (reported in AIR 1986 SC 1773 at 1779)

(5) That in a case sponsored by the Legal Aid & Service Clinic, Law School, B.H.U., Varanasi, a child of about 14 years of age was brought before the above-said A.C.J.M. Varanasi - Sri Naresh Chandra Dubey - on 26-3-1989 for the alleged offences under Section 25 Arms Act, u/s 401, Indian Penal Code and surprisingly u/s 3 (2) of U.P. Gangster and Antisocial Elements Act respectively in crime No.115 of 89, crime No.116 of 89 and crime No 117 of 89 of P .S. Cantt., Varanasi. It is pertinent to note that although P.S.Cantt. falls under the jurisdiction of learned C.J.M., the child was produced before the A.C.J.M. for remand, etc. because he was the age below 14 years and the A.C.J.M. was exercising the jurisdiction pertaining to juveniles. In the said cases, since the arrest of the Juvenile Kalit Dhir and initiation of the proceedings, the following irregularities have been committed:

- (a) The child was kept under police lock up for 24 hours by the P.S.Cantt. along with other habitual offenders which has been verified by the C.D. As no copy is issued of this record, documentary evidence is not attached, herewith but the fact may got be confined through C.J.M. or District & Sessions Judge.
- (b) No intimation was sent to the parents of the said child Kalit Dhir –who belongs to a respected family of Punjab-or to the Probation Officer, Varanasi for preliminary enquiry as is desired by the provisions of J.J. Act, for about one month and the said child suffered all kinds of mental agony in the observation home. He was studying and his studies were discontinued.
- (c) After having come to know about the detention of the said child in the observation home, the applicants approached the Incharge of the legal Aid authorities & of the Punjab University-Prof. V .K. Bansal - and on the information received from Prof. Bansal sent by the Legal Aid & Service Clinic, the father of the detained child came to Varanasi and moved an application for releasing the child under his custody .The father of the child - Sri Pratap Dhir is gazetted officer serving under Haryana Electricity Board.
- (d) The father of the child secured an order of release by the learned A.C.J.M. on 11th May, 1989 but he could not get the custody of the child because the learned A.C.J.M. insisted for three sureties and he was not satisfied with one surety and personal bond of the father. Hence he had go back to Chandigarh to bring three persons from Chandigarh, spend lot of money in travels, etc., and ultimately got released his son on 23-5-1989, just after two months. Thus, the child suffered the

agony of the observation home for two months due to the fault of those persons whose duty was to inform the parents about his detention but they failed to do so.

- (e) That since no charge sheets were submitted in the concerned court of the learned A.C.J .M. which issued the orders of the remand and released the child on bail, in any of the above referred cases till the expiry of 90 days JIB from the date of lodging F.I.R. in P .S. Cantt, three applications were moved on 27-6-89 before the learned A.C.J.M. Varanasi - Sri N.C. Dubey (the competent authorised Juvenile Court) with the request to discharge the said Juvenile -Kalit Dhir - and close the case as well as discharge the sureties in accordance with the specific directions given by the Hon'ble Supreme Court in Sheela Barse V. Union of India reported in AIR 1986 SC 1773 (subsequently confirmed in the year 1988 by another order reported in AIR 1988 S.C. 2211. The photocopy of the orders passed by the Hon'ble Supreme Court were also attached with the application in the interest and welfare of the juveniles and in consonance with the directives given by the apex judicial body, the Hon'ble Supreme Court. The relevant portions of the statements made by the learned A.C.J .M. for not disposing the application of the said juvenile and for not acting as Juvenile Court are given below-

- (A) "As I am going to be A.D.J. after May 1990, I would not dispose these applications till then."
- (B) "When I have told not to place these applications before me, then why are they put and pressed upon time and again."

After being drawn to the directives of the Hon'ble Supreme Court, the copy of which had already been filed in the Court on 27.6.89 with the original applications, the learned A.C.J.M., Varanasi Sri N.C. Dubey- told the panel lawyers and the pairakar of the Clinic appearing before him on 26-4-90 that:

"Whatever step clinic considers necessary, it may take, but I would not dispose of these applications till I am posted in the capacity of A.C.J.M. at Varanasi."

The learned A.C.J.M. advised the panel lawyers to approach the Hon'ble Supreme Court for not following the directions of the Hon'ble Court regarding the conclusions of the trials of the juvenile's delinquents within the prescribed period.

(In this connection, it is to be submitted that the statements quoted here were made by the A.CJ .M. in Hindi and they are supported by an affidavit given by the pairakar of the clinic attached herewith).

(9) Even on 26-4-90, after receiving the copy of the clarification issued by the Registrar of Allahabad High Court dated 20-12-89 and circulated by the District & Sessions Judge, Varanasi on 23-1-90, the learned A.C.J.M. flatly denied that he has not received any communication in this regard from Allahabad High Court, and without passing any order on the applications moved on 26-4-90, the learned Magistrate kept the court file with the above two applications in the court-box leaving the panel lawyers and the pairakar totally perplexed, amazed and helplessness.

(10) That the statements made by the learned A.C.J.M.-Sri N.C. Dubey- on 26-4-90 in the open court clearly indicate that Mr. N.C.Dubey is not going to discharge the functions of Principal Magistrate of the Juvenile Court till he is posted at Varanasi as A.C.J.M. and he is not going to dispose of the applications of Kalit Dhir moved on 27.6.89 till he is promoted as Addl.

District & Sessions Judge, irrespective of the fact that the non- disposal of these applications amounts to the gross violations of the directives issued by the Hon'ble Supreme Court, contravenes the legislative provisions of J.J.Act, 1986 in letters and spirit. Owing to the stand taken by the learned A.C.J.M. the Juvenile Kalit Dhir and his father are facing continuous mental agony and harassment for the last 13 months since the lodging of the F.I.R. and perhaps would have to wait till the learned A.C.J.M., Varanasi, is promoted and some other persons are designated as members of the Juvenile Court.

Under the above circumstances and keeping in view the suggestions made by the learned A.C.J .M. Varanasi -Sri N .C. Dubey - himself to panel lawyers of the Clinic on 26-4-90 and on other dates earlier, the applicants representing the Legal Aid & Service Clinic, Law School, B.H.U., Varanasi, are constrained to move this application to the Honourable Supreme Court through the Honourable Registrar, with painful hearts. However, this application is being moved in the general interest and welfare of the Delinquent Juveniles facing trial in the Varanasi Mandal in various Districts and are unable to get justice according to the provisions of J. J. Act, 1986 and the directives issued by the Hon'ble Supreme Court due to the stand taken by the learned A.C.J.M. Varanasi - Sri N.C. Dubey - the Principal Magistrate designate of the Juvenile Court of not functioning as Juvenile Court. The purpose of moving this application is also, in addition to seek justice for Kalit Dhir, to acquaint the apex judicial body of the country about the state of affairs concerning the trials of juvenile delinquents in the Varanasi Mandal and also inform the Hon'ble Supreme Court as to how the subordinate judiciary can and is flouting in some cases the provisions of law and the principles of law enunciated by the Supreme Court and, thus, consequently, making the efforts of the Hon'ble Supreme Court pertaining to juvenile justice administration futile--as is evidenced in the case of Kalit-Dhir. It is also submitted that as the Juvenile Court is not functioning in the Varanasi Mandal (covering Ballia, Ghazipur, Jaunpur, Varanasi and Mirzapur) due to the indifferent attitude taken by the learned A.C.J .M., Varanasi, Sri N .C. Dubey - the trials of each and every delinquent juvenile in these districts are, being contrary to the provisions of J. J. Act, in contravention of the procedure established by law and thus have far-reaching consequences.

Since, the Honourable Supreme Court has taken up the responsibility of overseeing the implementation of the Juvenile Justice Act at the initial stages in the interest of children (as per Justices R.N. Misra and M.N. Venkatchalliah in the order dated 17-3-89), this application is being moved with the hope that it would be placed before the bench of the Honourable Justices Misra and Venkatachalliah who are dealing with the identical problems of the implementation of J. J. Act and delivery of justice to Juveniles in the Criminal Writ no. 1451 of 85. The consideration of this application by the Honourable Supreme Court would not only benefit the child Kalit-Dhir but would benefit several hundred delinquent and neglected juveniles of the Varanasi Mandal - the Eastern districts of U .P. and these children would also of get justice as has been envisaged by the new J. J. Act, 1986. At present, due to the attitude of the judicial officers like the present A.C.J.M., Varanasi, even the Juvenile Court established on 25-5-88 could not be started functioning till today and the juveniles are being tried by the Magistrates generally according to the normal criminal law - fines are being imposed, imprisonment in default of fine is awarded, juveniles are being sent to District Jail in some cases and the directive of the Supreme Court regarding the finalisation of the trial within a prescribed period is not at all followed; trials are continuing for several years from the date of filing complaints or lodging F.I.R., juveniles are being challenged u/s 109 Cr. P. C. by the Executive Magistrates (which is not permitted by the J. J. Act), some cases have been brought to the notice of the clinic that the

case was disposed of by the former Juvenile Judge, Varanasi functioning under Children Act on the basis of the Supreme Court directive or on merit and the juvenile was discharged, but now after 2 to 3 years, the child is being summoned in the normal courts in the same crime because the charge sheet has come now after the lapse of 2-3 years. If these practices continue due to the "ignorance of law of the presiding officers" and "ignorance law of the prosecuting agency and police personnel" regarding the J. J. Act even after the lapse of more than three years, in fact the juveniles being delivered "injustice" instead of "justice" in this Mandal (division) of the State and there is an urgent need of interference by the Honourable Supreme Court in this deplorable state of affairs concerning the delivery of justice to juveniles. It is, therefore, requested that the matter be taken into cognizance by the Hon'ble Supreme Court and necessary directions be issued in this regard so that all these irregularities are stopped and the Juvenile court starts functioning. It is also prayed that the juvenile Kalit Dhir be awarded adequate compensation for the harassment and mental agony which he has been suffering and suffered for the last thirteen months due to the non- implementation of the Juvenile Justice Act, 1986 by the concerned authorities and persons responsible for the same so that justice be done.

It is, further, requested that the Legal Aid and Service Clinic of the Law School, B.H.U., Varanasi, would be highly obliged if the action taken on this application is intimated to the Clinic and if any other formality like filing a separate writ petition or submission of other documents, etc., is required, the Clinic be kindly informed so that the same may be complied with.

In the end, it is prayed that in order to provide justice to several hundred juveniles of this eastern part of the State who are denied the benefit of the provisions of the Juvenile Justice Act, 1986, this application be kindly put before the appropriate Bench of Hon'ble Judges of the Supreme Court so that necessary action be taken and directions be issued by the Hon'ble Supreme Court to the concerned persons including the A.C.J.M. Varanasi, Sri N.C. Dubey- immediately to apply the law of the land and not apply one's own law.

(iv) Establishment of special court for typing cases relating to Juvenile Justice Act, 1986

C.L.No.62/ Admin:A-3, dated Allahabad:3 December 1998

I am directed to refer to Government Notification No.1297/60-198-1/16(2)/97 dated 27.6.1998 in the matter of establishment of the court (ACJM/CJM) specified in each district as Juvenile Justice court for typing the cases under Juvenile Justice act 1986 and also to refer the Government Notification No.1402/26-2-88-32(P)/87 dated 25th May 1988 through which the Government had established the Juvenile Justice court at 11 divisional head Quarters with the place of sitting at Varanasi, Gorakhpur, Moradabad, Agra, Merrut, Allahabad, Faizabad, Lucknow, Jhansi, Bareilly and Pauri Garhwal defining the local areas comprising some of the district and to say that the court has considered the matter regarding trial of pending cases in the aforesaid 11 courts and is of the view that when the cognizance has already been taken by the court, its Jurisdiction would not be cussed merely on the ground of local area from where the case up in the court falls to the jurisdiction of another court.

In the circumstances mentioned above, the court is of the view that the cases covered under Juvenile Justice, Act, which was earlier pending in one district of divisional Head Quarters, would continue to be tried by those courts.

C.L. No. 4/Main-B/Admin. (A-3) Dated 23.01.2010

Sittings of Juvenile Justice Boards.

On the above noted subject, I have been directed to say that in order to make Juvenile Justice Boards more functional and effective, the Hon'ble Court has been pleased to resolve that the Principal Magistrate presiding over the Juvenile Justice Boards shall hold sitting four days in a week and may sit at 03.00 PM onwards to attend the cases of the juveniles.

I am, therefore, to request you to kindly direct the concerned Magistrates working under your supervision to make compliance of the above direction of the Hon'ble Court.

Sitting of Juvenile Justice Boards in the month of May & June

C.L. No. 14/Main-B/Admin. (A-3): Dated 24.05.2010

In continuation of the Court's Circular letter No. 4/Main-B/Admin (A-3), Allahabad: dated; January 23, 2010, on the above noted subject, I have been directed to say that the Hon'ble Court has been pleased to order that during the months when the morning Court are being held i.e. in the month of May and June the Juvenile Justice Boards shall hold sitting at 11 a.m. onwards instead of 3 p.m. to attend the cases of Juveniles?

I am, therefore, to request you to kindly direct the concerned Magistrates working under your supervision to make compliance of the above direction of the Hon'ble Court.

Submission of report regarding the conditions and the functioning of remand Juvenile Homes alongwith the capacity of the Juvenile Homes

No. 913/Main-B/Admin.(A-3) dated 17.01.2011

On the above noted subject, I have been directed to say that on consideration of your report regarding the conditions and the functioning of remand Juvenile Homes for the period from 01.01.2010 to 30.06.2010, the Hon'ble Court has been pleased to observe that your report does not contain the information as to since when the Juveniles are being detained in the Homes and also the cases /matters under which they are detained, is also not disclosed.

I am, therefore, to request you kindly to submit the desired information, as to since when the Juveniles are being detained and also the cases/matters under which they are detained alongwith name of the accused. Section, under which detained, the time period since detained in the Juveniles Homes in the enclosed prescribed proforma, to the Court, by return Fax, so that the same may be placed before Hon'ble Committee in its next meeting scheduled to be held on 10.02.2011.

PROFORMA					
Sl. No.	Name of the accused	Sections under which detained	Time period since detained	Reasons for delay	Suggestions

24. CLASSIFICATION OF PRISONERS

C.E. No. 20/VIII-a-21 dated 24th February, 1970

Presiding Officers should use only revised form of classification of prisoners instead of the old one and while doing so they should keep in mind that the form is properly filled in. All the courts concerned should make strict compliance of the provisions of the rules 58 and 73* of

* Now rules 55 and 70 vide notification no. 504/Vb-13 dated 5.11.83

General Rules (Criminal). The details of previous convictions must invariably be given in the judgments and should be endorsed on the warrants.

C.L. No. 72/VIIb-28 dated 10th November, 1982

It impresses upon all the convicting courts to classify, at the time of conviction the minor prisoners and also other prisoners as 'Casual Offender' or 'Habitual Offender' according to the form of classification prescribed under para 286(Ga) of the Jail Manual and strictly follow the instructions contained in Note 1 at the foot of the said form of classification so that the minor convicted prisoners of the aforesaid category are not deprived of the facilities to be provided to them at the Kishore Sadan.

Strict compliance of the provisions as contained in Appendix 'F' of the General Rules (Criminal), 1977 regarding Rules framed under section 59(17) of the Prisons Act, 1894 for the classification of prisoners as reproduced from Chapter XII of the Jail Manual, Uttar Pradesh.

C.L. No. 21/2009 Admin. (G-II): Dated: 30.04.2009

Upon consideration of the letter no. 22480/Sama-1(3)/Bandi Vargikaran/2008 dated 26.8.2008 of Inspector General (Prisons) drawing attention towards the Subordinate Courts not providing information on the forms prescribed in accordance with the Rules framed under section 59(17) of the Prisons Act, 1894 read with Ch. XII para 286-C of the Jail Manual, Uttar Pradesh for classifying prisoners as professional or non-professional accused along with their conviction warrants which is resulting in difficulty to dispose of matters wherein consideration is to be made of their release prior to end of the term of punishment awarded serious concern is expressed by the Hon'ble Curt.

Therefore, while enclosing a copy of the letter no. 22480/Sama-1(3)/Bandi Vargikaran/2008 dated 26.8.2008 of Inspector General (Prisons), in continuation of the circular Letters noted in the margin, I am directed to say that all the judicial officer under your administrative control be directed to make strict compliance of the provisions as contained in Appendix 'F' of the General Rules (Criminal) by filling up Form of Classification of convicted prisoners as prescribed in para 286-C, to be sent with conviction warrant.

C.L. No. 2/2010/Admin. 'G-II' Dated 07.01.2010

Compliance of Section 176 Cr.P.C. by Judicial Magistrates.

Upon consideration of letter no. 7165(VI)/Sama – 1, dated 04.03.2009 of Inspector General, Prisons Administration & Reforms Services, U.P., Lucknow, the Hon'ble High Court has directed that powers of enquiry on death during custody as provided under Section 176 of the Code of Criminal procedure be exercised by the Chief Judicial Magistrate/Chief Metropolitan Magistrate/Addl. Chief Judicial Magistrates/Judicial Magistrates of your Judgeship and copy of the enquiry report alongwith list of evidence collected therein be sent to the Deputy Inspector General, Prisons of the region concerned to take necessary action.

I am, therefore, to request you to kindly bring the contents of the Circular Letter to all concerned working under your administrative control for strict compliance.

C.L. No. 3/2009/Admin. 'G-II' Dated 12.01.2010

Detention of convicted prisoners on robkars in Jails.

I have been directed to inform you that no convicted person should be committed to Jail by the trial courts or Chief Judicial Magistrates/Judicial Magistrates for detention on the basis of robkars and they must be committed to Jail by the trial court in accordance with Section 418 Cr.P.C. and Rules 96 to 99 of General Rules (Criminal) to serve out the sentence alongwith conviction/sentence warrants prepared on the proforma attached herewith mentioning details of sentence awarded by the trial court or appellate court against him.

I am, therefore to request you kindly to bring the contents of this Circular Letter in the notice of all the Judicial Officers working under your administrative control to make strict compliance.

**WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF
PASSED BY A MAGISTRATE**

(Section 245 and 258, Schedule V from XXIX, Old Cr.P.C.)

Case No. Of 20

To the Superintendent of the Jail at

Whereas, on theday of20, (Name of prisoner)theprisoner incase no.of the calendar for 20 .., was convicted before me (Name and official designation) of the offence of(mentioned the offence or offences concisely) under section (or sections) the Indian Penal Code (or of Act),.....and was sentenced to (State the punishment fully and distantly).

This is to authorize and require you, the said Superintendent, to receive the said (prisoner's name) in to your custody in the said jail together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 20

Seal

Magistrate

25. COUNSEL TO DEFEND PAUPER ACCUSED

C.L. No. 2/VIII-c-89 dated 8th January, 1952

As soon as a report under rule 37 of Chapter V, General Rules (Criminal), 1957,* has been received from the committing Magistrate that an accused person is possessed of sufficient means to enable him to engage counsel for his defence in the Court of Sessions, a Sessions Judge should inform him, if in custody, of the contents of the Magistrate's report and tell him that the court would not engage counsel to defend him. This will give the accused person, if he is not satisfied with such report, an opportunity of pointing out, that the committing Magistrate's report is incorrect and will enable the Sessions Judge to verify his statement, if necessary, by a further reference to the Magistrate concerned and to come to a decision on the point well ahead of the date fixed for the commencement of the trial. This procedure is meant to be followed, where

* Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

necessary, in addition to that prescribed in rule 37 of Chapter V, General Rules (Criminal), 1957* and not in substitution thereof.

C.L. No. 38/VIII c-89 dated 14th April, 1951

Unless there is no choice, lawyers of less than five years' standing should not be appointed to defend the accused at the cost of the State. Every effort should be made to secure the services of competent and senior lawyers in such cases. Even senior lawyers may often be prepared to defend pauper accused in capital cases without regard to the actual remuneration paid to them on behalf of the State.

C.L. No. 102/VIII-e-89 dated 15th November, 1961

To avoid chances of discrimination and complaint and to ensure better and proper defence of pauper accused a list of willing and competent lawyers be maintained and cases should be allotted to them in rotation. The list should be revised in February and given effect to from March each year.

C.L. No. 18 dated 18th January, 1969

Amicus curiae under rule 37, General Rules (Criminal) should be appointed at least two weeks before the date fixed for hearing of the trial because if the *amicus curiae* are appointed on the date fixed for the hearing of the Sessions trial, the trial has necessarily to be adjourned. In case the Judge proceeds with the trial, the same day the trial is ab initio invalid as held by the Supreme Court.

26. SUMMARY TRIAL

C.L. No. 4 dated 3rd October, 1975

Please invite the attention of all officers under your charge to section 206 Cr.P.C. and invite them to make use of this provision as and when occasion arises. In such cases the accused should be told in plain and simple language, *inter alia*, that if he so desires he can plead guilty without appearing and by transmitting, before the specified date, by post, or by a messenger, to the Magistrate such plea as well as the amount specified in the summons.

C.L. No. 104/VII-b-108 dated 6th August, 1975

Magistrate should strictly follow the provisions of section 206(i) of the Code of Criminal Procedure, 1973 while deciding cases under section 260 of the said Code.

C.L. No. 1 dated 14th January, 1976

In criminal cases, a very liberal use of sections 205 and 206 Cr.P.C. should be made.

C.L. No. 4 dated 3rd February, 1976

The provisions of sections 205 and 206, Cr.P.C. should invariably be used in petty cases. It is true that forms for section 206 are not yet available. The substance of section 206, Cr.P.C. is that the accused need not come. He may not even engage a counsel. He is required to send the proposed amount of fine to the Court along with a plea of guilty. This idea can be formulated in simple language so that a villager may understand and comply. The District Judges may prepare

* Now 1977 vide notification no. 504/Vb-13 dated 5.11.83

rubber seals, containing a few sentences to convey the idea behind section 206 and get the seals stamped on the usual summons or on its reverse side.

Section 206 will help in improving the disposal of the officers and in executing the policy of the legislature in saving unnecessary cost to the litigant.

C.L. No. 66 dated 11th May, 1976

The District Judges are requested to arrange rubber stamps for all the magisterial courts, in following words:-

"If you desire to plead guilty without appearing in person, send written confession along with fine by post or messenger, on or before the date fixed.

If you desire to plead guilty through pleader, he may confess and pay fine on showing written authority from you."

C.L. No. 85/VIII b-108-Admn. (G) dated 24th November, 1984

The District Judges should see that henceforth, the aforesaid instructions are strictly complied with by the Magistrate. If any Magistrates do not do so, it may be treated adversely against him.

C.L. No. 13-VII d-92/Admn. (A) dated 18th January, 1978

It is impressed upon all the Magistrates that in the interest of expeditious disposal of criminal cases, such cases, which can be tried summarily, should generally be tried summarily.

While inspecting cases of Magistrates, the District Judges/the Chief Judicial Magistrates are requested to verify whether the Magistrates try summarily those cases, which can be tried summarily.

Compliance of the Provisions of Section 206 of the Code of Criminal Procedure, 1973.

C.L. No. 65/VIIb-108/Admn. (G), dated November 11, 1991

1. C.L. No.4 dated 3.10.1975.
2. C.L. No. 104/VIIb-108, dated 6.8.1975,
3. C.L. No.1, dated 14.1.1976,
4. C.L. No.4. dated 3.2.1976
5. C.L. No.66, dated 11.5.1976,
6. C.L. No. 13/VII d-92, dated 18.1.1976
and
7. C.L. No. 85/VIIb-108, dated
24.11.1984.

I am directed to invite your attention to Court's Circular Letter noted on the margin and printed at pages 457 & 459 of the book of Circular Orders 1990 Edn, on the above subject, and to say that in spite of repeated instructions, this Court is receiving complaints that the provisions of Section 206 (i) of the Code of Criminal Procedure are not being followed by the trying, Magistrates while deciding cases under Section 260 of the said Code

causing harassment to the accused. Thus, with a view to give quicker relief to the accused persons involved in petty offences, the Magistrates may be directed to have the list of such cases prepared where punishment is possible in the form of fine where after the Magistrate may call upon the accused by a notice in writing fixing some date therein, on which if the accused pleads guilty, his case may be disposed of on the date fixed, by imposing the sentence of fine only. The Magistrates can make this fact of imposition of fine, only known to the litigants in general through the lawyers by giving them the option that in case the accused give an application

whereby they plead guilty and want to get the sentence of fine only, then on getting their files from the record room, the Magistrate, may dispose of those matters by imposing fine only.

I am, therefore, to request you kindly to bring in the notice of all trying Magistrates the contents of this letter for their information and necessary compliance.

27. TRIAL BY RAILWAY MAGISTRATE AND MOBILE COURTS

C.E. No. 881/Admn. (B) dated 29th August, 1974

In terms of Government notification no. 132 6/VII-A.N.208/74, dated March 29, 1974, the Judicial Magistrates (Railways) are required to hold their courts at any place of any district in which they are posted so that complaints in respect of petty offences may be filed before them and they may then and there, decide such cases. Such court shall, however, be held at some distance from the scene of occurrence so that the litigant public may not be under the impression that the Judicial Magistrates are a part of the railway administration.

C.L. No. 703/Admn. (B) dated 11th July, 1975

Railway Magistrates will try at the railway station or on the line only cases in which passengers are apprehended for traveling without ticket. Other cases will be distributed among the various Judicial Magistrates including Munsif Magistrates having jurisdiction. In no case, a Railway Magistrate shall try a case other than a railway case on the line or at the railway station. When not trying a case on the line or at the railway station, the Railway Magistrates shall hold court at the headquarters and try such cases as are allotted to them.

C.L. No. 109/Admn. (B) dated 22nd August, 1975

To overcome the difficulties pointed out in connection with trial of cases relating to transport offences Thana wise, it has been decided as follows :-

1. The Chief Judicial Magistrates of each district may, in consultation with the District Judge, assign cases pending up to July 15, 1975 to a magistrate or distribute the same amongst the Judicial Magistrates available in the district.
2. As regards cases filed after July 15, 1975 the Chief Judicial Magistrate shall distribute them, in consultation with the District Judge, amongst the Judicial Magistrates available in the district so far as possible, Thana wise.

C.L. No. 119/Admn. (B) dated 15th September, 1975

Besides trying cases as indicated above a Railway Magistrate shall also try the following category of cases under the Indian Railways Act.

1. entering carriage in motion or improper travelling (Section 118);
2. entering carriage or other places reserved for females (Section 119);
3. drunkenness or nuisance on the railway (Section 120);
4. canvassing or hawking on a railway without a licence (Section 120-A);
5. trespass and refusal to desist from trespass (Section 122); and
6. disobedience of omnibus drivers to the railway servant section 123 and chain pulling.

In other classes of railway offences including offence under the Railway Property (Unlawful Possession) Act, 1966 the Chief Judicial Magistrates, in consultation with the District Judges, may exercise their discretion to assign any case or class of cases to a Railway Magistrate to hold trial at the Railway premises in the interest of justice.

C.L. No. 3546/Admn. (A) dated 6th April, 1981

It modifies aforesaid circulars and directs that:-

1. the Railway Magistrates may hold courts at any place of any district in which they are posted in order that the complaints in respect of petty offences may be filed before them and they may, then and there, decide such cases, so that the litigant public may be relieved of avoidable hardships and there may be speedy disposal of cases. Such courts shall, however, be held at some distance from the scene of occurrence, so that the litigant public may not be under the impression that the Judicial Magistrates are a part of the railway administration,
2. the Railway Magistrates should co-operate with the raiding parties of the railway administration and remain present on the spot for the trial of cases. Such cooperation is all the more necessary at the time of special drives conducted by the railway authorities,
3. the Railway Magistrates shall only try, at the railway stations or on the line, cases in which passengers are apprehended for travelling without tickets. In any case a Railway Magistrate shall not try cases other than a railway case at the railway station or on the line and in case they are not trying cases at the railway station or on the line, they shall hold court at the headquarters and try such cases as are allotted to them.

The trial of the following categories of cases under the Indian Railway Act may also be held by the Railway Magistrates at the railway premises:-

- (i) entering carriage in motion or improperly travelling (Section 118);
- (ii) entering carriage or other place reserved for females (Section 119);
- (iii) drunkenness or nuisance on, the railway (Section 120);
- (iv) canvassing or hawking on a railway without a licence (Section 120-A);
- (v) trespass and refusal to desist from trespass (Section 122), and
- (vi) Disobedience of omnibus drivers to the railway servants under section 123 and chain pulling.

As regards other class of railway offences including offences under the Railway Property (Unlawful Possession) Act, 1966, a discretion shall be exercised by the Chief Judicial Magistrate in consultation with the District Judge in order to assign any case or class of cases to a Railway Magistrate to hold the trial at the railway premises in the interest of justice, keeping in view the convenience of the railway administration, accused and witnesses.

Mobile Courts

C.L. No. 102/IVb-11 dated 9th June, 1976

The local transport authorities as well as municipal authorities be contacted immediately to provide a vehicle to carry the Special Judicial Magistrates who will be authorised to operate as mobile courts. The mobile courts should start functioning with effect from 1st July, 1976. These mobile courts would deal with cases under the Motor Vehicles Act, breach of Municipal bye-laws, Weights and Measures Act, etc., that is, the cases which can effectively be tried and dealt with on the spot. Top priority may please be given to this matter.

C.L. No. 64/Admn. (A) dated 15th September, 1984

It supersedes C.L. No. 102/IVb-II dated 9th June, 1976 regarding holding of mobile courts and directs that the practice of holding mobile courts for the trial of cases under the Motor Vehicles Act be discontinued with immediate effect.

C.L. No. 133/Admn. (A) dated 25th August, 1976

For checking of ticketless passengers in the buses of U.P. State Road Transport Corporation, the services of one Special Judicial Magistrate may be made available to the District Magistrate whenever required.

28. RAILWAY MAGISTRATE

Regarding Sanction of staff to Additional Chief Judicial-Magistrate (Railway) equivalent to that of Additional Chief Judicial-Magistrates.

C.L.No. 46/Ve-54/Admn. (D) dated May 12, 1994

I am directed to send herewith a copy of the G.O. No. 5730/Sat – Nyaya –2-207/82, dated 12.1.1994, on the above subject, for information and necessary action.

अपर मुख्य न्यायिक मजिस्ट्रेट (रेलवे) को राज्य के अपर मुख्य न्यायिक मजिस्ट्रेटों के समान स्टाफ दिए जाने की स्वीकृति।

शासनादेश संख्या 5730/सात-न्याय-2-207/82 दिनांकित 12 जनवरी, 1994 उपर्युक्त विषयक शासन के पत्र संख्या-5851/सात-न्या-2-207/82 दिनांक 19 नवम्बर, 1992 का आंशिक संशोधन करते हुए मुझे यह कहने का निदेश हुआ है कि अपर मुख्य न्यायिक मजिस्ट्रेट (रेलवे) के न्यायालय से सम्बद्ध पदों के विवरण में अहलमद/क्लर्क के स्वीकृत पदों की संख्या 2 के बजाय 1 पढ़ी जाय। इस संशोधन के उपरान्त दिनांक 19.11.1992 में सूचित और शासनादेश संख्या -5978/सात-अ.न्याय.-207/82 दिनांक 27 जनवरी, 1987 के अनुलग्नक में उल्लिखित पदों की संख्या में कोई भिन्नता नहीं रह जाती है। सारांशतः प्रत्येक अतिरिक्त मुख्य न्यायिक मजिस्ट्रेट (रेलवे) के साथ रीडर का एक, लिपिक/अहलमद का एक तथा मेसेन्जर का दो (1 अर्दली, 1 चपरासी) पद अनुमन्य है। इसके अतिरिक्त प्रदेश के समस्त अतिरिक्त मुख्य न्यायिक मजिस्ट्रेटों/मुंसिफ मजिस्ट्रेटों/जुडीशियल मजिस्ट्रेटों तथा रेलवे मजिस्ट्रेटों के लिए शासनादेश संख्या: यू0ओ0-42/सात-आ.व्य.नि.-26/85-न्याय (अधीनस्थ न्यायालय) अनुभाग दिनांक 8.12.1989 द्वारा 65 आशुलिपिकों के पद भी शासन द्वारा स्वीकृत किए गए हैं जिनमें से एक-एक पद 18 अपर मुख्य न्यायिक मजिस्ट्रेट्स (रेलवे) के लिए है। कृपया तदनुसार सभी अपर मुख्य न्यायिक मजिस्ट्रेटों (रेलवे) अवगत कराने का कष्ट करें। यह भी स्पष्ट किया जाता है कि रेलवे मजिस्ट्रेटों के न्यायालयों को स्थायीकरण शासनादेश संख्या: 2709/सात-न्या.-2-207/82 दिनांक 24 जून, 1992 द्वारा आस्थगित करते हुए उक्त पदों को उच्चीकृत किया गया है और इन अस्थायी पदों को वर्तमान में दिनांक 28.2.94 तक के लिए सततीकृत किया गया है।

29. TRIAL OF CASES BY SPECIAL JUDICIAL MAGISTRATES/JUDGES

C.L. No.114/Admn. (A) dated 13th July, 1976

Municipal and other body's cases be entrusted to the Executive Magistrates who have been appointed Special Judicial Magistrates under section 13 Cr.P.C. and they be asked to give preference to the disposal of these cases.

C.L. No. 116/Admn. (B) dated 6th September, 1975

For expeditious removal of unauthorised occupation of Municipal land and also for early hearing of petty cases, Chief judicial Magistrates in exercise of the powers under section 15(2) of the Code of Criminal Procedure, 1973, should assign all Municipal cases for trial exclusively to one of the Magistrates. For speedy disposal uncontested petty cases may, however, be heard at the spot but by way of precaution the Magistrate concerned should hold his court at a place from

where he cannot see the Municipal authorities detecting offences and prosecuting people because once the offenders know that the condition at the spot can be quickly inspected by the trying Magistrate, they would not raise unnecessary objections.

C.L. No. 130/Admn. (A) dated 7th November, 1979

The District Judges should see that all the cases relating to embezzlement in cooperative societies pending in different courts, in their judgeship are transferred to the special courts concerned at an early date, if not already done.

C.L. No. 68/VIIC-227 dated 15th October, 1982

The cases under section 125 Cr.P.C. should be transferred to one Munsif-Magistrate with the direction that he may dispose them of expeditiously on priority basis.

Half-yearly reports of the effect and consequence of implementation of this scheme should be submitted to the Court.

C.L. No. 66/IVg-103/Admn. (A) dated 22nd June, 1978

The District Judge should nominate one Magistrate in the district for deciding cases under the Protection of Civil Rights Act, 1955 and transfer all pending cases under" this Act to his court for being decided on priority basis.

C.L. No. 79/IVg-103 dated 11th December, 1981

All cases under the Indian Penal Code relating to atrocities on Harijans should be entrusted for disposal to the Magistrate already nominated by the District Judge for deciding cases under the Protection of Civil Rights Act, 1955.

C.L. No. 79/Admn. (A)/VIIF-189 dated 14th November, 1984

The cases pending under the Section 198 A and 211 of the U.P. Zamindari Abolition & Land Reforms Act, 1950 and section 27 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 shall be soon transferred to the courts of Judicial Magistrates constituting special courts to try economic offences in the district headquarters as well as in tahsil headquarters (wherever courts of Munsif-Magistrates are situate in tahsil headquarters) with directions to dispose of such cases on top priority basis. They should so arrange their cause-lists that cases under these sections are put on the top and thereafter other types of cases. They should also be directed that such cases should not be adjourned for a long time. At the most, they may be adjourned for a week only. The District Judge should keep a vigilant eye on the listing and disposal of such cases.

A report in respect of such cases should be submitted to the Court every month giving the number of such cases pending at the commencement of the month and disposed of during the month.

29-A: Regarding permission for purchase of firearms by the judicial officers

C.L. No. 11/Ivh-16/Admin. (A): Dated 12.04.2010

I am directed to say that all the judicial officer's be directed that application to obtain necessary permission for purchase of firearm be made in the court at the time of submission of application for grant of such licence.

You are further requested kindly to get it circulated among all the judicial officers working on deputation as well as in your judgeship.

30. CRIMINAL WORK TO MUNSIF-MAGISTRATES

G.L. No. 26-2(1)-4(23) dated 30th May, 1939

Munsifs are meant for, civil work and are not expected to do criminal work if this interferes with the disposal of civil cases.

In the circumstances, it is necessary that the District Judge should have control over the amount of criminal work which the Munsifs invested with magisterial powers in his judgeship are asked to do. Cases should be sent to the Munsifs concerned for trial by the District Magistrate* through the District Judge concerned. The District Judge should satisfy himself when criminal work is sent to the Munsif or a Munsif is to be invested with magisterial powers that this will not result in a dislocation of civil work.

C.D.O. No. 122, dated 14th August, 1974

Munsif Magistrates exercising criminal jurisdiction should not abuse their powers and must not act in any arbitrary manner.

C.L. No. 135/Vif-80 dated 24th August, 1976

The Munsif-Magistrates should work continuously for one financial year on the civil side and for the next financial year on the criminal side.

C.L.No. 175/IV-F-80/Admn. (A) dated 9th November, 1976

The Officers will be transferred from civil to criminal court or vice-versa, as the case may be, but the work of civil or criminal side will not be transferred from one court to another. Such a change of work will not entail shifting of the Munsif-Magistrate from his official residence,

C.L. No. 1/ Admn. (B) dated 12th February, 1971

On transfer of a criminal case from the court of one Magistrate to another Magistrate, the case may be given a new number with new date, which shall be the date of receipt after transfer. At the same time, the earliest number of the cases as also the date of the initial institution be noted below the new number so that it may give an idea of the period for which that case is pending.

C.L. No. 39/VIII a-108, dated 19th April, 1978

The instructions contained in the aforesaid circular letter should be strictly followed.

31. SUMMONING OF WITNESSES

C.L. No. 77/IV h-36 dated 28th May, 1976 as modified by

C.L. No. 51/IV-h-36 dated 10th March, 1977

(i) Procedure

- (a) Besides normal summons, simultaneous service by registered post direct from the court may be made in case the party so applies.

* Now Chief Judicial Magistrate

(b) Normal summons should be sent through the Superintendent of Police to the Station Officer concerned within three days. The Station Officer shall report compliance directly to the court concerned within 15 days of the receipt of the summons in the office of the Superintendent of Police.

(c) The Inspector General of Police, Uttar Pradesh has issued separate directions in this behalf to his subordinate officers. In case, however, no report is received from the S.O. concerned within the prescribed time or report of non-compliance is received with regard to witness, the court should take up the matter with the Superintendent of Police concerned immediately.

(d) Notice to the accused also should be sent by registered post. (Government has been moved separately to amend sections 62, 65 and 69 Cr.P.C.).

(e) The court Ahalmad and the Thana Moharrir concerned should meet once every month and in the presence of the Chief Judicial Magistrate and compare their order books relating to summons and other processes so that the discrepancies, if any, may be reconciled. Necessary directions to the police officers have been issued by the Inspector General of Police in this behalf also.

C.L. No. 82 dated 31st May, 1976

At these meetings, two of the court Ahalmads should be required to bring their respective registers of service of summonses and compare them in the presence of the Chief Judicial Magistrate. If the court Ahalmad is found to be in, any way slack or lacking in his work, the matter- should immediately be brought to the notice of District Judge by the Chief Judicial Magistrate and severe action should be taken against the defaulting court Ahalmad.

The meetings should be held outside court hours.

C.L. No. 124/VII b-107 dated 29th July, 1976

All the magisterial courts, while issuing summons or warrants under sub-section (1) of section 204 Cr.P.C. 1973, should strictly follow the provisions of sub-section (3) of the said section and ensure that the summons and warrants issued in complaint cases are invariably accompanied by a copy of the complaint.

(ii) Police officers

C.L. No. 69/VIIb-9 dated 28th October, 1983

In future summonses for the attendance of Police Officials/ Officers as witnesses should not be sent to the U.P. Police Head Quarters, Allahabad and are served on the Police Officials/ Officers of the district concerned in the manner prescribed in the Court's Circular Letter No. 65/VII b-9 dated 14.6.1979.

C.L. No. 81/VIIb-68-Admn. 'G' dated 19th November, 1984

A police officer need not be summoned for evidence by any court during the period of time he is attending a training course in any police training institution.

In case a summons has already been issued and the date of his evidence falls during the period of his training course, and the office in-charge of the police training institution informs the court that the said police witness is attending an in-service training, the courts shall do well to

postpone the date of evidence' to a date after the completion of his training course. It is expected that the officer in-charge of the police training institution shall be informing the court concerned the date on which the training course is expected to conclude.

In exceedingly rare and exceptional cases where the court concerned is personally satisfied that further postponement of evidence is not possible, the court concerned shall forward such summons to the officer-in-charge of the police training institution with a covering D.O. emphasizing the importance of the matter and directing him to relieve the witness to enable his appearance on the, due date.

It is expected that officer-in-charge of police training institutions, on receipt of such D.O. from any court, shall not seek any further adjournment and relieve the police officer to appear for his evidence in the concerned court on the due date, provided again, that the date does not clash with the dates of the final examination of the trainee.

C.E. No. 108/VII-d-41 dated 24th November, 1961

Officials of the Home branch of Uttar Pradesh Government may be summoned by name only when their personal attendance is absolutely essential; and if certain document, etc., are only to be produced or testified to, before the court or some evidence is to be tendered on the basis of official records, the summons may not be issued by name of the officials, so that the Government may be able to depute any competent person from their staff to appear before the court to do the needful.

C.L. No.65/VIIb-9 dated 14th June, 1979

The summonses requiring appearance of transferred police officers or officials, as witnesses should, instead of being sent to the Police Headquarters, Allahabad be sent to the Superintendent of Police of the district concerned after ascertaining their address from the Public Prosecutor. In case it is not possible to ascertain the addresses of transferred police officers or officials from the Public Prosecutor, the summonses of non-gazetted police officials should be sent to the local Superintendent of Police and that of gazetted police officers to the Assistant Inspector General of Police, U.P., Lucknow, requesting them to arrange for the service of summonses.

C.L. No. 65/VII-b-68 dated 13th June, 1951

This Court has received report that summonses issued in sessions cases are not invariably received back after service before the trial commences. Complaints have also been received indicating that Magistrates and Police Officers summoned to give evidence in sessions courts do not always attend in time and on the dates fixed. This result in unnecessary adjournments and delay in the disposal of sessions cases.

District and Sessions Judges and Additional District Judges should send a report to the Court whenever a sessions trial has to be adjourned due to the default of the police or the Magistrate.

C.L. No. 28 dated 26th March, 1968

Assistant Sessions Judges and Magistrates should, as far as possible, accommodate district authorities by not insisting on appearance of the Magistrates detained on law and order duties during festivals like Id, Moharram and Holi, etc. as witnesses on those dates. Convenient dates should be fixed for their appearance.

G.L. No. 10/VII b/68 dated 17th March, 1947

Government have directed the Inspector General of Police to issue circular order to ensure that police officers attend court without fail on the date fixed by the Sessions Judge, and that careful attention is paid to the service of summonses and their return to the courts concerned.

District Magistrates have also been asked to issue instructions to all Magistrates subordinate to them that they should attend the sessions court on the due date whenever required to do so.

(iii) Wireless message

C.E. No. 2/VII-b-68 dated 3rd January, 1975

With a view to avoid undue pressure on police wireless grid and to enable it to control the law and order situation, the services of the police wireless grid can be utilized with the permission of the District Judge for summoning witnesses in Sessions Trials only in special circumstance and subject to the following conditions in supersession of G.O. no. 22 65/VIII-2088-1948, dated August 22, 1955:

- (1) Radiogram can be used only in cases where information cannot be sent in time through postal service.
- (2) Radiogram should be written in telegraphic language.
- (3) Radiogram should be sent under the signature of the District Judge only.

C.L. No. 102/VI b-11 dated 9th June, 1976

The Government has restored the wireless facilities for summoning of prosecution witnesses. The facility so restored may please be utilized for summoning of prosecution witnesses.

C.E. No. 65/IVh-36 dated 24th March, 1977

It informs all the District and Sessions Judges that the Court has decided that on the criminal side the processes should be filled in by the Court Moharrirs or any other police official before filing them in courts and directs in future no process should be accepted unless it is duly filled up.

(iv) Doctors

G.L. No.7/VIIIa-5 dated 7th August, 1951

A medical practitioner whether he be a private practitioner or a government servant should not be summoned to appear at 10 a.m. on the date on which he is summoned as a matter of course but should be summoned to attend at a time when the court thinks it will be able to examine him. Every effort should be made to accommodate him so as to interfere as little as possible with his professional work.

C.L. No., 45/VIII a-5 dated 24th March, 1971

Evidence of medical officers coming from outside should be fixed after lunch interval and of those who are posted at the place where the court is situate should also be recorded after lunch interval keeping in mind the convenience of the doctors. If bail applications are taken up soon after lunch interval, the time for appearance of medical practitioners may be fixed keeping

in mind the time generally taken in such applications. In case any bail application remains undisposed of it may be taken up after, the medical evidence has been recorded or on the next day as may be desired by the parties. Steps should also be taken that the medical practitioners do not have to wait standing outside the courtroom for want of furniture.

C.L. No. 82/VII b-52 dated 23rd September, 1968

While issuing summons to a medical officer full particulars of the case in which he is to be examined should be furnished by, the courts concerned so as to enable him to come prepared with the case. The medical officer so summoned should be relieved as soon as practicable to avoid dislocation of work of the hospitals due to his long absence.

C.L. No. 19/VIII-a-84 dated 24th April, 1967

Magistrates should invariably mention the names of parties and particulars of the case in the letter of request, in H.C.J. Form No. IX-27, issued to the Civil Surgeons/Medical Officers-in-Charge in order to give them an idea of the case in which they are required to give evidence.

C.L. No. 5 dated 16th January 1965 read with

C.L. No. 53/VII-6-52 dated 4th October, 1960

Frequent summoning of Civil Surgeon* and Medical Officers and at too short notice dislocates normal working of the hospitals. This should be avoided as far as possible and the instructions contained in the above-noted circular letters should be followed.

C.L. No. 88/VIIb-52 dated 4th November, 1980

The summons to the doctors should be routed through the Chief Medical Officer of the district and should be issued well in advance so as to reach at least a week before.

The evidence of doctors should as far as possible be taken after lunch.

(v) Government Servants

C.L. No. 48/VII b-68 dated 30th May, 1973

Summonses should be sent in case of government servants locally posted either through Police or through other serving agency, so that signed acknowledgement on one of the files is received back in the court in time. Simultaneously, information or another copy of the summons should also be sent to the Head of the Department or office so that non-appearance on the date fixed may be avoided.

C.L. No. 126/IV-g-3 dated 14th December, 1951

The summoning of District Election Officers and Returning Officers to give evidence outside the district their posting dislocates election work. Sessions Judges and Assistant Sessions Judges may, therefore, consider the advisability of not summoning District Election Officers and Returning Officers to give evidence outside their districts up to the end of the general elections to enable them to devote their whole time to the proper discharge of their duties connected with the elections. If it is found absolutely necessary to examine any particular officer, Sessions Judges may consider the possibility of examining him on commission or, of recording his evidence on

* Chief Medical Officer.

one day in all the cases in which his attendance might be required before the end of the general elections.

C.L. No. 83/VIIId-41 dated 8th September, 1961

When the officers of the Regional Passport Office or staff working under them situated at Delhi, Calcutta, Bombay, Madras and Lucknow are required to appear in courts of law in connection with cases arising out of forgery of passports and documents have to be produced and testified to, summons may be sent to the Regional Passport Officers to depute any competent person from their staff and officials may be summoned by name only when their personal attendance is considered essential.

C.L. No. 96/VIII b-16 dated 10th August, 1979

The summonses for service may be sent to Government only when all possible efforts to find out the address of the witnesses at the local level have failed; and in the event, a summons is sent to the State Government it should be ensured that the State Government has at least about a fortnight at its disposal to effect service. The summonses should contain the full name and designation of the Officer issuing the summons with a legible seal of the court.

C.L. No. 85/VIII b-16 dated 29th October, 1980

It invites attention of all Presiding Officers to the Courts Circular letter aforesaid and directs them to comply with the instructions contained therein strictly, failing which serious action will be taken against them.

(vi) Examination on commission of officers of the Mint etc.

C.L. No. 1791/38-a-2 dated 24th April, 1923 read with

G.L. No. 26/VII-b dated November, 1950

When the evidence of an officer connected with the Mint or the Currency department is required as to the genuineness or spuriousness of a coin or currency note, it must be remembered that Sessions Judges and Magistrates can always send the coin or note to the Mint Master, or the Commissioner of Paper Currency, Calcutta as the case may be under cover of their court seal or by a messenger whose evidence can afterwards be taken and at the same time issue a commission of the examination of such officer as a witness under the provisions of section 503* of the Code of Criminal Procedure. This would prevent the great inconvenience of officers being called away from their duties unnecessarily. In special cases, a careful discretion is to be exercised, regard being had to the above considerations.

Sessions Judge, District Magistrates** and courts subordinate to them may consider the question of examining officers of the Indian Security press (Stamp press) Currency Notes Press and the Central Stamp Stores, whose evidence may be required in a case on commissions under Section 503*** of the Code of Criminal Procedure. It is, however made clear that the power to issue commission is discretionary and should be exercised judicially after considering the circumstances of the case and the objection of the accused, if any.

* Now Section 284 of Cr.P.C.1973

** Now The Chief Judicial Magistrate.

*** Now Section 285 of Cr.P.C.1973

(vii) Commission for examination of witnesses in Pakistan

C.E. No. 44/VIII-b-31 dated 29th July, 1963

The Central Government in pursuance of sub-section (3) of section 504* of the Criminal Procedure Code 1898 read with section 137 of the Army Act, 1950 directs that commission from the Judge Advocate General of the Army, or the Chief Legal Adviser of the Air Force, at the instance of Courts Martial in India for the examination of witnesses in Pakistan shall be issued in the Form annexed (to the C.E.) to the Court of the D.M. or Magistrate of the 1st Class within the local limits of whose jurisdiction in Pakistan the witness resides and that such commission shall be sent to the Ministry of External Affairs, Government of India, new Delhi, for transmission to the court concerned.

(viii) Appearance of police officials in courts as witnesses.

C.L.No.65/VIIb-9 Dated: Allahabad: 14.6.79

It has come to the notice of the court that summonses for the appearance of police officials/officers who have been transferred from the district are being sent to police headquarter, Allahabad for service and return. As no register of transferred police officials or officers is maintained at the police, Headquarter is unable to such summonses.

The D.I.G., Police head-quarters, Allahabad has issued a circular letter to all S.P.S. that they should maintain record of all police officials/ officers transferred from their district to other district so that the public prosecutor may be in a position to inform the court about the latest address of police officers/officials.

I am, therefore, directed to say that henceforth summonses requiring appearance of transferred police officers or officials as witness should instead of being sent to the Police headquarters, Allahabad be sent to the S.P. of the district concerned after ascertaining their address from the public prosecutor. In case, It is not possible to ascertain the address of transferred police officers or officials from the public prosecutor, the summons of non-gazetted police officials be sent to the local S.P. and that of gazetted police officers to the Assistant inspector General of Police, U.P. Lucknow requesting them to arrange for the service of summonses.

The above instructions may please be brought to the notice of all concerned for compliance.

(ix) Appearance of police officials in courts as witnesses.

C.L.No.69/ VIIb-9, Dated: Alld: October 28, 1983

While inviting your attention to court's circular letter No.65/VIIb-9, dated 14.5.79 emphasizing the need to send summons for attendant of police of the District conceded, when the police official/ officer is reported to have been transferred to some other district, I am directed to say that have been brought to the notice of the court recently that the directions contained in the said circular letter dated 14.4.79 are not being complied with strictly with the result that summonses for the attendance of police officials/officers as witnesses are still being sent to the U.P. police head quarters, Allahabad which does not maintain any record of the

* Now Section 284 of Cr.P.C.1973

transfers and posting of police officials/ officers. This obviously results in non-service of the summons in time and sometime the summonses are even lost in transit.

I am, therefore, directed to emphasize upon you to see personally that in future summonses for the attendance of police officials/ officers as witnesses are not sent to the U.P. Police head Quarters, Allahabad and are served on the Police officials/ officers of the district concerned in the manner prescribed in the court's circular Letter No.65/ VIIb-9, dated 14.6.79.

This may kindly be communicated to all concerned for strict compliance.

(x) Appearance of police official in courts as witnesses.

C.L.No. 24/VIIb-dated: Alld: 13.7.1998

I am directed to Say that Directed General of Police, U.P. has apprised to the court that summons/warrants for the appearance of Police officials/officers are being sent to the headquarters director General of Police U.P. directly for service. The directorate has no such track for keeping the posting of sub-inspector/Head constable as to where they had been transferred. This results in non service of the summons/warrants in time.

Considering above situation it indicate that directions contained in court's circular Letter No.65/VIIb-9dated 14.6.79 and circular letter no.69/VIIb-9, Dated 28.10.83 (copy enclosed for ready reference) are not being complied with strictly by the presiding Officer working under you.

I am, therefore directed to impress upon all the presiding Officer to follow directions contained in the aforesaid court's circular letter for the attendance of Police Officials/officers as witness with the modification that if the service of summons/notice is not possible through the senior superintendent of police/superintendent of police of district concerned for the want of present address of transferred police officials below the rank of the Inspector, the same be got served through Inspector general of police Headquarters, Allahabad.

This may kindly be communicated to all concerned for strict compliance.

(xi) Service of summons upon witness and accused persons.

C.L.No.42/98 Dated: Allahabad: 20/8/1998

The Hon'ble court has noticed that the present system of service of summons is not effectively working and service upon the witness/accused persons are not being effected within the period fixed by the courts. The system is effecting the speedy trial of sessions and magisterial cases. In this regard, the court has taken the following decisions for strict compliance by all:-

1. Old practice of fixing one sessions trial for three days in continuation is revived. No other sessions trial except any formal part-heard trial in which one or two formal witnesses are to be examined should be fixed on the that day.
2. The process register as mentioned in rule 12 of chapter III OF G.R.Criminal be strictly maintained by all courts. A police official who is receiving the summons must state his name and number in clear block letters in columns no.5 so that the responsibility be fastened upon him.
3. Public prosecutor and D.G.C. (Criminal), as the case may be, should be asked to apply to the court for issue of summons but giving complete particulars of the witness. The summons should, thereafter be prepared and served upon the witnesses.

4. If the police personnel are not complying with the directions of the court then appropriate action under the provision of the contempt of courts Act be initiated against them.

(xii) Effective control on Summons Cells

C.L. No. 76/Admin. (F); Alld. Dated: 14.12.2007

Identifying the delay in service of Summons to be the main cause for delay in disposal of the Criminal Cases, on the recommendations of Hon'ble Court a cell with adequate number of police constables to be attached to each district court exclusively, has been constituted to attend the work of each court as per direction of the Sessions Judges/CJMs.

I am directed to say that you shall exercise effective control over such cell and shall also submit a quarterly statement to the Hon'ble Court showing the performance for each month on the enclosed prescribed proforma.

Therefore, I am to say that kindly ensure the compliance of above direction in right earnest.

(xiii) Service of summons on formal witnesses.

C.L.No. 43/98 Dated: Allahabad: 20/8/1998.

The Hon'ble Court has noticed with concern that the criminal cases are prolonging because the formal witnesses are not attending the courts on the date fixed for their evidence. In order to ward off this evil the Hon'ble Court has taken a decision that the cases of such formal witness who have been transferred from the district be sent to them by registered post on the current place of posting intimated by them.

I am, therefore, directed that the aforesaid directions of the court be strictly followed.

Non-submission of Service Report in Contempt matters by the Chief Judicial Magistrates

C.L. 23/2006: Admin 'G'; Dated: 29.05.2006

Hon'ble Court while dealing with Contempt Petition has noticed that the reports with regard to the service of the summons are not being submitted by the Chief Judicial Magistrates within time. As a result of which, the contempt matters cannot proceed get delayed on account of the non-availability of the service report.

Therefore, while drawing attention of all concerned to Court's Circular letter No. 109/VIIC-2/Admin. 'G' dated 30.11.1990 and Circular letter No. 19/Admin. 'G' dated 3.2.1991 : I am directed to request that the contents of and directions in the circulars aforesaid, be unerringly gone through all the way for ensuring strict compliance by all concerned especially the Chief Judicial Magistrate under your administrative control by transmitting service reports within the time prescribed. Non-submission of service report within time may be viewed seriously and action might be initiated against the defaulting Chief Judicial Magistrate.

C. L. No.51/2007Admin (G): Dated: 13.12.2007.

The Hon'ble Court has noticed that the delay in disposal of criminal trials is attributable to non-service of summons/notices for want of addresses of witnesses. Frequent transfers of police officers, doctors and other witnesses also causes delay in disposal of cases for want of their correct addresses. Therefore, the Hon'ble Court has been pleased to direct that where

summons/notices are returned on account of non-availability of the witnesses for want of correct addresses, they shall send those summons/notices to the Director General (Medical and Health) and Director General (Police) respectively for effecting service such summons/ notices and it shall be duty of the Directorate concerned to return them to the Court concerned after service.

I am further to request you to kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit.

(xiv) Payment of diet Money to witnesses.

C.L. No. 35/VIII Dated: 24.9.2003

The Hon'ble Court has observed with concern that traveling allowances and diet money are not being paid in time to the Prosecution witnesses who are summoned for statement in criminal cases earning lack of interest by the witnesses to appear in the courts on the date fixed. As such, for want of the said allowances/diet money they become hostile resultantly causing delay in disposal of criminal cases.

I am, therefore, directed to request you to kindly issue necessary instructions to all the concerned in your Judgeship to ensure payment of traveling allowances and diet money to the witnesses timely so as to enable them to succour the courts with their testimony for reaching judicial findings.

I am also to add to kindly ensure strict compliance of above directions of the Court.

Reg. Insurance of identity of witnesses produced by the prosecution in support of its case

C.L. No. 24/2010/Admin. 'G-II' Dated 23.08.2010

I am directed to say that all the judicial officers within the State to make all possible efforts before recording statement of the prosecution witnesses, to ensure that witnesses produced by the prosecution in support of its case, are the actual witnesses and no impostor or fraudulent person is produced by the prosecution knowingly or unknowingly. If such a case is detected, the matter be immediately reported to the appropriate authority with recommendation of taking stern action in the matter.

The above instructions may kindly be brought to the notice of all the Magistrates and Sessions Judges under your administrative control for guidance and strict compliance.

32. EXPEDITIOUS DISPOSAL

(i) Procedural changes

C.L. No. 66/VIIb-2 dated 24th September, 1984

Henceforth all the provisions of the Code of Criminal Procedure, 1973, relating to the early disposal of criminal cases should be exercised keeping in view the main changes made in the Cr.P.C. 1973, for reducing the arrears and expediting the trial of criminal cases. The District Judges should send a yearly statement to the State Government showing the progress in the disposal of criminal cases under intimation to the Court.

Main changes

- (1) Powers of revision against interlocutory orders have been taken away. This had accounted for a large number of cases of delays. (Section 397(2))

- (2) The provision of compulsory stay of proceedings on the intimation of transfer petitions has been deleted. (Section 407 and 408)
- (3) Committal proceedings in Sessions cases have been abolished. (Section 209)
- (4) Limits have been prescribed for the duration of security proceedings. If a person has been kept in custody pending these proceedings for six months, the proceedings shall stand terminated. In other cases where the proceedings are not concluded within six months, the proceeding will ordinarily terminate but the court may in special cases continue the same. (Section 116)
- (5) Offences punishable up to 2 years will be summons cases with a simplified procedure (as against six months under the old code. [Section 2(iv) and (x)]).
- (6) The scope for the summary trial of cases has been enlarged considerably. (Section 260)
- (7) The procedure in summary trial has been simplified further. (Section 262-265)
- (8) Summons to witnesses can be served by post. (Section 69)
- (9) In petty cases, accused can plead guilty by post, by sending the amount of fine to the court. (Section 206)
- (10) Oral examination of formal witnesses has been dispensed with. (Section 296)
- (11) Trial can be held in the absence of the accused if he is recalcitrant. (Section 317)
- (12) Provision has been made for appointment of Special Magistrates from retired or serving officers to deal with petty cases etc. (Section 13 and 18)
- (13) The system of Metropolitan Magistrates has been made available to cities of population of more than a million. (Section 8 and 16)
- (14) Periods of limitation have been provided for offences punishable with imprisonment for not more than three years. (Section 468)

Changes made in Cr.P.C. after 1973 by the amendment in 1978

The provisions incorporated in the Code of Criminal Procedure (Amendment) Act, 1978, with a view to reduce the delays/speedy disposal of cases are indicated below-

- i) A proviso was added to sub-section (1) of Section 11 Cr.P.C. to establish special courts of Judicial Magistrates having jurisdiction throughout any local area and to confer on such courts exclusive jurisdiction to try any particular cases or particular class of cases.
- ii) Sub-section (3) was added to Section 206 to provide that the State Government may specially empower a Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable u/s 320 and to other offences punishable with imprisonment for a term not exceeding 3 months, where a Magistrate is of opinion that imposition of only fine would meet the ends of justice.
- iii) A third proviso was added in sub-section (2) of section 309 to provide that no adjournment shall be granted for the purpose of enabling the accused to show cause against the sentence proposed to be imposed upon him.
- iv) Section 326 providing that a de novo trial is not obligatory when there is a change of Magistrate was amended to extend the scope of the section to the Court of Session also to expedite trial of cases.

Report by the Court concerned against the defaulting investigating officer to Higher Authorities

C. L. No. 52/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has noticed that the delay takes place in submission of Police Report before the Magistrate on account of various reasons such as the investigating officer being biased in favour of accused, investigation officer being transferred from one police officer to another on account of their transfer. Such delay at times results in the accused getting undue advantage of being set at liberty due to non filing of Police report within the time stipulated u/s 167 (2)(b)Cr.P.C. .The Hon'ble Court has been pleased to recommend that all the criminal courts shall write to S.P./S.S.P. Concerned for necessary action against an investigating officer if he is found to be wanting in discharge of his duties deliberately in submitting the Police report within time as per mandate u/s. 167(2)(C) of Cr. P. C.

Therefore, I am directed to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit.

(ii) Classification and disposal of criminal cases

C.L. No. 23/VIII-b-249 dated 3rd February, 1975

For early disposal of criminal cases, Judicial Magistrates should classify all criminal cases in various groups. Criminal cases of similar nature should be classified in one group, i.e., petty and minor cases be classified in one group and be disposed of by Magistrates under Section 206 of Cr.P.C. 1973.

(iii) Under trials

C.L. No. 17/VI-b-3 dated 27th February, 1973

C.L. 114/VII-b-3 dated 5th September, 1975

All possible efforts should be made to expedite disposal of trial of under trials in jail so that the period spent by an under – trial in jail may be reduced to the minimum.

C.L. No. 28/VIIIh-13 dated 7th March, 1979

All the Magistrates and Sessions Judges should adopt all possible measures to expedite the disposal of cases of under trials.

C.L. No. 90/VIIIg-38 Admn. G. dated 1st December, 1980

The District Judges should make all out efforts in disposal of cases of under trial prisoners confined in jails for over six months, especially old cases, expeditiously.

C.L. No. 59/VIII-g-38/Admn.(G) dated 16th September, 1981

To ensure the disposal of cases of under trial prisoners within the time stipulated in the order of Supreme Court dated 30-4-1979 passed in the case of Nimeon Sangama and others versus Home Secretary, Government of Meghalaya and others AIR 1979 S.C. 1518 following steps should be taken:-

- (a) The criminal courts shall get a periodical list of under trial prisoners pertaining to their courts prepared fortnightly and except in cases of murder and dacoity may pass orders

releasing the under trial prisoners who may be in jail for over six months on bail or personal bonds as the circumstances may require in conformity with the directions of the Supreme Court in its order dated 30.4.1979 mentioned above.

- (b) The Chief Judicial Magistrate or the Additional Chief Judicial Magistrate should bring to the notice of each court the cases of under trials over six months old pertaining to the respective courts after his jail inspection to enable the respective courts to pass suitable orders in cases of such under trials who may be in jail for over six months.
- (c) The following extracts from amended Section 167 Cr.P.C. should be brought to the notice of all criminal courts for compliance. No Magistrate shall authorize detention of accused person in custody for a total period exceeding –
 - (1) 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;
 - (2) 60 days where investigation relates to any other offences and on the expiry of the said period of 90 days or 60 days, as the case may be, the accused person shall be released on bail, if he is prepared to furnish bail.
- (d) The Court may, in suitable cases where the accused are indigent and unable to furnish bail, in its discretion, release the accused on personal bond.

C.L. No. 77/S.T. AD(E) dated 8th December, 1981 and

C.L. No. 51/A.D.(E) dated 30th August, 1982

To keep proper control over the disposal of such cases the Presiding Officers should maintain proper record of under trials involved in the cases in the enclosed proforma.

At the end of the each quarter a statement in this proforma shall be prepared by each Court showing the details of only such cases in which the under trial prisoners could not be released and shall be sent to the Chief Judicial Magistrate in the case of the Magisterial Courts and to the District & Sessions Judge in the case of the Sessions Courts. The Chief Judicial Magistrate or the District & Sessions Judge, as the case may be, shall cause a consolidated statement of all the Courts under him to be prepared latest by the 8th day of the same month. Thereafter the District & Sessions Judge shall get a consolidated statement of all the Sessions and Magisterial Courts prepared and sent to the High Court so as to reach their latest by the 15th day of the said month.

At the time of periodical checkings, the Presiding Officers would look into the reasons of delay in disposal of such cases where the under trial prisoners are confined in jail and shall arrange for their quick disposal on priority basis.

(NOTE: The proforma is given under)

RECORD OF CASES IN WHICH UNDERTRIAL PRISONERS ARE CONFINED IN JAIL

Sl. No.	Case No. and names of parties	Names of Under Trial prisoners	Section under which charged	Maximum sentence (and also the minimum sentences, if prescribed)	Date since when confined in jail	Date when he crosses half of the period of Maximum sentence which can be awarded and if the Minimum sentence is also prescribed then the date	Date of release
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				which can be awarded for the charge		when he crosses half of that period	
1	2	3	4	5	6	7	8

The breakup of the total number of under trials according to the number of completed years of detention						The total number of under trials who have already spent in jail		Remarks
						Equal to the period of imprisonment, had they been convicted	Exceeding the maximum period of imprisonment had they been convicted	Note:- Where the accused is released on disposal of the case, the date of disposal should be noted in this column.
9						10	11	12
1 yrs	2 yrs	3 yrs	4 yrs	5 yrs	Above 5 years			

C.L. No. 85/VIIIg-38 Admn. (G) dated 24th December, 1982

The Court has noticed that in petty cases involving short sentences the under trials are detained in Jail for periods even longer than what they will be required to undergo as imprisonment in case of their conviction for the offence for which they are detained.

It has also come to the notice of the Court that in some cases the appeals of the accused persons who are convicted and awarded short sentences are not disposed of promptly with the result that the convicted persons serve out the sentences awarded to them even before their appeals come up for hearing.

In order to avoid the anomalies mentioned above, the following guidelines are issued for strict compliance in future:-

- (i) After inspection of Jail, the Chief Judicial Magistrate or Additional Chief Judicial Magistrate, as the case may be, should point out such cases as described in the first paragraph of this letter to the Magistrates concerned who may release such under trials on nominal bail or on personal bond.
- (ii) In case of appeals against convictions involving short sentences either such appeals should be disposed of on priority basis or, if that is not possible due to pressure of work, the court should invariably pass orders for suspension of sentence pending appeal and for releasing the accused on bail or on his own bond.

Even in cases of appeals against conviction, which do not involve short sentence, if the court is of the view that it may not be possible looking to the pendency of appeals, to dispose of such appeal before the expiry of period of sentence, the court should follow the above procedure.

Task force to reduce the under trial prisoners languishing in jail

Letter No. 406/Admin.G-II dated 10.01.2011

I have been directed to say that Statements/reports regarding disposal of cases of under-trial prisoners received from the District Judges were placed before the Hon'ble Committee and

on the basis of reports received from various districts about the under trial prisoners languishing in jail and after careful consideration of the matter, the Committee has directed as under:-

“1. For the cases fixed for appearance, all the Trial Judges be asked through the District Judges to ensure attendance of accused who have not yet appeared, by coercive measures where other accused are detained in jail unnecessarily. In such cases, if need be, the bail of such accused may be cancelled and they may be taken into custody. Such cases where the accused are detained in jail for a substantial period, may be separated in exceptional circumstances and proceeded with expeditiously.

2. For the cases pending at the stage of committal to the Court of Sessions, all the Magistrates be asked through the District Judges to ensure that all such cases be committed to the Court of Sessions within three weeks positively.

3. For the cases pending at the stage of charge, all the Trial Judges be asked through the District Judges to ensure that the charges are framed forthwith and the trial of these cases be concluded at the earliest, if possible, within a period of six months.

4. In respect of the cases pending for evidence, all the Trial Judges be asked through the District Judges to ensure that the evidence be concluded and the cases be disposed of at the earliest, if possible, within four months.

5. For the cases pending for arguments, all the Trial Judges be asked through the district Judges to ensure that the cases be decided positively within one month and compliance report be sent to the High Court.

6. For the cases which are shown to be stayed, the District Judges be asked to submit report about the complete details of the cases stayed and also about the details of the matter. In which, the stay order has been passed by the Superior Courts.”

I am, therefore, to request you to kindly to ensure compliance by all concerned and to submit compliance report after one month in accordance with the directions of the Committee.

(iv) Grant of certificate of exemption from personal attendance to under trials for going abroad

C.E. No. 136 dated 11th November, 1971

The under trials sometimes apply for temporary restoration of passport facility either refused or impounded, to proceed abroad for short periods in connection with their business and there is a possibility of their influencing witnesses for tampering with documentary evidence. Before granting the certificate for exemption from personal attendance during the pendency of the case, the Magistrates should take the following points into consideration:

- (i) The court is in a better position to judge whether an accused's visit abroad is likely to affect the administration of justice;
- (ii) The court can judge the gravity of the offence for which an accused is being tried by it; and while exempting him/her from personal appearance or not objecting to his/her visit abroad, impose certain conditions e.g., ask for additional bail sureties, etc. to ensure that the accused does not escape the punishment that may be prescribed under the law;
- (iii) In a case in which the court feels that a person should not be allowed to go abroad, it can pass orders to that effect under sections 6(2)(g) and 10(3)(h) of the Passport Act, 1967;

- (iv) For restoration of passport facilities, it should be considered if the visit of the accused is likely to bring some benefit to the country e.g., foreign exchange, foreign collaboration, export promotion, etc.;
- (v) Grant of passport facilities is entirely the responsibility of the Government of India. There should, however, be no objection to the courts granting certificates for “exemption from personal appearance” or “no objection to proceed abroad, for short periods” during the pendency of the case.

(v) Corruption cases

C.E. No. 69 dated 6th November, 1963

Delay in disposal of cases of corruption against government servants often leads to acquittal of accused. Priority should, therefore, be given to disposal of cases of corruption under the Prevention of Corruption Act.

C.L. No. 74/IVg-64 Admn. A dated 2nd August, 1980

The cases submitted by the State Vigilance Department should be dealt with on priority basis by the District & Sessions Judge himself or some senior Additional Sessions Judge who may be deputed for the purpose.

If it is not possible for District Judges to devote sufficient time to the disposal of cases submitted by the State Vigilance Department, they may allot such cases to one senior Additional Sessions Judge, with directions to dispose of those cases on priority basis.

C. L. No-38/2007: Admin 'G' Dated: 31.8. 2007.

The 2nd Administrative Reforms Commission, in its 4th Report titled 'Ethics in Governance' has inter alia, recommended that:-

- a) it has to be ensured that the proceedings of courts trying cases under the Prevention Of Corruption Act are held on a day-to-day basis, and no deviation is permitted.
- b) the Supreme Court and the High Courts may lay down guidelines to preclude unwarranted adjournments and avoidable delays.

In this regard, I am directed to say that the above recommendations of the Administrative Reforms Commission be complied with strictly and it be ensured that the proceedings of courts trying cases under the Prevention of Corruption Act are held on a day-to-day basis without any deviation by the concerned court functioning under your supervision and control. They may also be directed that no unwarranted adjournments in such cases be given in order to avoid delay in disposal thereof.

I am further to say that the Special Judges functioning under the provision of the Prevention of Corruption Act in the concerned judgeships be directed to give primary attention to disposal of cases under this Act and only if there is inadequate work under the Act they should be entrusted with other responsibilities/work.

Providing the information in respect of offences under Prevention of Corruption Act, 1988

No. 677/Admin. E-II dated 13.01.2011

With reference to the letter no. C-1/33 dated 23.12.2010 received from the Secretary General, Supreme Court of India, I am to say that he has desired the information regarding institution, disposal and pendency of cases under the Prevention of Corruption Act, 1988 up to 2010 on enclosed proforma and also desired the same on quarterly basis in future.

So, it is requested that kindly provide the requisite information up to 2010 strictly on prescribed proforma within two weeks and the information of the same be provided on quarterly basis in future also at the end of each succeeding quarter.

PROFORMA

STATEMENT SHOWING INSTITUTION, DISPOSAL & PENDENCY OF CASES IN RESPECT OF OFFENCES UNDER PREVENTION OF CORRUPTION ACT, 1988 IN THE SUBORDINATE COURTS IN THE STATE/UNION TERRITORY OFFOR THE YEAR 2010

Sl. No.	Name of the Court	Opening Balance as on 01.01.2010	Institution from 01.01.2010 to 31.12.2010	Disposal from 01.01.2010 to 31.12.2010	Pendency at the end of 31.12.2010

Standard format for Subordinate Courts of State/UT

STATEMENT SHOWING INSTITUTION, DISPOSAL & PENDENCY OF CASES IN RESPECT OF OFFENCES UNDER PREVENTION OF CORRUPTION ACT, 1988 IN THE SUBORDINATE COURTS OF THE STATE/UNION TERRITORY OF IN QUARTER ENDING¹20.....

Sl. No.	Name of the Court	Opening Balance as on	Institution from to	Disposal fromto....	Pendency at the end of ...

(vi) Nationality cases

C.D.O. No. 79 dated 1st September, 1959

Civil suits filed by Pakistani nationals for determination of their nationality should be disposed of as expeditiously as possible so that no Pakistani national may resort to such legal processes or prolonging their stay in this country.

(vii) Motor vehicle cases

C.L. No. 60/VIIIf-69 dated 29th April, 1976

The following instructions should be followed for achieving speedy disposal of old cases under the Motor Vehicles Act:-

1. Old cases under the Motor Vehicles Act may, if necessary, be distributed equally amongst the officers competent to try such cases.
2. New cases under the said Act may be instituted in various courts than wise.

¹ Year will be 4 quarters (1) January to March; (2) April to June; (3) July to September; (4) October to December

3. Temporary assistance of one clerk may, if necessary, be provided to expedite the issue of summons and entry of such cases in the respective registers.
4. Sufficient number of copies of the proforma of the summons under section 130* of the Motor Vehicles Act be got printed locally and distributed to all the courts dealing with Motor Vehicles Act cases for issue of summons in future in the said proforma indicating there in the fine proposed so that the accused transmits his plea of guilt and remits the fine proposed. Thereafter the case of the accused may be disposed of without his appearance in court.
5. The courts which are specifically directed to disposed of old cases may, if necessary, request the S.S.P. to provide the requisite number of constables for serving the summons issued under section 130* of the Motor Vehicles Act.
6. The summonses to those accused who are residing outside the station, should be sent under certificate of posting.
7. All the summonses which are issued under section 130 (Now Section 208 M.V. Act 1988) of the Motor Vehicles Act, should be entered in a register and whenever money orders are received, necessary entry in respect thereof be made in that register. The receipts of fine be prepared and the entries made in the Fine Register. The amount of fine be deposited in the treasury under the proper head by means of treasury challan.
8. The courts which are nominated for dealing with the old cases under the Motor Vehicles Act shall try to dispose of such cases within four months.
9. The District Judges shall direct the Magistrates concerned to dispose of such cases along with their regular work within the stipulated period of time.

C.L. No. 96/VII f-69 dated 5th June, 1976

It encloses a proforma of the summons under section 130 (Now Section 208 M.V. Act 1988) of the Motor Vehicles Act for preparation of printed copies thereof locally and distribution to all the courts dealing with Motor Vehicles Act cases.

C.L.No.P.S.(R G)/77/2000 Dated June 14, 2000

With reference to the circular letter wherein thrust was, given for making disposal of seven years old cases, information has been received that proceeding in a large number of such old cases are stayed by the Appellate/High Court.

I am desired to request you to furnish the statement of the cases both civil and criminal in which the proceedings have been stayed by the Hon'ble court. The information must also bear the reference of the particulars of the case/petition in which stay orders have been passed by the Hon'ble court. This information must reach to the High Court positively by June 25, 2000.

PROFORMA
SPECIAL SUMMON TO A PERSON ACCUSED OF
AN OFFENCE UNDER M.V. ACT ETC.

To,

.....

S/o

Address:

Vehicle No.

Whereas your attendance is necessary to answer a charge under the M.V. Act, you are hereby required to appear in person (or by pleader before Judicial Magistrate On the Day of19.... or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit by registered post before the aforesaid date the plea of guilty in writing and the sum of Rs. by money order as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorize such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein fail not otherwise a warrant of arrest shall be issued against you.

Dated, this Day of 19

(Signature)

(Seal of the Court)

C.L. No. 94/Admn. (A) dated 13th September, 1978

Guidelines for the disposal of cases under the Motor Vehicles Act:-

1. Cases under the Motor Vehicles Act will be decided by the Judicial Magistrates and the Munsif-Magistrates only, as far as possible thanawise. The Chief Judicial Magistrates however, in consultation with the District Judges should make arrangements in such a way that one day only one Magistrate should, as far as possible, take up these cases thereby avoiding difficulty to the transport authorities and the litigants in attending more than one court in a day.
2. The Magistrates deciding such cases will try to accommodate, as far as possible, the prosecuting agency and the accused persons, even if they turn up in court after their case had been taken up.
3. The Magistrates shall use the provisions of section 130* of the Motor Vehicles Act to the maximum possible extent while deciding cases under that Act.

C.L. No. 82/Admn.(A) dated 23rd July, 1979

District Judges should inform the Court the total number of cases under the Motor Vehicles Act pending in their districts, the number which can be tackled with the aid of section 130* (Now Section 208 M.V. Act 1988) of Motor Vehicles Act and the requirement of clerks and funds. The following scheme is to be put in effect:-

1. The Magistrates dealing with the cases under the Motor Vehicles Act shall tentatively fix the amounts of fine imposable for the various offences. They shall, so far as possible, be uniform among the various Magistrates deciding such cases. The District Judge may informally meet the Magistrates to canalize this.

2. Five copies of the notice under section 130* of the Motor Vehicles Act are to be prepared in respect of each case. One of the notices is to be sent through the Police agency; the second notice is to be sent by registered A.D. post; third and the fourth copies to be sent to the A.R.T.O. (Enforcement) concerned for onward transmission to the R.T.O. concerned and the fifth copy shall remain on the file of the case.
3. To facilitate the work of the transport authorities, the notices may be sorted out R.T.O. office wise and sent in separate bundles along with lists of the notices. The R.T.O. concerned would serve the accused and then return to the court one of the notices in token of service.
4. Normally two-month long dates shall be fixed in the notices.
5. The accused may deposit the amount of fine indicated in the notice either through a crossed bank draft or money order or in cash in the court.
6. If the fine amount is received in the court by the date mentioned in the notice, the case shall be closed by the Magistrate. If the fine amount is not deposited by the said date and the accused does not appear on that date, the court shall take recourse to processes compelling attendance as provided in the law. If the accused appears and contests the case, the case may be decided on merits.
7. A separate register shall be maintained for entering of the fines received in Motor Vehicles Act cases. The money orders etc., shall be received by the Presiding Officer himself and each entry of deposit in the register shall be initialed by the Presiding Officer.

(viii) Petty cases

C.L. No. 77/IV h-36 dated 28th May, 1976

- (i) Offences punishable with imprisonment for 2 years or less are to be treated as petty offences.
- (ii) The Magistrate should dispose of a petty criminal case within 30 days of the submission of the charge sheet.

C.L. No. 150/VII-c-3 dated 27th December, 1979

It invites attention to section 9 of the Uttar Pradesh Criminal Law (Composition of Offences and Abatement of Trials) Bill, 1979 which has been notified as U.P. Act No. 35 of 1979 published in U.P. Gazette Extra-ordinary as Government Notification No. 3378/XVII-v-1-37/78 dated December 21, 1979 on the same date and says that all the criminal courts should take immediate action in accordance with the aforesaid provision.

The provision of section 9 of the aforesaid Act is quoted below for ready reference:-

Section 9 – Notwithstanding anything contained in any other law for the time being in force –

- (1) the trial of an accused for -
 - (a) an offence punishable under -

* Now Section 208 M.V. Act, 1988

- (i) the Motor Vehicles Act, 1939; or
 - a. the Public Gambling Act, 1867, not being an offence punishable under Section 3 of that Act or an offence in respect of wagering punishable under Section 13 of that Act; or
- (ii) Section 34 of the Police Act, 1861, or
- (iii) Section 160 of the Indian Penal Code, 1860; or
- (b) any other offence punishable with fine only, or
- (2) a proceeding under section 107 or section 109 of the Code of Criminal Procedure, 1973, pending before a Magistrate on the date of commencement of this Act from before January 1, 1977 shall abate.

Every criminal court should pass order of abatement immediately and intimation of order may be given either by post or on the date fixed in the case.

As modified by C.L. No. 51/IV h -36 dated 10th March, 1977

In petty cases, where the facility of stenographer is available, the Presiding Officer should be encouraged to dictate judgment in open court.

C.L. No. 8/IV f-80 Admn. A dated 18th February, 1981

Magisterial courts should try to dispose of cases involving petty offences on priority basis, so that the number of pending criminal cases may be reduced and for this purpose, they may have mixed cause list in which cases involving serious and petty offences should both be fixed daily.

C. L. No-36/2007: Admin 'G' Dated: 29 August, 2007.

Taking stock of the staggering pendency of criminal cases the Hon'ble Court has decided that urgent Steps are required to be taken for reduction of arrears and speedy disposal of cases and consequently has resolved that Cases involving petty offences, including traffic and municipal challans, be transferred to the Court of special Metropolitan Magistrates/ Special judicial Magistrates.

Therefore, in continuation of earlier court's circular letter no. 47/Admin. 'G'/2006 dated Feb. 15th, 2006 I am directed to say that the cases involving petty offences, including traffic and municipal challans be transferred to the Courts of Special Judicial magistrate/ Special Metropolitan magistrate for their expeditious disposal.

(ix) Food adulteration cases

C.L. No. 116/Admn.(B) dated 6th September, 1975

As regards trial of food adulteration cases, the appearance of the accused should be secured quickly so that he may have opportunity to get a sample sent to the Central Food Laboratory, Calcutta for examination and no dates should be fixed in such cases without such an opportunity being given to the accused. Further, it may be so arranged that public servant such as Food Inspector may not have to attend the court every day and to wait unnecessarily. This can be done if the food adulteration cases are taken up by one Magistrate and all such cases in which the same Food Inspector has to give evidence are fixed on the same day.

C.E. No. 19/VII f-227 Admn.(F) dated 8th February, 1980

It encloses Government of India letter no. P/15025/99/79 PH (F &N) PFA dated 7.12.79 and requires all the District Judges to bring the following points to the notice of Judicial Magistrates empowered to try cases under the Prevention of Food Adulteration Act:-

- (i) The original memo in Form I along with specimen impression of seal is not sent separately and sometimes is not complete in all respects.
- (ii) Seals applied on the package are not easily identifiable.
- (iii) The challan to the effect that necessary fee has been deposited, is not enclosed.
- (iv) Sample containers are not generally affixed with court seals. Seals are fixed on the parcel, which get damaged during transit.
- (v) Distinguishing number is not marked on the container as well as the cover.
- (vi) Samples are sent by ordinary post and not by registered post as required under the PFA Rules.
- (vii) Samples containers/packets do not have any court seals affixed on them. They bear only the Food Inspectors seals. Such sample containers are put in a parcel having court seals on the outside packing only. Sometimes all court seals on the parcel are received broken in transit and none remain which can be compared with specimen impression of seal.

The above omission and commissions lead to avoidable delays in the submission of reports of analysis by the central food laboratories.

The concerned courts, authorized to try food adulteration cases, may kindly be suitably advised to comply with the procedures as laid down under Section 13 of the PFA Act. The procedure inter alia lays down that the courts shall first ascertain that the mark and seal or fastening is intact and the signatures are not tampered with. One of the samples be sent to the Director, Central Food Laboratory, under the court's seal. A copy of the memo and a specimen impression of the seal used to seal the container and the cover shall be sent separately by registered post to Director, Central Food Laboratory. Form 1 prescribed for sending the sample to the Director also lays down that the treasury challan for the fee deposited in the court should be enclosed.

C.E. No. 54/VII f-227 dated 18th August, 1981

It enclosed Letter No. P. 15025/94/80-PH (F&N) PFA of Directorate General of Health Services dated 10.6.1981, which emphasizes that it is a statutory requirement on the part of the court to send a copy of T.C./D.D. of Rs. 40/ towards analysis fee while forwarding the sample for analysis to the Director of C.F.L.

C.L. No. 49/VII f-227 Admn. (G) dated 29th April, 1980

In Special Leave Petition (Crl.) No. 489/79 A.P. Abdulla versus Food Inspector, Kannanore and others dated July 16, 1979, Hon'ble Supreme Court has desired that food adulteration cases, which involve imprisonment, should be disposed of expeditiously.

The District Judges are requested to take necessary and effective steps in this regard.

(x) Other cases

C.L. No. 15/Admn. (A) dated 28th January, 1977

The courts should decide the cases relating to reckless and dangerous driving as expeditiously as possible.

C.L. No. 167/VIII h-13/Admn.(A) dated 18th November, 1977

All the Judicial Magistrates should give top urgency to the disposal of cases under labour laws pending in their courts.

C.L. No. 185/IVg-103 dated 12th December, 1977

All the Chief Judicial Magistrates and Judicial Magistrates are directed to try cases arising under the protection of Civil Rights Act on priority basis.

The offences punishable under section 3 to 7 of the Act may be tried by the Magistrates by way of summary procedure in accordance with section 15 of the said Act unless they are of opinion that the punishment under the offences is likely to be of more than 3 months.

C.L. No. 112/IVg-103 dated 4th October, 1978

Magistrates nominated for disposal of cases under the Protection of Civil Rights Act, 1955 should obtain a report from police in private complaints as to whether the matter relates to harijans or not and whether it comes within the definition of 'harassment' or not, so that the cases may be disposed of quickly.

C.L. No. 89/VII f-39 dated 24th July, 1979

The Chief Judicial Magistrates should specifically allot one or two courts to take cognizance of cases under Factories Act according to the prevailing circumstances in their districts.

C.L. No. 107/VIII g-38 dated 21st June, 1977

The Magistrates should ensure that the cases involving theft of art objects should be disposed of as expeditiously as possible.

C.L. No. 33/Admn.(A) dated 21st February, 1977

Whenever formal applications for withdrawal of D.I.R. cases pending in different courts are made, the courts concerned should disposed of such applications promptly, instead of putting up for disposal on the date fixed.

C.L. No. 68/Admn.(A) dated 10th October, 1984

The District Judge should see that the cases relating to water pollution filed by the Water Pollution and Control Board, U.P., Lucknow are decided early.

C.L. No. 48/VIII g-38 Admn. G dated 25th April, 1980

Cases pending against police personnel should be decided on priority basis.

C.L. No. 4/VII-f-50 dated 13th January, 1971

Expeditious disposal of cases against military personnel, who are in service, should be made and provisions of sub-rule (1) of rule 80 of General Rules (Civil), 1957, Volume 1, be strictly followed.

C.L. No. 4/VII-f-50 dated 10th February, 1981

All the Presiding Officers of the criminal courts should ensure that criminal cases involving military personnel are dealt with on priority basis and every possible effort should be made to avoid adjournments of such cases.

C.L. No. 132/VII-h-35 dated 29th October, 1971

Priority should be given to the disposal of cases relating to theft of telegraph and electricity wire and transformers by all Munsif – Magistrates and Judicial Magistrates so that such crimes may be brought under control.

C.L. No. 95/VII-g-38 dated 21st December, 1973

Cases arising out of violent agitations in the country are not allowed to protract in the courts and should be disposed of expeditiously to enable anti social elements being kept under control.

Cases to be given priority

C.L. No. 14 dated 23rd January, 1976 and

C.L. No. 21/VIII-g-38 dated 12th February, 1976

Cases under the Defence of India Rules, Arms Act, Essential Commodities Act and Prevention of Food Adulteration Act should be disposed of urgently on priority basis.

(xi) To facilitate clearance of arrears

C.L. No. 77/IV-h-36 dated 28th May, 1976

- (i) Liberal use of the probationary provisions should be made.
- (ii) Cases pending for more than four years up to June 30, 1976 may be taken up on the file of the Chief Judicial Magistrates for disposal (this is not to be treated as a ground for transfer).
- (iii) Cases in which an accused remains absconding for more than one year may, after due formalities under Section 299 Cr.P.C, be consigned to record room and may not be accounted for statistical purposes.
- (iv) As far as possible, roster should be so arranged by the Magistrate that fixed days are allotted to various police stations, according to work.
- (v) In pending cases, whenever the court considers fit, it may call for affidavits from the doctors and the identifying magistrates or if the parties agree, to have them examined on commission, provided that any party may call them for cross-examination.
- (vi) Time limit may be fixed for examination of witness by the parties during the trial subject to the discretion of the court under Section 311 Cr.P.C.

- (vii) In complaint cases, use that is more liberal be made of the provisions contained in section 205 of the Code of Criminal Procedure which enables the court, when issuing summons, not to summon the accused in person. (C.L. No.4, dated February 3, 1976 of Hon'ble A.J. may also be seen in this connection).
- (viii) Cases should be classified according to special Acts and entrusted to a particular officer for disposal.
- (ix) Compounding of cases, which are compoundable, should be encouraged.

C. L. No.61/2007Admin (G): Dated: 13.12.2007.

The Hon'ble Court has noticed that a long delay in disposal of Petty Criminal Cases pertaining to Municipal Challans, Police Challans, Traffic Challans, Challans under Weights and Measurements Act and Forest Act etc. is taking place due to the Challenging Authorities not providing correct address of the accused in the Challans submitted before the Courts which results in services of notices/summons on them not being affected.

Therefore, I am directed to say that the Court concerned shall send summons/notices of all such accused persons to the Department concerned to be served upon them.

I am further to add that to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit .

(xii) Postponement or adjournment

C.L. No. 81/VIII f-40 dated 25th September, 1956

The commencement of a trial of an accused should not be postponed beyond what is a reasonable period on the ground that other persons involved in the offence are yet to be apprehended. The attention of all the District Magistrates is invited to paragraph 55 of the Handbook for Criminal and Revenue Courts which requires that prompt action under section 87 and 88 (new sections 82 to 85) of the Code of Criminal Procedure should be initiated against the accused who is absconding, and if he is not arrested within a reasonable time, the court should commence the trial against the accused who is already in custody or has appeared before it. All Magistrates should note these directions for strict compliance.

C.L. No. 1 dated 14th January, 1976

The officers may be asked to be cautious in granting adjournments of old cases, and even if an adjournment is granted, a short date may be fixed.

C.L. No. 51/IV h-36 dated 10th March, 1977

Witnesses present must be examined the same day.

C. L. No.67/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has noticed that exceptionally long time is being consumed by the courts in recording the statement of the witnesses of formal nature. However, the enabling provision of Section 296 Cr.P.C. providing for tendering of evidence on affidavit is a departure from the usual mode of giving evidence. This would help the court to gain the and the cost, besides relieving the witness of all that the said has to see in court only to prove some formal points. . Therefore, the Hon'ble Court is of the view that the statement of such formal witnesses, if

necessary on some formal points, should normally be tendered by affidavit and not by examining all such witnesses in court. If any party wishes to examine the deponent of the affidavit, it is open to him to make an application before the court.

Therefore, I am directed to request you to kindly bring contents of this Circular Letter to the notice of all the Judicial Officers working under your administrative control and supervision for compliance in right earnest.

(xiii) Complaints u/s 406/409 I.P.C. due to non-payment of workers' share of contributions to PF/FPF and prosecution u/s 14 of the EPF & MP Act, 1952-measure for reducing pendency of cases in the Court.

C.L.No. 44/VIIIf-119/Admn.(G-2) dated August 4, 1993

I am directed to enclose herewith a copy of Government letter No. 15014/2/92- Jus (M), dated October 22, 1992 along with its enclosure i.e. the letter No. P.O. Case/CHT/92/18386 dated July 23, 1992 of Commissioner, Central Provident Fund, New Delhi with the directions that the Presiding Officers working under you be apprised that effective measures be adopted to dispose of the cases of complaints u/s 406/409 I.P.C. due to non-payment of workers' share of contributions to PF/F.P.F. and prosecution u/s 14 of the E.P.F. and M.P. Act, 1952 and they be expedited in a measure to reduce the pendency of such cases in the court.

I am further directed to ask you kindly to intimate Government of India in the Ministry of Law & Justice, New Delhi, at the earliest the action taken with regard to disposal of such cases as desired by them in their letter dated October 22, 1992, referred to above, under intimation to the Court.

I am also to request you kindly to sent the figures of pending cases under the E.P.F. & M.P. Act and cases filed u/s 409/409 I.P.C., to this Court along with the disposals during the year of 31.3.89, 31.3.90, 31.3.91, 31.3.92 and 31.3.93 on the following proforma:-

PROFORMA

Pendency as on	Total No. of cases pending	No. of cases pending less than one year	No. of cases disposed of	No. of cases pending between 1 to 3 years
1.	2.	3.	4.	5.

No. of cases disposed of	No. of cases pending 3 years and above	No. of cases disposed of	Reasons for not disposing of the cases mentioned in Column No. 3,5 & 7	Remarks
6.	7.	8.	9.	10.

(xiv) Compliance of the direction of the Hon'ble Supreme Court issued in Writ Petition (Civil) No. 1128 of 1986-Common Cause, A Registered Society v. Union of India & others (Published in J.T. 1996 (4) SC 701).

C.L.No. 31/VIIIb-287 Admn. ‘G’ Section dated June 12, 1996

While enclosing a copy of the order passed in the aforesaid Writ Petition, I am directed to intimate you that the directions contained in the above-mentioned order of the Hon’ble Supreme Court, be strictly complied with.

I am, therefore, to request you that the directions of the Hon’ble Supreme Court be communicated to all the Criminal Courts in the judgship for strict compliance and such compliance report be submitted to the Court within three months from the date of receipt of this communication.

Writ Petition (C) No. 1128 of 1986, dated 1.5.1996

‘Common Cause’ a Registered Society v. Union of India, 1996 Cr.L.J. 2380

B.P. Jeevan Reddy, S.B. Majumdar, JJ.

B.P. Jeevan Reddy, J:- “Common Cause”, a registered society espousing public causes has asked for certain general directions in this writ petition, preferred under Article 32 of the Constitution of India, with respect to cases pending in Criminal Courts all over the country. The directions asked for are:

- (a) quashing of all proceedings against persons accused of offences under the Motor Vehicles Act where the proceedings were initiated more than one year ago and are still pending in any Court in the country;
- (b) to direct the unconditional release of the accused and dismissal of all proceedings pending in Criminal Courts with respect of offences under Indian Penal Code or other penal statutes which have been pending for more than three years from the date of their institution and for which offences the maximum sentence provided under law is not more than six month-with or without fine. This direction is sought in respect of all prosecutions whether lodged by police, other governmental agency or by a private complaint;
- (c) directing the unconditional release of all the accused and dismissal of criminal proceedings against persons who have been in police or judicial custody for a period more than three years from the date of their arrest or remand to such custody, where the offences alleged are not punishable with more than seven years – with or without fine; and
- (d) directing the unconditional release of the accused and dismissal of proceedings against persons accused of offences under Section 309 of the Indian Penal Code (I.P.C.) where the proceedings have been pending in any Court for more than one year from the date of their institution.

The petitioner has requested that the aforesaid directions should apply not only to cases pending in Courts on the date of the passing of the order but also to cases executed hereinafter.

Notices were directed to Union of India and the State Government of Uttar Pradesh and Bihar and to the Delhi Administration; Counters have also been filed by them.

We are of the opinion that the suggestions made are well meaning and consistent with the spirit underlying Part III of the Constitution of India and the Criminal Justice System. They deserve serious consideration by this Court and the High Courts in the country. It is a matter of

common experience that in many cases where the persons are accused of minor offences punishable not more than three years-or even less with or without fine, the proceedings are kept pending for years together. If they are poor and helpless, they languish in jails for long periods either because there is no one to bail them out or because there is no one to think of them. The very pendency of criminal proceedings for long periods by itself operates as an engine of oppression. Quite often, the private complainants institute these proceedings out of oblique motives. Even in case of offences punishable for seven years or less with or without fine, the prosecutions are kept pending for years and years together in Criminal Courts. In a majority of these cases, whether instituted by police or private complainants, the accused belong to poorer sections of the society, who are unable to afford competent legal advice. Instances have also come before courts where the accused, who are in jail, are not brought to the Court on every date of hearing and for that reason also the cases undergo several adjournments. It appears essential to issue appropriate directions to protect and effectuate the right to life and liberty of the citizens guaranteed by Article 21 of the Constitution. It is also necessary to ensure that these criminal prosecutions do not operate as engines of oppression. Accordingly, the following directions are made which shall be valid not only for the States of Uttar Pradesh, Bihar and Delhi but for all the States and the Union Territories:

1(a) Where the offences under IPC of any other law for the time being in force for which the accused are charged before any Criminal Court are punishable with imprisonment not exceeding three years with or without fine and if trials for such offences are pending for one year or more and the concerned accused have not been released on bail but are in jail for a period of six months or more, the concerned Criminal Court shall release the accused on bail or on personal bond to be executed by the accused and subject to such conditions, if any, as may be found necessary, in the light of Section 437 of the Criminal Procedure Code (Cr.P.C.).

1(b) Where the offences under IPC or any other law for the time being in force for which the accused are charged before any Criminal Court are punishable with imprisonment not exceeding five years, with or without fine, and if the trials for such offences are pending for two years or more and the concerned accused have not been released on bail but are in jail for a period of six months or more, the concerned Criminal Court shall release the accused on bail or on personal bond to be executed by the accused and subject to the imposing of suitable conditions, if any, in the light of Section 437 Cr.P.C.

1(c) Where the offences under IPC or any other law for the time being in force for which the accused are charged before any Criminal Court are punishable with seven years or less, with or without fine, and if the trials for such offences are pending for two years or more and the concerned accused have not been released on bail but are in jail for a period of one year or more, the concerned Criminal Court shall release the accused on bail or on personal bond to be executed by the accused and subject to imposing of suitable conditions, if any, in light of Section 437 Cr.P.C.

2(a) Where criminal proceedings are pending regarding traffic offences in any Criminal Court for more than two years on account of non serving summons to the accused or for any other reason whatsoever, the Court may discharge the accused and close the cases.

2(b) Where the cases pending in Criminal Courts for more than two years under IPC or any other law for the time being in force are compoundable with permission of the Court and if in such cases trial have still not commenced, the Criminal Court shall, after hearing the public

prosecutor and other parties represented before it or their advocates, discharge or acquit the accused, as the case may be, and close such cases.

2(c) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force pertain to offences which are non-cognizable and bailable and if such pendency is for more than two years and if in such cases trials have still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

2(d) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force are pending in connection with offences which are punishable with fine only and are not of recurring nature, and if such pendency is for more than one year and if in such cases trial have still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

2(e) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force are punishable with imprisonment up to one year, with or without fine, and if such pendency is for more than one year and if in such cases trials have still not commenced, the Criminal Courts shall discharge or acquit the accused, as the case may be, and close such cases.

2(f) Where the cases pending in Criminal Courts under IPC or any other law for the time being in force are punishable with imprisonment up to three years, with or without fine, and if such pendency is for more than two years and if in such cases trial has still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases.

3. For the purpose of directions contained in clauses (1) and (2) above, the period of pendency of criminal cases shall be calculated from the date the accused are summoned to appear in the Court.

4. Directions (1) and (2) made hereinabove shall not apply to cases of offences involving (a) corruption, misappropriation of public funds, cheating, whether under the Indian Penal Code, Prevention of Corruption Act or any other statute, (b) smuggling, foreign exchange violation and offences under the Narcotics Drugs and Psychotropic Substances Act, (c) Essential Commodities Act, Food Adulteration Act, Acts dealing with Environment or any other economic offences, (d) offences under Arms Act, Explosive Substances Act, Terrorists and Disruptive Activities Act, (e) offences relating to the Army, Navy and Air Force, (f) offences against public tranquility; (g) offences relating to public servants (h) offences relating to coins and Government stamp, (i) offences relating to elections, (j) offences relating to giving false evidence and offences against public justice, (k) any other type of offences against the state, (l) offences under the taxing enactments and (m) offences of defamation as defined in Section 499 IPC.

5. The Criminal Courts shall try the offences mentioned in Para (4) above on a priority basis. The High Courts are requested to issue necessary directions in this behalf to all the Criminal Courts under their control and supervision.

6. The Criminal Courts and all Courts trying criminal cases shall take appropriate action in accordance with the above directions. These directions are applicable not only to the cases pending on this day but also to cases, which may be instituted hereafter. As and when a particular case gets covered by one or the other direction mentioned in Directions (1) and (2) read with Direction (4) above, appropriate orders shall be passed by the concerned Court without any delay.

The writ petition is disposed off with the above directions.

(xv) Disposal of cases involving Economic Offences

C.L.No. 18/Admn.(A) dated March 13, 1991

I am directed to say that it has been brought to the notice of the court that the Presiding Officers who are especially empowered under Section 11(2) of the Code of Criminal Procedure, 1973 for deciding cases involving Economic Offences exclusively and quickly are reluctant in deciding these cases as they involve a lot of evidence and are time consuming. This aspect of the matter is being examined by the court and necessary orders will be sent after a decision has been taken by the court in the matter. In the meantime, the Court directs that the Presiding Officers who are doing cases involving economic offences may take up the cases on priority basis and decide them as expeditiously as possible.

I am, therefore, to request you kindly to bring the contents of this C.L. to the notice of the Judicial Magistrate (Economic Offences) for information and necessary compliance.

(xvi) Expeditious disposal of cases in which Foreigners are involved

C.L. NO. 25/VIIg-38/Admn.(G) dated March 3, 1994

I am directed to say that it has been brought to the notice of the Court that the cases involving Foreign Nationals are pending in the Indian Courts for a long time. It has been felt that inordinate delay in the disposal of such cases is being viewed as a violation of Human Rights. Therefore, with a view to give quicker relief to the Foreigners involved in cases, it has been decided that such cases be segregated and they may be put before such Courts as may be specifically earmarked by you for their quick disposal to achieve cutting down delay in trial of these cases.

I am, therefore, to request you kindly to bring the contents of this letter to the notice of the concerned Presiding Officers for strict compliance.

(xvii) Expeditious disposal of cases filed by or against military personnel

C.L.No. 75/VIIIf- 50/Admn.(G) dated July 28, 1990

I am directed to invite your attention to Court's Circular letter No. 4/VIIIf-50, dated January 13, 1971 and No. 4/VIIIf-50, dated February 10, 1981 and to the proviso to sub-rule (1) of Rule 80 of General Rules (Civil), 1957, Volume I on the above subject and to say that in the proceeding of Annual Civil Military Liaison Conference held at Headquarters Central Command Lucknow on 6 and 7th June, 1990 it has been resolved that priority should be given to Army personnel's litigation as per the existing instruction.

I am, therefore, to request you kindly to ensure that the above directions are strictly complied with.

(xviii) Expeditious disposal of the cases of under trial foreign nationals

C.L. No. 48/Admn. 'E' Section, dated May 21, 1994

I am directed to request you that the Chairman, National Human Rights Commission has expressed concern about the foreign nationals who are languishing in various jails. He is also of the view that unless the trials are expedited, on the plea of violation of human rights, an issue having international implication would soon be raised.

I am, therefore, to request you kindly to furnish the particulars of all foreign nationals in custody, as under trial prisoners in your district on the proforma attached herewith to this Court, and one copy may be sent to Sri L.C. Bhadoo, Registrar (Admn.), Hon'ble Supreme Court of India, New Delhi. You are also requested to issue suitable directions to all the courts working under you to expeditiously dispose of the cases of under trial foreign nationals.

C.L. No. 8053/Admn. 'E' Section, dated May 30, 1994

In continuation of Courts Circular Letter No. 48/Admn. 'E' Section dated 21st May, 1994, on the subject noted above, I am directed to enclose herewith proforma* as mentioned in above cited letter.

(xix) Implementation of guidelines for expeditious disposal of pending cases of under trial prisoners, as given in the order dated 4.8.95, passed by the Hon'ble Supreme Court in Writ Petition (Criminal) No. 57/1979 (Hussainara Khatoon and others v. Home Secretary, Bihar and others with W.P. (Cri.) No. 222/1979 (Shri Rahim Malla & others v. The Home Secretary, Govt. of Jammu and Kashmir).

C.L.No.44/VIII 6-287(PIL) dated November 9, 1995

I am directed to send herewith a copy of order dated 4.8.1995 of Hon'ble the Supreme Court, on the above subject and to request you kindly to ensure the compliance of the guidelines, given in the aforesaid order of the Hon'ble the Supreme Court strictly under intimation to the Court.

(See for Judgment 1995 Cri. L.J.-4020)

(xx) Implementation of guidelines for expeditious disposal of pending cases of under trial prisoners, as given in the order dated 4-8-95 passed by the Hon'ble Supreme Court in writ petition (criminal) no. 222/1979 (Shri Rahim Malla & others vs. The Home Secretary, Govt. of Jammu & Kashmir)

C.L.No.9/VIII b-287 (PIL), dated February 29, 1996

With reference to the Court's Circular letter No. 44/VIIIb-287(PIL), dated 9.11.1995, I am directed to send herewith a copy of order dated 4.8.1995 passed by the Hon'ble Supreme Court, on the above subject and to request you kindly to ensure the compliance of the guidelines, given in the aforesaid order of the Hon'ble the Supreme Court strictly under intimation to the Court.

WRIT PETITION (CRIMINAL) No. 222 of 1979

(Under Article 32 of the Constitution of India for the enforcement of fundamental rights).

Rahim Malla v. The Home Secretary, Government of Jammu & Kashmir*.

**HON'BLE THE CHIEF JUSTICE OF INDIA
HON'BLE MR. JUSTICE B.L. HANSARIA
HON'BLE MR. JUSTICE S.C. SEN**

* Proforma could not be procured.

* Reported in 1995 AIR SCW 3520

The Petition above mentioned along with the connected matter being called on for hearing before this Court on the 3rd day of January, 1995, upon perusing the record and hearing Counsel for the parties herein the Court took time to consider its Judgment and the petition alongwith the connected matter being called on for judgment on the 4th day of August, 1995, this Court for the reasons and observation made in its Order DOTH PASS inter alia the following Order:-

“.....We share the sympathetic concern of the learned counsel for the petitioners that under-trials should not languish in jails for long spells merely on account of their inability to meet monetary obligations. We are, however, of the view that such monitoring can be done more effectively by the High Court since it would be easy for that court to collect and collate the statistical information in that behalf, apply the broad guidelines already issued and deal with the situation as it emerges from the status reports presented to it. The role of the High Court is to ensure that the guidelines issued by this Court are implemented in letter and spirit. We think it would suffice if we request the Chief Justices of the High Courts to undertake a review of such cases in their States and give appropriate directions where needed to ensure proper and effective implementation of the guidelines. Instead of repeating the general directions already issued, it would be sufficient to remind the High Courts to ensure expeditious disposal of cases. Withdrawal of cases from time to time may not always be an appropriate and acceptable remedy, but what is required is to evolve a mechanism, which would enable early disposal of cases. The High court being on the spot would be able to diagnose the ailment rather than merely deal with symptoms. We are, therefore, of the view that these petitions have served their purposes and should stand disposed of leaving the further implementation to the High Courts.”

IN ADDITION, THIS COURT DOTH FURTHER ORDER that the ORDER dated the 30th April, 1979 passed by this Court in the above said Petition granting bail shall stand vacated subject to the Order quoted above:

IN ADDITION, THIS COURT DOTH LASTLY ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Aziz Mushabbar Ahmadi, Chief Justice of India at the Supreme court, New Delhi, dated this the 4th day of August, 1995.

(xxi) Disposal of cases of under trials.

C.L.No.68/ VIIg-38: Admin (V) Dated: DEC: 10, 1996

Special secretary, State of U.P. has informed that large number of cases of under-trials is pending in the Subordinate Courts. The under-trials are languishing in jails for want of disposal of their cases.

By enclosing a list of the under trials showing the period of their detention, I am directed that the directions contained in circular Letter 59/VIIIg 38/ Admin 'G' Dated 16.9.1981 be followed strictly.

I am, therefore, to request you that kindly make all out efforts in disposal of cases of under trials prisoners confined in jails for over six months and report of the compliance be sent to this Hon'ble court in each month.

(xxi-a) Trial of hardened criminals inside the jail premises.

C.L. No. 13/2008; Admin. (G): Dated May 19, 2008

In a reference having been made by a District and Sessions Judge to the Hon'ble Court seeking permission for trial of the notorious hardened under trial prisoners inside the jail precincts on request of the Senior Prosecuting Officer based on the direction of the Senior Superintendent of Police and the District Magistrate, upon consideration, the Hon'ble Court has resolved that a direction be issued to all the District and Sessions Judges that on such request being received by them they are supposed to take decision in their discretion in the matter in consonance with the provision made in Section 9(6) of the Criminal Procedure Code as amended by U.P. Act 1 of 1984 which provides that where it appears expedient to do so for consideration of internal security or public order, the Court of Sessions may hold its sitting in a particular case at any place in the sessions division without consent of the prosecution and the accused and only in case of their being not convinced of there being any security threat involved, should they refer the matter to the Hon'ble Court for consideration and decision.

Therefore, I am directed to request you to kindly make strict compliance of the above directions of the Hon'ble Court and to bring the contents of this circular letter to all the Judicial Officers working under your administrative control.

(xxii) Implementation of guidelines for expeditious disposal of pending cases of under trial prisoners, as given in the order dated: 4.8.95 passed by the Hon'ble Supreme Court in writ petition (Criminal) No.222/1979 (Shri Rahim Malla and others VS. The Home Secretary, Govt. of Jammu and Kashmir.

C.L.No. 9/ VIIb-287(PIL), Dated: Feb: 29, 1997

With reference to the court's circular letter no.44/VIIIv-287 (PIL), dated 9.11.1995, I am directed to send herewith a copy of order dated 4.9.1995 passed by the Hon'ble supreme Court, on the above subject and to request you kindly to ensure the compliance of the guidelines, given in the aforesaid order of the Hon'ble the Supreme court strictly under intimation to the court.

(See for Judgment 1995 Cr. L.J.4020)

(xxiii) Disposal of the cases of under trials expeditiously

C.L.No.43 Dated: 30th September, 1997

It has come to the notice of the Hon'ble court that cases of under trials are not transferred for disposal from the vacant court. The Hon'ble court has expressed its concern on such situation.

Speedy trial is a right of the accused whether he be a suspect or under trial, he is not denuded of his right to have expedient fair trial. It is an obligation of each court to ensure that there is no infringement of the indefeasible rights of the accused on account of delay in disposal of their cases. Social interest also lies in punishing the guilty and exoneration on of the innocent, but this determination must be arrived with reasonable disposal.

By enclosing the copy of the order of the Hon'ble court passed in bail Application No. 6128/1997, I am Directed to request you that the said order be circulated amongst all the district Judges and additional District Judges for guidance and strict compliance in future.

I am, therefore, to request you that the direction of the Hon'ble court be complied.

C. L. No. 7/2007/Admin 'G': Dated: 20th February, 2007

The Government of India, Ministry of Home Affairs, New Delhi has intimated to the Court that the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the Ministry of Tribal Affairs, while considering the matter pertaining to atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them recommended as under:

“The Committee is aware that one of the terms of reference of the Malimath Committee was to suggest a sound system of managing, on professional lines, the pendency of cases at investigation and trial stages and making the police, the Prosecution and the judiciary accountable for delays in their respective domains. The Committee feels that the time taken in disposal of atrocity cases should be considerably cut short. The Ministry of Law and Justice should look into this matter and take necessary steps. The Committee hope that the Sessions Courts notified as Special Courts would give up top priority to atrocity cases, which in the opinion of the Committee will help in bringing the pendency down. ”

Therefore, in this regard while enclosing herewith a copy of D.O. No. 11017/50/2001-JUS (M), dated December 22, 2006 of Sri Rajiv Agarwal, Additional Secretary, Government of India, Ministry of Home Affairs, New Delhi, I am directed to request you to Impress upon the concerned Courts to ensure speedy trial of cases pertaining to atrocities committed against Scheduled Castes and Scheduled Tribes, so as to minimize the pendency of such cases.

C. L. No: 77/ 07/ Admin ‘G’ Section Dated: Allahabad: 15.12.2007

The Hon'ble Apex Court during consideration of the matter involving illegal detention of Michal Lalung for 54 years in Writ Petition (Criminal) No.296 Of 2005 and News Item “38 years in Jail without Trial” published in Hindustan Times dated 06.02.2006 in connected Writ Petition (Criminal) No. 18 of 2006 has been pleased to lay down the following guidelines for trial of mentally ill under- trial prisoners lying since long in various psychiatric hospitals/nursing homes:-

(i) whenever a person of unsound mind is ordered to be detained in any psychiatric hospital/nursing home under Section 330 (2) of the Code, the reports contemplated under Section 39 shall be submitted to the concerned Court/Magistrate periodically. The Court/Magistrate shall also call for such reports if they are not received in time. When the reports are received, the Court/Magistrate shall consider the reports and pass appropriate orders whenever necessary. In regard to prisoners covered by sub section (1) of Section 30 of the Prisoners Act, 1900, the procedure prescribed by sub sections (2) and (3) of that Section read with Section 40 of the Mental Health Act, 1987 shall be followed.

(ii) Wherever any under trial prisoner is in jail for more than the maximum period of imprisonment prescribed for the offense for which he is charged (other than those charged for offenses for which life imprisonment or death is the punishment), the Magistrate/Court shall treat the case as closed and report the matter to the medical officer in charge of the psychiatric hospital, so that the Medical Officer in charge of the hospital can consider his discharge as per Section 40 of the Act.

(iii) In cases where, the under trial prisoners (who are not being charged with offense for which the punishment is imprisonment for life or death penalty), their cases may be

considered for release in accordance with sub section(1) of Section 330 of the Code, if they have completed five or more years as inpatients.

(iv) As regards the under trial prisoners who have been charged with grave offenses for which life imprisonment or death penalty is the punishment, such persons shall be subjected to examination periodically as provided in sub section (1), (3) and (4) of Section 39 of the Act and the officers named therein (visitors, medical officer in charge of the hospital and the examining medical officer respectively) should send the reports to the court as to whether the under trial prisoner is fit enough to face the trial to defend the charge. The Sessions Courts where the cases are pending should also seek periodic reports from such hospitals and every such case shall be given a hearing at least once in three months. The Sessions Judge shall commence the trial of such cases as such, as it is found that such mentally ill person has been found fit to face trial.

Upon consideration of the above judgment, the Hon'ble Court has opined that it behooves the subordinate judiciary to implement the directions of the Hon'ble Apex Court given as above.

Therefore, while enclosing a copy of the judgment of the Hon'ble Apex Court, I am to request you to kindly bring the contents of this Circular Letter to the notice of all the Judicial Officers under your administrative control and impress upon them to make compliance of the directions contained therein in letter and spirit.

C. L. No.54/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has been pleased to express deep concern over the state of trial of the under trial prisoners languishing in jail for a considerably long period of time, sometimes even longer than the maximum period stipulated under law for which they could be convicted.

1. C.L.No. 114/VIIb-3 dated 05.09.1975.
2. C.L.No.28 /VIIIh-13 dated 07.03.1979.
- 3.C.L.No. 90/VIIIg-38 Admin.(G) dated 01.12.1980.
- 4.C.L.NO. 59/VIIIg-38Admin.(G) dated 16.09.1981.
- 5.C.L.No.18/VIII-b-Admin.(G) dated 19/21.04.2000.

Therefore, I am directed to say that in continuation of a catena of Circular Letters issued on the subject earlier by the Hon'ble Court noted in the margin, the priority should be given to the trial of the cases of such under trial prisoners of the above category.

I am, further to request you to kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control for strict compliance.

Guidelines laid down by Hon'ble Apex Court in the matter of trial of under trial prisoners languishing in prison since long in Writ Petition (Criminal) No. 296 of 2005 and the connected Writ Petition (Criminal) No. 18 of 2006

C.L. No. 28 Admin 'G' Section Dated: Allahabad: 19.12.2008

In continuation of Court's earlier Circular Letter no. 77 Admin G Section dated 15.12.2007 on the above subject, I am directed to say that the Hon'ble Apex Court has been pleased to pass following order on 03.09.2008 in Writ Petition Criminal No. 296 of 2005 and the connected Writ Petition (Criminal) No. 18 of 2006:-

“Order passed by this Court on 24th October 2007, be reported and circulated.

There are large numbers of under trial prisoners who are mentally ill and thus unable to face trial. This Court has passed an order on 24.10.2007 and issued directions to see that the trial of these under trial prisoners be expedited or to see whether they could be released from the Jail or from Mental Hospital as per Law. The District Judges of each District of the States will monitor these pending cases and give a report every six months to the respective High Courts and the High Courts may issue appropriate directions to protect the rights of these under trial prisoners.

The Writ Petitions are disposed of accordingly.”

Upon consideration of the matter, the Hon’ble Court has desired that (i) the trial of these under trial prisoners be expedited and their release be considered from Jails or Mental Hospitals as per Law (ii) the District Judge shall monitor all the pending cases of such under trial prisoners who are mentally ill and thus are unable to face trial and submit a report after every six months to this Hon’ble Court.

I am, therefore, to request you to kindly bring the contents of the circular letter to the notice of all the Judicial Officers under your Administrative Control and impress upon them to make compliance of the directions in right earnest. Further action taken report and six monthly reports as directed by the Hon’ble Apex Court be regularly sent.

(xxiv) To decide suites Criminal Trials Labour Disputes, Rent Control Cases & other cases on basis of a time bound programme fixed by the court

C.L.No.46/ dated: 15th October, 1997

While enclosing herewith a copy of the judgment and order dated 24.9.1997 passed by the division bench of Hon’ble Mr. Justice R.R.K. Trivedi and Hon’ble Mr. Justice M.Katju in civil Misc. writ Petition No.30219 of 1997 Ayodhya Sahai alias Kunwar Bahadur Vs District Judge, Jaunpur and another and I am directed to say that the court has issued general mandamus to decide suits, criminal trials, labour disputes, rent control cases and other cases on basis of a time bound programme fixed by the court for each case usually by day to day hearing. This exercise must start from the next date after the receipt of this Judgment

I am further directed to emphasize that if any suit, criminal trial and other the cases take more than two years to decide from the date of institution or an appeal take more than one year an adverse entry shall be placed on the record of the judicial officer responsible for the delay by the district Judge of the district and if the officer himself is the district Judge an adverse entry shall be placed in his record by the Hon’ble Inspecting Judge of the District. It may also amount the judicial misconduct of the concerning judicial officer who are responsible for the delay in deciding the cases.

I am, therefore, to request you kindly to provide a copy of the aforesaid order to all the Presiding Officers working under you for strict compliance and ensure that directions contained in the said order are being carried out strictly.

I am, further, to add that a copy of aforesaid order may also be made available to all the Bar Associations in the district, the D.G.C. (Criminal), D.G.C. (Civil), D.G.C. (Revenue) and other counsel representing the State and local bodies or local authorities in your district for information.

(See for Judgment: 1997 AWC (supp.) 525)

(xxv) Resorting provisions of the code in the matters where accused are absconding.

C.L.No.24/viIb-65/Admn. (G) Dated: 16th June, 2000

The delay in the disposal of criminal cases at the trial stage is not only against the principal of the law but it also does a great injustice both to the victim and the society as also to the assailant. Although human memory is sharp but with the passage of time much of evidence is lost as apparently many influences are at work. The criminal remains absent from court proceedings and the courts are not resorting to the provisions as contained in the code (Section 299) which in fact gives encouragement to the criminal. That is how the delay in the disposal of criminal cases becomes in a way the negative contribution to the Judicial system. It has come to the notice of the Hon'ble Court that almost in each district a large number of cases are awaiting trial on account of nonappearance of the accused despite several steps for procuring the attendance of the accused have been taken. Justice suffers, and so does the society. To overcome such a situation the provisions of section 299 of code should be resorted expeditiously which would in give relief to over burdened court dockets.

I am, therefore to bring to your notice that the matters of the absenting accused be taken up on priority basis and every quarterly the position of such be brought in to the notice of Hon'ble Court.

(xxvi) Court Management for expeditious disposal of cases by Subordinate courts.

C.L.No.27 admin A/DR (S) Dated: June 21, 2000.

It has been observed by the Hon'ble court that in the event of a Presiding Officer being transferred from a district in midterm and being not replaced by an officer of comparable seniority at that level, the working of the courts is substantially disturbed as the shifting in offices takes places on seniority basis. It then creates a situation in which the officer move up in the numbered hierarchy leaving many, if not all, of their cases behind. They inherit the caseload of the numbered position into which they move. The same situation arises every June when in the normal course Presiding Officer receive order of their transfer. Besides disrupting many of the cases pending in these courts, such a practice does little to promote an interest in the efficient disposal of cases and commitment to a particular caseload. The realization that without the foreseeable future most or all of their cases be left behind encourages a wait-and-so attitude.

Hon'ble court with a view to effectively manage the court dockets and as ensuring expeditious disposal of cases have pleased to give following directions:-

1. All Sessions trials which are not part heard on tied-up to any Session judge or Special Judge or designated court shall be so allocated as to enable the senior most amongst the Session Judges to begin with the latest committal proceedings. the rest in seniority to deal with the session cases of a year before and so on and each one them will fix dates and rescheduling of the calendar/cause-list maintained by them may be done as necessary. Sessions Trial shall be fixed on day to- day basis as far as possible.
2. All the cases which are pending where no officers have yet been posted should be transferred to the courts which are functioning and a criteria be fixed that the entire list of pending cases in the absent a court be divided half and half on year wise basis and the latter half dealing with old cases should first be transferred within 15 days and the other half may be retained in those courts for a period of

three months in the hope of courts being manned by the officers within that period. If no posting takes place then those cases shall also stand transferred in the like manner as the latter set of cases.

3. On a transfer to a court on its vacancy, the officer may be posted in that court without indicating his nomenclature and affecting his seniority. Such officer is to continue in the same court till he is transferred to some other district or he is posted to the parent (instituting) court such as the Court of J.S.C.C., Chief Judicial Magistrate, Civil Judge (Senior Division) Civil Judge (Junior Division). Special Courts under Special Acts or for some administrative reasons he is transferred to some other post or place.
4. The Posting & transfer will not affect his enter seniority vis-à-vis local officers irrespective of the Court where he may be posted for the purposed functioning.
5. The officer in the district court shall be assigned the work according to the court number though for administrative purposes for maintaining seniority a different list may be prepared.
6. In the district court, every courtroom will be serially numbered excepting the court of District Judge and the officers will be posted as presiding officer of a particular court irrespective of their seniority in the district. However, in posting the officers in parent (Instituting) of special courts it may not be necessary to post the officer with reference to court numbers and they shall be posted by the designation.
7. The District Judge in his discretion on certain contingencies may change the place of sitting of a Presiding Officer of the court and give number of such court according e.g. if a senior officer is posted as court no.16 while a junior officer is posted as court no.1 in a most spacious court room the senior officer may be assigned court room no.1 renumbering the court No.1 as court no.16 and vice versa.

I am, therefore, to request you kindly to ensure compliance of the above directions of the Court and it be brought to the notice of all the Presiding officers posted in the judgeship for their information.

I am, further to request you that the arrangement so made compliance of the directions aforesaid be intimated to the court.

(xxvii) Expediting the old cases of ‘Older Persons’.

C.L.No.30 dated: 10th July, 2000

In the chief Justice conference held in the year 1999 it was resolved that the High court shall vigorously pursue for quicker disposal of cases of persons aged above 65 years as far as practicable on priority basis. Government of India have also adopted “National Policy for Older Persons because the India has Largest population of older persons in the world. At present, large number of older persons is passing through an era of difficulties and hardships because the family, which used to traditionally look after them, is no longer being able to do so. There is high incidence of litigation concerning property and inheritance, two of the most common issue in which elderly persons who are generally involved. There are some older persons who are

facing criminal charges and are languishing in jails as under-trial persons. The elderly people deserve to be attended by the legal system somewhat on priority basis. There is no built-in provision in the judicial system to ensure speedy or time bound disposal of cases. Many of the cases take years to conclude and may extend beyond the lifetime of orderly persons.

I am, directed to request you that the precedence should be given for hearing and final disposal of those cases wherein one of the parties is passed the age of 65 years, as a time bound project and to clear the docket of such cases by 31.12.2000.

(xxviii) To ensure effective management of court docket in the light of certain circular letters issued by the court recently.

C.L.No.46 /Admin G. dated: October 20, 2000

Kindly take reference of the marginally noted court's circular letters in regard to bring effective management of the court dockets and for ensuring expeditious disposal of cases, certain directions were issued by the court through the above noted circular letters.

C.L.No. 24 dated 16.6.2000

C.L.No.25 dated 16.6.2000

C.L.No. 26 dated 18.6.2000

C.L.No. 27 dated 21.6.2000

C.L.No. 28 dated 5.7.2000

C.L.No.29 dated 6/10.07.2000

C.L.No.30 dated 10.7.2000.

A progress report regarding speedy disposal of cases as directed in the above-mentioned court's circular letter is needed.

I am, therefore directed to request you kindly to submit progress report in the matter to the court latest by 1st week of November, 2000.

(xxix) Expeditious disposal of Criminal Appeals as also for reducing arrears of pending cases.

C.L. No. 23/2004 Dated: 23rd August, 2004

It has been noticed that a large number of criminal appeals are pending disposal since long in the Subordinate Courts. The Hon'ble Court expressing its utmost concern has desired that the pending criminal appeals are taken up and decided on priority basis to avoid unsustainable and protracted litigation in Subordinate Courts. The delay in the disposal of criminal appeals at the first appellate stage is not only against the mandate of Law but it also does a great injustice both to the victim and the society as also to the assailant it is injustice to the victim and to the society.

In view of the above, the Hon'ble Court has directed and desired that the criminal appeals be disposed of on war footing during the 'Arrear Clearance Year 2004'.

I am, therefore, directed to request you that the directions of Hon'ble court be complied with in letter and spirit and the contents of the circular letter may kindly be brought to the notice of all Judicial Officers in your Judgeship for strict compliance.

C. L. No. 52/2006 Dated 15.11. 2006.

In order to take care of the huge arrear of cases the Hon'ble court has desired that in appropriate cases the Subordinate *Judiciary* must scrupulously follow the provisions of Section 258 of the Code of Criminal Procedure, 1973 in the event police fails/neglects to serve notice upon the accused.

Therefore, I am directed to say that all the Chief Metropolitan Magistrates, Additional Chief Metropolitan Magistrates, Chief Judicial Magistrates, Additional Chief Judicial Magistrates and Judicial Magistrates working in the Judgeship under your administrative control, dealing with petty cases, especially the Challan cases, may please be instructed to give limited opportunities to the police to secure presence of the accused strictly in accordance with law and in case the police machinery fails to secure presence of the accused, the Magistrate, except for the reasons recorded otherwise, in suitable matters, should take steps to decide the cases relying on provisions like Section 258 of the Code of Criminal Procedure, 1973.

I am to further request you to kindly provide to the Hon'ble Court a monthly report of all such cases decided under Section 258 Cr.P.C. so that it may be monitored accordingly.

C. L. No.49/2007Admin (G): Dated: 13.12.2007.

With a view to bringing heavy pendency of Criminal Cases under control, on the recommendations of Malimath committee, Chapter XXI-A consisting of 12 Sections has been added in the Code of Criminal Procedure which provides a self contained procedure for implementation of the concept of 'Plea Bargaining' to be used in Criminal cases except relating to offenses affecting the Socio economic condition of the Country. This is a special provision where a suspect may be advised to admit a part or all the crime charged, in return for a specified punishment rather than await trial with the possibility of either acquittal or a more serious punishment. The Hon'ble Court has desired that in proper cases the subordinate Courts must make application of these provisions.

Therefore, I am directed to request you kindly to impress upon all Judicial Officers working under your administrative control to make maximum use of provisions of Chapter XXI-A Cr.P.C. .

(xxx) Timely disposal of cases.

C.L. No. 1/ Admin 'G' /2006: Dated: 15th February, 2006

The continuing adds to the institutions together with failure to maintain momentum by way of clearance has resulted in a disquieting increase in the pendency of the cases. With the end in view of striking at the problem of docket explosion and to energize the judicial system the Hon'ble Chief Justice of India is pleased to well-express that the cases in which proceedings before the Trial Court have been stayed by Sessions Courts/ Fast Track Courts of Session Judges, Sessions cases in Which the accused person is in jail for more than 3 year and civil cases in which injunction/ stay have been granted by Subordinate Courts, be identified and such cases be taken up for hearing on priority basis ensuring an all out effort by all concerned to dispose them of as far as possible, within one year.

Therefore, the Hon'ble Court has been pleased to order that all such cases in the judgeship under your administrative control, be immediately identified and taken up for hearing to ensure their disposal within one year. Further monthly progress of identification and disposal of such cases be monitored and reports be transmitted to the Court recurrently and punctually so as to reach by 10th day of next following month, for further monitoring of the matter.

I am, therefore, wished-for requesting, you to bring the contents of this circular to the notice of all the judicial officers in the judiciary in your administrative authority and take all such steps as possibly will be decisive in accomplishment of the objective.

C. L. No-31/2007: Admin 'G' Dated: 29 August, 2007.

With reference to above, I am directed to say that in the Chief Justices Conference-2007 upon consideration of matter of speedy disposal and reduction of arrears it has been resolved that while issuing summons to an accused, he may be informed of the provisions of 'plea bargaining' contained in Chapter XXI-A of the Code of Criminal Procedure.

I am, therefore to request you to kindly bring the contents of the Circular Letter to the notice of all the Judicial Officers working under your supervisory control for strict compliance of the directions of the Hon'ble Court.

(xxxii) Expeditious disposal of cases.

C.L. No. 4/ Admin 'G' /2006: Dated: 15th February, 2006

The gradual increase in the institution coupled with failure to keep pace with them has resulted in an alarming rise in the pendency of the cases. Invigorating the judicial system to bid a go bye to the problem of docket explosion, is the bewail call of the social order.

Colossal pendency of significantly old civil cases and criminal cases involving petty offences including traffic and municipal challans also criminal complaint cases under Section 138 of Negotiable Instruments Act has caused sombre anxiety. Therefore, the Hon'ble the Chief Justice of India wishes that significantly old civil cases as also all criminal cases involving petty offences including traffic and municipal challans and complaints under Section 138 of Negotiable Instruments Act, are as far as possible, taken up on a day today basis and are disposed of without any further postponement.

As a step crucial in attainment of unqualified sense of contentment amongst the litigants, the Hon'ble Court has been pleased to order that radically old civil cases as also all criminal cases involving petty offences including traffic and municipal challans and complaints under Section 138 of Negotiable Instruments Act, be, as far as possible taken up on day to day basis and disposed of without any deferral. If need be, referred to herein above criminal case might be assigned to all the judicial officers including Special Judicial Magistrates/ Special Metropolitan Magistrates exercising powers of Judicial Magistrate-first Class, in the judiciary under your administrative control. Further monthly progress of disposal of such cases be monitored and reports be sent out to the Court periodically and promptly so as to reach by 10th day of next following month for further monitoring of the matter.

Therefore, I am directed to request you to take all such steps as might be obligatory in execution of the goal.

C. L. No. 46/2006, Dated 27.10.2006

The Hon'ble Supreme Court in marginally noted cases while laying down various guidelines has provided that the Court seized with the matter regarding withdrawal from the prosecution under section 321 of the Code of Criminal Procedure, in giving its consent to the request of the State for withdrawing prosecuting has to ensure that the public prosecutor has applied his mind independently, in good faith and the withdrawal is in public interest. It has been

1. Sheo Nandan Paswan v. State of Bihar 1987 SCC 877
2. Mohd. Mumtaz v. Nandini Satpathy, AIR 1987 SC 836
3. V.S. Achuthanandan v. R. Balakrishana Pillai, AIR 1995 SC 436
4. Abdul Karim v. State of Karnataka, AIR 2001 SCC 116
5. Jasbir Singh v. Vipin Kumar Jaggi, AIR 2001 SC 2734
6. Rahul Agarwal v. Rakesh Jain, AIR 2005 SC 910

brought to the notice of this Hon'ble Court that the guidelines so prescribed are not followed in the spirit.

Therefore, I am directed to request you to converse to all the Judicial Officers posted in the judgeship under your administrative control to ensure that guidelines laid down by the Hon'ble Supreme Court are strictly followed and specific reasons are given for exercising of powers under Section 321 of the Code of Criminal Procedure for withdrawal of the prosecution.

C. L. No.57/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has been pleased to observe that Section 258 is included in chapter XX of the Code of Criminal Procedure in the form of an exception to the aforesaid normal progress chart of the trial in summons cases. By S.258, the power of Court to discharge an accused at midway stage is restricted to those cases instituted otherwise than on complaints. This section vivisects only "summons cases instituted otherwise than on complaints" into two divisions. One division consists of cases in which no evidence of material witness was recorded in which case the magistrate shall discharge the accused at midway stage recording the reasons. The other division consists of cases where stoppage of proceedings is made after the evidence of the principal witnesses has been recorded and in such case he shall pronounce the judgment of acquittal.

Therefore in continuation of the earlier Circular Letter no. 52 /2006 dated 15.11.2006 , I am directed to say that the Magistrate Courts in their discretion may resort to the provisions U/s 258 of Cr.P.C. in appropriate cases .

I am further to say that kindly bring contents of this Circular Letter to the knowledge of all the Magistrates working under your administrative control to strictly comply with the above direction of the Hon'ble Court.

C. L. No.68/2007Admin (G): Dated: 13.12.2007.

The growing docket explosion in both civil as well as criminal side of cases has necessitated an exploration of a device to meet this mammoth challenge. Hon'ble Court has envisioned that if at the level of subordinate courts, the practice of grouping the cases of like nature is adopted and such group of cases is listed before the courts, a considerable dent may be made in containing the rising number of cases.

Therefore, I am directed to request you to kindly instruct all the judicial officers to get the cases of identical nature sorted out by their respective offices and get them listed before the court in such a manner so that cases of one nature happen to be heard by the presiding officers on a particular date.

I am to add further that kindly bring the contents of this Circular Letter to all the Judicial Officers working under your administrative control to make strict compliance of the directions given.

Creation of a Cell in each district for monitoring of compliance of directions for speedy disposal of matters

Letter No. 1354/2011/Admin. G-II dated 24.01.2011

It has come to the notice of Court that officers are not giving due attention to the matters in which the Hon'ble Court or Hon'ble Supreme Court has recommended or issued directions for speedy disposal, making day to day hearing. Therefore, I have been directed to ask you to form a Cell, of which you or senior Additional District Judge shall be incharge, for monitoring of aforesaid matter and, please report compliance to the Court within fifteen days.

(xxxii) Strict compliance of Circular letters issued by Hon'ble Court in respect of expeditious disposal of cases and elimination of arrears in District Courts.

C.L. No. 16/2007: Dated: 25.04.2007

While referring to circular letters [(1) CL No. 14, dt. 20.3.1998 (2) CL No. 33, dt. 20.3.98 (3) CL No. 39 dt. 20.8.1998 (4) CL No. 59 dt. 11.11.1998 (5) CL No. 18 dt. 19/21.4.2000 (6) CL No. 27 Dt. 21.6.2000 (7) CL No. 30 dt. 10.7.2000 (8) CL No. 28 dt. 10.8.2001 (9) CL No. 13 dt. 16.4.2001 (10) CL No. 20 dt. May/June 6, 2003 (11) CL No. 28 dt. 4.8.2003 (12) cL No. 41 dt. 29.10.2003 (13) CL No. 44 dt. 20.12.2003 (14) CL No. 46 Dt. 20.12.2003 (15) CL No. 2586 dt. 19.2.2005 (16) CL No. 23, dt. 23.8.2004 (17) CL No. 7/2005 dt. 10.2.2005 (18) CL No. 1 dt. 15.2.2006 (19) CL No. 2 dt. 15.2.2006 (20) CL No. 3 dt. 15.2.2006 (21) CL No. 7 dt. 20.2.2007] I am desired to communicate that the Hon'ble Court has noticed with dismay that the Subordinate Courts are not paying adequate attention in carrying out the instructions issued by the Hon'ble Court in these circular letters and the purpose of passing these circular letters has become ineffectual.

I am, therefore, desired to communicate to you kindly to impress upon the Judicial Officers working under your supervision & control in the judgeship to ensure strict compliance of the directions issued by the Hon'ble Court in the marginally noted circular letters.

(xxxiii) Number of under trial prisoners together with the period of their detention and the status of their trial.

C.L.No.16/ VIIIh-/2006; Dated: 4 May 2006

Recently the court noticed number of instances of under trial prisoners languishing in jails for a few decades. Such wretched cases illustrate the inconsiderateness of the justice delivery system and portray a rather dreary image of its functioning, having direct crash on human and constitutional rights of the prisoners. The court is of the considered view that regular monitoring of the progress of the under trial prisoners by the court itself and efficient inspection actually and meticulously investigating the number of under trial prisoners together with the period of their detention and the status of trial might help in avoiding the stoppable like hood of having such inopportune and forgotten under trial prisoners as well expediting the trial of such prisoners.

Therefore, I am directed to request you to kindly regular and valuable scrutiny of the progress of the trial of under trial prisoners by the courts under your administrative control I am further directed to demand that while making joint inspection of the Distrlct Jail under courts Circular Letter NO. 82/VIIIh-9/Inspection Section dated 12.9.1994 make concrete and painstaking analysis of the number of under trial prisoners. Further also the chief Judicial Magistrate/ Additional Chief Judicial Magistrate authorized to ascertain the position of the under trials under court's G.L. No. 38/Admin (B) dated 9th Dec. 1968 read with the Court's C.L.No.198/Admin. dated 10.12.1976 be directed to craft substantial and conscientious analysis of the number of under trial prisoners together with the period of their detention and the status of trial still further neatly typed Quarterly report in regard to the number of under trial prisoners together with the period of their detention and the status of their trial as well method of steps taken to accelerate the of such prisoners be recurrently sent so as to reach the Deputy Registrar (Administration) by the 10th day of the opening month of each next following quarter.

33. MEDICAL EVIDENCE BY AFFIDAVIT

C.E. No. 88 dated 31st May, 1976

Evidence of medical witnesses may be tendered by means of affidavits which should necessarily contain a detailed description of the injuries, the nature of weapon by which such injuries could be caused and the duration of the injuries, etc. and the affirmation of the witness that he had prepared the injury report in his handwriting and that the original was before him and that it bore his signature.

As modified by C.L. No. 51/Ivh-36 dated 10th March, 1977

Documents like report of the Civil Surgeon, identification memo, etc. should be used in evidence without examining the witnesses who had prepared them.

Examiner of questioned documents

C.L. No. 76/IX f-16 dated 26th May, 1976

It invites attention to the provisions of section 293 Criminal Procedure Code, 1973, (Act II of 1974) specially to its sub-section (2), and the court desires that the Director, Forensic Science Laboratory, as expert witness, may not be summoned for examination in criminal cases in the ordinary course.

C.L. No. 11/VIII-b-39 dated 6th February, 1954

In every case in which it is necessary to examine the Examiner, the court should, before issuing a summons to him, consider if his personal attendance can be dispensed with without causing hardship or injustice to any party. If the court is satisfied that no such hardship or injustice would be caused, it should dispense with his personal attendance.

In this connection a reference is invited to paragraphs 12 and 13 of the rules regulating the application for, and payment for the services of the Government Examiner of questioned Documents sent to all District Judges with Government endorsement no. 1986/VI-872-1953, dated the 22nd August, 1953 and to section 284 (since repealed by Cr.P.C., 1973) of the Code of Criminal Procedure, 1898.

Chemical Examiner

C.L. No. 32/76-53 dated 28th February, 1974

The Chemical Examiner to Government of Uttar Pradesh has been redesignated as “Chemical Examiner and Serologist to Government, Uttar Pradesh”.

C.L. No. 108/VII-b-53 dated 22nd August, 1975

Material exhibits should be sent to the Chemical Examiner and Serologist for examination only when it is very essential for the disposal of criminal cases.

C.L. No. 86/VII-b-53 dated 25th August, 1970

When a Magistrate decides that a reference to the Chemical Examiner is required in the course of any proceedings under the Criminal Procedure Code, he shall immediately, in Form no. 1, call on that officer for a report and shall request the Chief Medical Officer or the Officer in civil medical charge by endorsement to Form no. 1 to forward to the Chemical Examiner the

substance of which analysis is required. All poisons used as exhibits, when no longer required, shall be returned through the Chief Medical Officer to the Chemical Examiner for disposal.

C.E. No. 22/VII-b-53 dated 20th March, 1972

The provisions of paragraphs 756 and 757 of U.P. Medical Manual and paragraphs 2 and 3 of Annexure 5 to the Handbook for Criminal and Revenue Courts should be strictly followed by all the Judicial Magistrates to avoid delay in the report of the Chemical Examiner.

34. PRODUCTION WARRANT

C.L. No. 62/V11-C-31 dated 9th June, 1978

The Court has noticed that criminal courts often insist on the production of the accused before the courts even though an order passed by the Government under section 268 Cr.P.C. is in operation against the accused.

During the course of an inquiry, trial or other proceedings under the Cr.P.C., the accused are produced before criminal courts in pursuance of an order passed under section 267 Cr.P.C. and so long as an order passed by the Government under section 268 Cr.P.C. in respect of any person or class of persons is in operation, it would not be desirable for the criminal courts, to insist upon the production of any person or class of persons before them and the courts should accept the statement given by the officer in charge of the prison in this regard as contemplated under section 269 Cr.P.C.

35. TRIAL UNDER MILITARY LAW

C.L. No. 20/VIII-a-69 dated 5th March, 1951 as amended by

C.L. No. 56/VIII-a-69 dated 30th May, 1951 read with

G.O. No. 303/VI-872-41 dated 14th February, 1951

The attention of all the subordinate courts is invited to the mandatory provisions of sections 125 and 126 of the Army Act, 1950 and also to the rules made under section 549 (new section 475) of the Code of Criminal Procedure, 1898 (Act -V of 1898), contained in Appendix H of General Rules (Criminal), 1957, stressing the necessity of strict compliance with the requirements laid down for the trial of persons subject to military law.

C.E. No. 62/VII-a-83 dated 1st October, 1964

All the District Judges and Additional District and Sessions Judges should forward free of charge a copy of its judgment on conviction of military pensioners to the pension-paying officer concerned and the Controller of Defence Accounts (Pensions) Allahabad to enable them to suspend convicted pensioners under the provisions of Pensions Regulations for the Army/Air Force/ Navy. Rule 143(ii) of General Rule (Criminal), 1957* (*now 1977 vide notification no. 504/vb-13; dated 05.11.1983) to be followed strictly.

36. PART HEARD CASE PENDING ON TRANSFER OF OFFICER

G.L. No. 492/67-2 dated 5th February, 1921

When an officer with a part heard sessions trial or other important case receives orders of transfer, he must immediately make a full report to the High Court to enable it to decide whether orders are required to detain him in order to enable such part heard case to be completed before he leaves the station.

C.L. No. 88 dated 4th December, 1973

The following particulars must invariably be intimated to the Court immediately on handing over charge by an officer regarding part heard sessions trials:

1. Number of prosecution and defence witnesses in the part heard case.
2. Number of each type of witnesses already examined and to be examined.
3. Time already spent and time to be taken.
4. Suggestions of the District Judge for the disposal of the case.

C.L. No. C.V./8/78 dated 6th October, 1978

The Presiding Officers should avoid keeping part-heard criminal cases pending unnecessarily on their files.

C.L. No. 34/Admn. (A) dated 26th March, 1980

The successor Sessions Judge may resume trial of part heard sessions cases keeping in mind section 326 of Cr.P.C. (As Amended by Central Act No. 45 of 1978) which permits the succeeding officer to resume trial from the stage left by his predecessor. Since section 326 relates to procedural law, it can apply to the sessions cases pending since before the commencement of the amended Act.

C.L. No. 76/IV-e/Admn. (A) dated 15th September, 1980

The above mentioned circular is modified to the extent that its provisions shall not apply to sessions trial that were pending on April, 1, 1973 (Act No. 2 of 1974) came into force.

C.L. No. 71/53B/Admn. (A) dated 7th November, 1983

Whenever any Additional Sessions Judge (including Additional District and Sessions Judge) is transferred from one court to another court in a local arrangement, he shall submit a list, of all the part heard sessions trials in which recording of evidence has commenced, to the Sessions Judge, who shall record an order for transferring such trials to the file of the court to which the Additional Sessions Judge has been transferred.

C.L. No. 41/VIIb-116 dated 2nd June, 1984

The attention of all the District Judges and C.J.Ms is invited to the full Court judgment delivered in the case of Radhey Shyam vs. State of U.P. reported in 1984 All. L.J. 666 regarding power of Sessions Judges to transfer part heard case or appeal from court of an additional Sessions Judge to another competent court within his sessions division.

C.L. No. 54/VIIC-25 dated 31st August, 1984

It invites attention of all the Sessions Judges to sections 6, 7 and 8 of the U.P. Dacoity Affected Areas Act, 1983, and says that the Sessions Judge is not competent to entertain a transfer applications in respect of a case pending before the special court if there is only one special court in the sessions division. The Sessions Judge can entertain an application for transfer when there are two or more special courts in the sessions division.

37. EVIDENCE

G.L. No. 5 dated 7th March, 1952

Some Magistrates and Sessions Judges do not examine accused persons correctly. This not unoften leads to a waste of the appellate court's time. Mistakes are also made by officers in regard to the use of evidence brought on record under section 288⁺ of the Code of Criminal Procedure.

Attention of all Sessions Judges and District Magistrates* is drawn to the Supreme Court's judgment in Tara Singh versus State in which these matters have been fully considered. The case is reported in 1951, A.L.J., at page 640.

C.L No. 46/VII-b-31 dated 4th May, 1953

Attention of all Additional and Assistant Sessions Judges and Sessions Judges is drawn to the Court's judgment in Criminal Appeal No. 748 of 1949 reported in I.L.R. (1953) (1) All. 197, regarding the scope and object of sections 162 and 288+ of the Code of Criminal Procedure and section 145 of the Evidence Act.

Discharge of International obligation assumed by India under the Hague Convention on Taking Evidence Abroad in Civil and Commercial matters by resorting to the procedure for recording evidence as provided under the Convention by Indian Courts.

C.L. No. 27/2009/Admin. 'G-II': Dated: May 19, 2009

Upon consideration of D.O. No. 9(1)/09-Judl; Dated 9.1.2009 of Sri T.K. Vishwanathan, Law Secretary, Government of India, Ministry of Law & Justice, Department of Legal Affairs, Shastri Bhavan, New Delhi informing about accession to the Hague Convention on Taking Evidence Abroad in Civil and Commercial matters and thereby arising international obligation under the said Convention to follow the procedure for evidence as per provisions of the Convention, the Hon'ble Court has desired that the Subordinate Courts under its administrative control should be directed to sincerely abide by procedure as provided in Hague Convention on Taking Evidence Abroad in Civil and Commercial matters for recording the evidence.

While enclosing a copy of the complete text of the Hague Convention on Taking Evidence Abroad in Civil and Commercial matters and a copy of letter dated 9.1.2009 of Sri T.K. Vishwanathan, Law Secretary, Government of India, Ministry of Law and Justice, Department of Legal Affairs, I am directed to request you to kindly impress upon the Judicial Officers working under your administrative control to ensure compliance of the above directions of the Hon'ble Court with all sincerity.

Execution of Requests for service of summons/notices under The Hague Convention on service Abroad of the Judicial or Extra-Judicial Documents in Civil and Commercial Matters, 1965.

C.L. No. 24/2009/Admin. 'G-II': Dated: May 15, 2009

Upon consideration of the letter dated 30.09.2008 of the Government of India, Ministry of Law and Justice, Department of Legal Affairs whereby, it has been informed that India has

⁺ Note: Since repealed by Cr.P.C., 1973

^{*} Note: Now Chief Judicial Magistrate

become a party to the Hague Convention on Service Abroad of the Judicial or Extra-Judicial Documents in Civil and Commercial matters, 1965 with effect from 1st August 2007 and as a result of this, has assumed an obligation to ensure service of summons/notices on reciprocal basis received from other State parties to the Convention in India and that the process servers are not making sincere efforts to effect serve of summons and notices on the notices, the Hon'ble High Court has resolved that all the subordinate Courts be instructed to ensure service of summons/notices on the notices, the requests of which have been received, in a proper manner and punctilious manner giving effect to the provisions of aforesaid Convention in letter and spirit.

While enclosing a copy of text of the Hague Convention on Service Abroad of the Judicial or Extra-Judicial Documents in Civil and Commercial matters, 1965 alongwith copy of letter dated 30.09.2008 of the Government of India, Ministry of Law and Justice I am, therefore, to request you to kindly direct all the Judicial Officers working under your administrative control to ensure compliance of the above direction in right earnest.

38. EXHIBITS

G.L. NO. 11/VIII-a-40 dated 17th March, 1949 read with

G.L. No. 14/VIII-a-41 dated 22nd April, 1949

When only a portion of a statement previously made by a witness has been put to him for the purpose of corroborating or contradicting him under section 157 or 145 of the Indian Evidence Act, only such portion of the statement should be proved. The Sessions Judge should get an extract prepared from the statement and have an exhibit mark put on such extract only and not on the whole statement. The extract should indicate the source from which it has been prepared and a copy of the entire statement which may be on the file should be placed among papers on the record which have not been proved and exhibited so that it may be referred to, if and when necessary.

G.L. No. 14/VIII-a-42 dated 22nd April, 1949

In cases in which a witness is asked as to why he failed to state certain facts in the lower court, which he has subsequently added in his statement before the Court of Session, it is not necessary for the purpose of proving such omissions to exhibit the entire statement of the witness before the lower court. The Judge should, in such cases, read the statement and make a note to the effect that the omission exists. A copy of the entire statement in which the omission exists should, however, be put on the file among the papers not proved and not exhibited so that it might be referred to, if and when necessary.

39. Transmission of exhibits to court

G.L. No. 11/VIII-a-41 dated 2nd May, 1950

Sessions Judges should follow the provisions of rule 135, Chapter XIII of the General Rules (Criminal), 1957* and exercise their discretion carefully in the matter of selecting exhibits for transmission to the High Court so as to ensure that all important and necessary material exhibits are sent to the Court in the event of an appeal. Even if, in the opinion of the Judge, no material exhibits need be transmitted to the High Court in the event of an appeal, an order to that

* Note: Now 1977 vide notification no. 504/Vb-13 dated 5/11/83

effect should be recorded by him at the conclusion of the trial.

C.L. No. 63 dated 16th October, 1962

The Sessions Judges should pay personal attention to the compliance of rule 135 General Rule (Criminal), the intention of which is that, all such material exhibits which are likely to be of assistance in disposal of an appeal should be submitted to the Court in consultation with the counsel for the parties.

When there is any dispute between the prosecution and the defence as to any fact or any inference from facts in the decision of which an inspection of the material exhibit would be helpful, it should invariably be sent to the Court. For example, where injuries have been caused by a sharp or pointed weapon and there is dispute as to whether the weapon exhibited could have caused the particular injuries the weapon should be sent. In case of gunshot injuries, the dispute as to whether the injuries could have been caused with the particular gun is not so frequent. Similarly, bloodstained clothes of the victim will normally not be of help to the Court except in a case where the number or nature of holes in clothing may give any indication as to the manner of assault suggested by the prosecution. In the former case the trial Judge would be justified in not sending the clothes but in the latter case they should properly be submitted.

The trial Judge would be well advised to ask the counsel for the parties to note their opinion on the margin of the order sheet or himself give the detailed opinion in his order sheet on the date the arguments are heard.

C.L. No. 13/VII-b-53 dated 24th January, 1969

Through this C.L. the attention of the District Judges is invited to G.O. No. 220-J/XXII-671-1940, dated March 8, 1941, requiring the Chemical Examiner to deal with exhibits sent to him for examination promptly so that murder cases may be decided expeditiously and also to G.O. No. 3503/VI-2439-1939, dated November 27, 1939, requiring the Sessions Judges to send a copy of the judgment for information to the Chemical Examiner in all cases in which he has been consulted.

40. RELEASE ON PROBATION

C.L. No. 40/VIIC-8/Admn. (D) dated 21st May, 1987

Although it is within the judicial discretion of the court to release or not to release an offender on probation of good conduct, it would be proper to extend the application of these provisions to more cases in areas where it is found that the persons released on probation, whether or not under the supervision of the probation officer do not revert to crimes. Where the applications of the provisions of the above Act have salutary effect, there can be no objection to release of more persons on probation. If, however, it is found that persons released on probation have abused it by reverting to crimes during or after the period of probation, or that the supervision over such persons is slack, the trial courts can become strict while giving the benefit of the provisions of this Act to the offenders.

The aim of the probation of Offenders Act, 1958 is to stop an offender from becoming hardened criminal and in order to achieve this objective, the implementation of the Act can be extended to more cases where after considering the report of the probation officer and having regard to the circumstances of the case including the nature of the offence and the character of the offender it is found necessary.

41. SENTENCES AND PUNISHMENTS

(i) In cases of dacoity

C.L. No. 24/VIIh-22 and 25/VIIh-22 dated 17th March, 1951

Sessions Judges sometimes convict accused persons under section 395, read with section 397 of the Indian Penal Code although there is no evidence that such persons had, at the time of committing the dacoity, used any deadly weapon or caused grievous hurt to any person or attempted to cause death or grievous hurt to any person. The language of section 397 is quite clear and the provisions of that section should be carefully borne in mind before applying that section to the case of an accused person found guilty of the offence of robbery or dacoity.

C.L. No. 42/IV-h-22 dated 4th May, 1956

Inadequate sentences should on no account be passed in dacoity and other allied cases. The attention of all Session Judges is drawn to the observation made, in this connection, by their Lordships Hon'ble Mr. Justice James and Hon'ble Mr. Justice Mukerjee in their judgment in Criminal Appeal no. 1150 of 1951, *Om Prakash and others versus State* (copy forwarded with C.L.).

C.L. No. 52 dated 19th June, 1956

The Court had occasion to see that in a sessions trial where the accused were found guilty of four dacoities under section 395, Indian Penal Code the sentences of seven years' imprisonment passed in respect of each of them were ordered to run concurrently.

Normally sentences for two or more offences should be consecutive and should not be made concurrent as a matter of course or without good reasons. It is also to be noted that the fact that the offences are committed in the course of one and the same transaction does not mean that the sentences for them should be concurrent or that the accused should not suffer separately for each offence. In this connection, the attention of all Sessions Judges and Magistrates is also drawn to the case *State versus Khuda Bux*, 1952 A.L.J. (p. 39).

(ii) Consecutive or concurrent

G.L. No.4/VII-b-82-51 dated 18th April, 1951

The letter invites attention to the following observations contained in a judgment of the High Court in a Criminal Revision.

"I find that magistrates invariably make the several sentences concurrent without exercising any discretion in the matter. It is laid down in section 35 (new section 31) of the Code, that one sentence of imprisonment will commence after the expiration of other sentence of imprisonment unless the court directs that such sentences shall run concurrently. Obviously, the normal rule is that the sentences should be consecutive and they may be made to run concurrently only if there is some reason. Whether the sentences should run consecutively or concurrently is left to the discretion of the court, but the court must exercise its discretion judicially. It must not exercise it arbitrarily and must not on every occasion blindly order the sentence to run concurrently as if there were no alternative."

C.L. No. 22/VII-C-15 dated 26th March, 1954

A youthful offender who escapes from the reformatory school, commits another offence

during the period of his detention (though not actually confined in the reformatory school), and is convicted comes within the purview of section 32 of the Reformatory Schools Act, 1897.

The sentence passed in a case, to which section 32 of the Reformatory School Act, 1897, applies, should commence at once, that is, a court has no power to award a consecutive sentence in such a case, irrespective of the provisions of section 397 (new section 427) of the Code of Criminal Procedure, 1898.

As specifically provided for by this section, the court should in each case, report the matter to the State Government immediately after conviction.

(iii) Fixing of dates for execution of condemned prisoners

C.L. No. 28/VIII-a-19, dated 21st March, 1957

The provisions of the Supreme Court Rules and the instructions issued by the Government of India, Ministry of Home Affairs regarding procedure to be followed in relation to petition for mercy appeals and applications for special leave to the Supreme Court by or on behalf of the prisoners sentenced to death should be strictly followed while fixing the date for execution of the condemned prisoners.

Article IX of the aforesaid instructions, inter alia, provides that the sentence of death shall not be executed until the expiry of the period of limitation prescribed for referring applications for special leave to the Supreme Court. Under Order XXI, rule 2 of the Supreme Court Rules, 1950, such a period of limitation is thirty days from the date of the order of the High Court refusing certificate of leave to appeal to the Supreme Court.

Sessions Judges should, therefore, fix the date for execution of the prisoners sentenced to death after the expiry of the period of limitation prescribed for preferring application for special leave to the Supreme Court by or on behalf of the condemned prisoners.

(iv) Report regarding conviction of Yugoslav nationals

C.L. No 57/VIIIe-32 dated 16th October, 1954

The Government of India and the Government of the Federal Peoples Republic of Yugoslavia have agreed, on a basis of reciprocity, to exchange information regarding nationals of one country convicted and sentenced by a court of criminal jurisdiction in another country.

Whenever a Yugoslav national is convicted and sentenced by a criminal court in a sessions division, the Sessions Judge should submit a report to Government for transmission to the Government of India.

42. SUBMISSION OF PROCEEDINGS IN CAPITAL CASES

C.L. No. 47 dated 23rd April, 1958

Under rule 67⁺ of the General Rules (Criminal), 1957*, the Sessions Court is required to submit its proceedings to the High Court at the latest on the fourth day after the sentence of death has been pronounced.

All the Sessions Judges should, therefore, submit the proceedings along with the complete

⁺ Note: Now Rule 64 vide Notification no. 504/Vb-13 dated 5.11.1983

^{*} Note: Now 1977 vide Notification no.504/Vb-13 dated 5.11.1983

record of the case on fourth day at the latest.

C.L. No. 47/VIIb-43/Admn. (G) dated 8th May, 1978

A death case is to be listed for hearing within 30 days of receipt of reference from the District and Sessions Judges for confirmation of death sentence. The District Judges should therefore see to it personally that the record of a death case is transmitted to the Court along with the reference for confirmation of death sentence without any delay. To avoid delay in transit, the record of a death case should invariably be sent by registered parcel and not by R.R.

C. L. No. 26/ 2007/ Criminal Sec. Dated: 25.5.2007

Upon a careful consideration of the matter Hon'ble Court has taken a decision that the paper books in the criminal cases be prepared with adequate copies wherever appeals are admitted. In case where the trial resulted in the conviction, the paper books be prepared immediately after the decision is rendered. As far as those cases where the accused are acquitted in the trial court, paper books will be prepared immediately on receiving notice of admission from the High Court.

I am therefore, to request you to kindly apprise the contents of the circular letter to the notice of all judicial Officers in the Judgeship under your supervision and control for their information, guidance and strict compliance of Court's direction as above.

C. L. No. -28/2007 : Dated : 29 June, 2007

It has come to the notice of Hon'ble Court that the Presiding Officers of the Courts working on the Criminal Side, while delivering judgments/Orders, in the criminal matters are often not citing particulars such as name of the Police Station, District, Crime Number and Sections of the case at the beginning of the judgement at the top of the right side of the page, which has resulted in tremendous difficulty for Hon'ble Court in appreciation at the appellate level.

Therefore, I am directed to say that, the Hon'ble Court has resolved that from now onwards all the judgments In criminal matters shall bear the name of the Police Station and the District to which the case belongs and also the relevant Sections and the crime number at the top of the page on the right side without fail. Further the issuing authority shall ensure before issuing the certified copy of the Judgement/Order that the same bears above particulars.

I am to request you to kindly ensure that the above directions are complied with by all the concerned under your administrative control, in letter and spirit.

43. REALISATION OF FINE

C.L. No. 169/VIII a-105 dated 28th October, 1976

The Criminal Courts should take all possible steps for expeditious realization of unpaid amounts of fines imposed by them in Criminal Cases.

44. SET-OFF

C.L. No. 142/VIIb-110 dated 19th December, 1978

Section 428 of the Code of Criminal Procedure, 1973 provides that the period of detention, if any undergone by an accused person during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of

imprisonment imposed on him on such conviction. In order to facilitate the jail authorities to find out the period of detention already undergone by a particular convict as an under trial the court is taking steps to bring about relevant amendments in form nos. 35, 42, 43 and 44 in Appendix B (part VIII) of General Rules (Criminal), 1957*.

Till such amendments are finalised, while filling in such forms the Presiding Officers/officials are directed to mention crime no. 19- below the words case no. or trial no. as the case may be in the relevant forms.

45. MEASURES TO SAFEGUARDS A CONVICT'S RIGHT TO APPEAL AND SUSPENSION OF SENTENCE

G.L. No. 1/VIIb-35 dated 23rd August, 1956

In Criminal Revision no. 1113 of 1952 Shambhu, etc. v. State, reported in 1956 Allahabad Law Journal, page 521, it has been pointed out that -

- (i) an order or an order sheet (fard ahkam) is not a judgment;
- (ii) a memorandum of appeal must therefore be accompanied by a copy of judgment;
- (iii) if it is accompanied by a copy of the order in the order sheet and not the judgment it is not entertainable and can be rejected straightaway;
- (iv) an appellate court can exercise its powers of enlarging an appellant on bail under section 426(1) (new section 389) of the Code only when there is a valid appeal before it;
- (v) an appellant cannot be released on bail unless the memorandum of appeal filed by him is accompanied by a copy of the judgment; and
- (vi) there must be reasons for enlarging him on bail and they must be stated in the order.

The question of releasing an appellant on bail can arise only after the execution of the sentence of imprisonment is suspended; therefore, an appellate court must first pass an order suspending the execution of the sentence and then order him to be released on bail. Since actually the reasons are required for suspending the execution of the sentence, it is obligatory upon an appellate court to read the judgment before suspending the execution of the sentence.

The following instruction should be noted for strict compliance in all cases where an application for copy or translation of judgment under section 371(1) (new section 363), of Code of Criminal Procedure is made by or on behalf of a convict:

- (i) Ordinarily, a judgment by which an accused person is sentenced to a term of imprisonment should be delivered in the early part of the day.
- (ii) The Presiding Officer should take steps to ensure that there is no delay in furnishing a convicted person sentenced to a term of imprisonment upon his application, with a copy of the whole of the judgment. Save in exceptional circumstances, a copy should be supplied within 24 hours unless he is to be released on bail under sub-section (2-A) of section 426 (new section 389) of the

* Note: Now 1977 vide Notification no. 504/Vb-dated 5.11.1983

Code.

- (iii) The work of preparing a copy of the judgment should be taken in hand as soon as the convicted person applies and the copy delivered to him as soon as it is ready.
- (iv) Sessions Judges should watch the compliance of these instructions by the Magistrates in their judgship and report to the Court when delay in the supply of a copy to an accused person comes to their notice.

C.L. No. 20 dated 3rd April, 1964

- (v) The accused in a case of a death sentence, should, as required by section 371(3) (new section 363) of the Code of Criminal Procedure, be invariably informed that, if he wishes to prefer an appeal, his appeal should be preferred within thirty days of the date of sentence as provided under Article 115(a) of the Limitation Act (Act no. 36 of 1963).

45-A. FORWARDING A SURRENDER CERTIFICATE OF CONVICT TO HON'BLE THE APEX COURT

C.L. No. 12/Admin. G-II dated 11.03.2011

While enclosing herewith a copy of letter dated 20.12.2010 of Sri A.I.S. Cheema, Secretary General, Supreme Court of India, I am directed to say that when a convict surrenders to undergo the term of imprisonment and informs the Court or the Jail Authorities that he has filed a petition before Hon'ble the supreme Court, the Courts as well as the Jail Authorities concerned shall ensure that on the same day of surrendering, surrender certificate is furnished to the Registrar (Judicial), Supreme Court of India, New Delhi and a copy thereof be immediately faxed to him.

You are therefore, requested to communicate the contents of this circular letter to all the Judicial Officers/Courts subordinate to you and the Jail Authorities of your District to ensure strict compliance.

46. APPEARANCE OF PRISONERS BEFORE HIGH COURT

C.L. No. 24/VIII-a-28 dated 17th March, 1956

The issue of a notice for the hearing of a criminal appeal by the High Court does not necessitate the appearance of the prisoner in person before the Court on the date of hearing.

Therefore, unless the High Court issues a specific order that the accused should be produced from jail. The Magistrate should not issue orders to the jail authorities for the appearance of accused in person.

47. SESSIONS CASES AND APPEALS

(i) Distribution of work

C.L. No. 2352 dated 8th July, 1904

When the criminal work of a judgship is light, it is the duty of the District Judge to take on his own file as much of the civil appellate work of his district as possible. It is only in this way that District Judges can judge the qualification of their subordinate officers. It is, moreover,

desirable that Judges should take every opportunity of enlarging their acquaintance with civil law, and the court thinks that this end will best be secured by Judges making a point of hearing from time to time some original civil suits in addition to their civil appellate business. Judges should note in their annual reports reasons, which have prevented them from complying with these instructions.

G.L. No. 21/67-5(2) dated 4th July, 1931 as modified and supplemented by

G.L. No. 9/67-2 dated 1st February, 1938 and

C.L. No. 4/VIII-h-13 dated 11th January, 1951

Where there are Additional or Assistant Sessions Judges to help District Judges, the work should be so arranged that District judges dispose of a fair proportion of civil work.

In order that District Judges should be fit for, higher judicial appointments it is imperative that they should do civil work regularly. The object will be sufficiently served if District Judges do not transfer to Civil Judges any Munsif's appeals over Rs. 2,000 in value. They should decide four or five original suits during the course of the year. Such original suits should be of a valuation over Rs. 5,000.

C.L. No. 32/IV-4 dated 26th February, 1971

In order to bring the civil work under control most of the criminal appeals and revisions be entrusted to Additional Sessions Judges for disposal and important sessions trials, criminal appeals, revisions and civil work including appeals be done by the District Judges themselves.

C.L. No. 33 of 1969 dated 25th March, 1969

Except during the summer-vacation, the Additional District and Sessions Judges should not take up criminal work but devote themselves to the disposal of civil cases exclusively triable by a District Judge.

C.L. No. 123 dated 14th August, 1974

District Judges should ensure that all types of work both civil and criminal, is distributed amongst the Additional District Judges according to their seniority and capacity.

C.L. No. 205/IV-h-14/Admn. 'A' dated 23rd December, 1976

The District Judge and the senior Additional District and Sessions Judge in the district shall ordinarily devote 3/4th time to civil work and only 1/4th time to criminal work.

C.L. No. 189/IV-g-28/Admn. (A) dated 16th December, 1977

The Assistant Sessions Judges should henceforth be required to try only three sessions cases in a quarter.

C.L. No. 62/IV-h-14 dated 31st May, 1979

The District Judges and Senior Additional District Judges, who are not doing required civil work, will be subject of comment in the annual entry.

C. L. No.75/2007Admin (G): Dated: 13.12.2007.

It has been observed by the Hon'ble Court that to enable the Court to have complete grip over the case and to better appreciate the oral evidence adduced before it, the long intervals in the

examination of witnesses should be avoided .Therefore, in continuation of earlier General letter no. C-73/1990 dated 26.7.90 I have been directed to say that in all the Sessions trials, the statement of witnesses should be recorded by the courts concerned on the day-to-day basis as per the Schedule drawn by the Sessions Judges.

I am, further to add that the contents of this Circular Letter be brought to the notice of all the Judicial Officers working under your administrative control for strict compliance

(ii) Sessions trial

G.L. No. 73/VIII-a-14 dated 29th October, 1948

If the record is not received within eight days of the order of commitment, an explanation of the Committing Magistrate should be called for and an entry made in the remarks column of the sessions statement. At the same time the Sessions Judge should act in accordance with the directions contained in G.L. no. 54/T, dated the 30th August, 1948, and summon the record for fixing dates if necessary.

G.L. No. 7/VIII-a-14 dated 29th October, 1948 as modified by

G.L. No. 7/VIII-a-14 dated 12th February, 1949 and

C.L. No. 55/VIII-a-14-49 dated 26th August, 1949 and

C.L. No. 80/VIII-a-14 dated 25th November, 1949 and

C.L. No. 32/VIII-a-14 dated 7th April, 1956

Sessions Judges should generally be able to decide sessions trials in which sentence of death can be awarded within two months of commitment, and others in which some or all of the accused are in jail within a reasonable period, not exceeding four months if they arrange or rearrange their cause list on the line indicated below:

(1) All the sessions trials triable by Assistant Sessions Judges should ordinarily be transferred to their file on receipt of the calendar and the record.

(2) If the record is not received within eight days of the order of commitment, an explanation of the Committing Magistrate should be called for the delay and an entry made in the remarks column of the Sessions Statement as prescribed in General Letter no. 67, dated the 18th October, 1948. At the same time, the Sessions Judge should act in accordance with the directions contained in G.L. no. 54/T, dated the 30th August, 1948 and summon the record for fixing date, if necessary.

(3) If the pending file of sessions trials is not heavy and all the cases can be easily decided within two months of commitment, dates should be fixed in all of them immediately on receipt of record at the same time showing preference to cases in which the sentence of death can be awarded, irrespective of the fact whether accused are in jail or on bail, and giving next choice to those in which all or some of the accused are in jail.

(4) Wherever the pending file of Sessions Judges is heavy and all the sessions trials cannot be decided within two months of commitment, dates need not be fixed in all of them. The cause list should, in such cases, be invariably prepared for a period of two months only and in special cases for two and a half months. The Sessions Judge will thus have to consider every week which sessions trials should be fixed for one more week. In doing so, preference should

always be given to cases in which the sentence of death can be awarded, whether the accused are in jail or on bail and whether it is a new or an old commitment.

The next choice would be for cases in which all or some of the accused are in jail. Thereafter, sessions trials should ordinarily be fixed in order of date of commitment.

Part heard cases should ordinarily be accommodated within the cause list already fixed and, if necessary, by adjourning or dislocating temporarily another sessions case, preferably other than a murder case.

C.L. No. 93/VII-b-103 dated 19th December, 1973

Instructions contained in C.L. no. 6/Admn.(B), dated May 1, 1971, more particularly in paragraph 3 thereof, regarding the keeping of criminal cases pending without date till such time as the court is in a position to fix a date in a reasonable time, the operation of which was suspended under C.L. no. 60, dated May 23, 1972, are put into effect again. The latter C.L. is to be treated as withdrawn.

(5) The Sessions Judge should be strict in granting adjournments, and should ordinarily record the statement of all the witnesses present, as indicated in G.L. No. 60/VII-d-21, dated the 16th September, 1948.

(6) It is observed that most of the adjournments are due to the absence of witnesses and assessors. The Sessions Judge should first of all address the District Magistrate impressing upon him the necessity of the attendance of witnesses and assessors on the date fixed and of the return of processes ordinarily a week before the dates fixed. If, however, this does not have the desired effect, they should themselves take legal steps to secure their attendance. At the same time, instances of such adjournments should be brought to the notice of the Court when considered necessary.

C.L. No. 123/VII-b-68 dated 7th October, 1971

Delay in disposal of cases can be avoided to some extent if summonses are served well in time and the witnesses turn up on date fixed. A monthly statement showing the number and percentage of summonses not returned after service, the number of witnesses who did not turn up and the time of the court wasted due to non-appearance of the witnesses duly scrutinized by the District Judge should be sent to the Court regularly on or before the 10th of every month. The time wasted due to non-appearance of witnesses may also be entered in the daily sitting register.

(7) All the working days, excluding Saturdays if wanted for miscellaneous work, should be devoted to sessions work whenever it be heavy. Criminal appeals in which accused persons are in jail may also be heard according to convenience on the days indicated for sessions work.

C.L. No. 32/VIII-a-14 dated 7th April, 1956

A criminal appeal, in which an advocate practicing in the High Court is expected to appear, may if the Sessions Judge so wishes be fixed for hearing on a Saturday.

C.L. No. 73/VIII-a-14 dated 12th May, 1971

The instructions contained in G.L. No. 73/VIII-a-14, dated October 29, 1948 regarding fixation of dates for the trial of sessions cases should be strictly followed. Preference should be given to cases in which death sentence can be awarded. Cases in which the accused is in jail should be given priority over cases in which accused is on bail. Proceedings should be well

controlled so that cases may be disposed of according to the time schedule prescribed without granting unnecessary adjournments.

G.L. No 73/VIII-a-14 dated 29th October, 1948 as modified by

G.L. No. 7/VIII-a-14 dated 12th February, 1949 and

C.L. No. 55/VIII-a-14-49 dated 26th August, 1949 and

C.L. No. 80/VIII-a-14 dated 25th November, 1949

(8) Urgent civil work may also be taken up on working days where it is felt that irreparable loss would otherwise be suffered by a party or where, under the rules or orders of the Government or the Court, cases are required to be expedited or decided within a prescribed period.

As far as possible, Divorce, Testamentary and Guardianship cases should be done on Saturdays along with other miscellaneous work.

(9) For the time an Additional Sessions Judge is posted at the station, very few sessions trials at the most, two or three a month for each Judge should be transferred to the file of Assistant Sessions Judges working under the District Judge so that they may be able to devote the greater part of their time to civil work.

Fridays may be set part for the disposal of criminal appeals, small cause court cases and old civil cases including old civil appeals by such officers, as have such cases on their file.

G.L. No. 11/67-3 dated 1st May, 1941

(10) Sessions cases should be heard from day to day until their conclusion, unless there is an unavoidable breakdown in the case. In order to prevent waste of the time of court in the event of such a breakdown appellate work may also be fixed on the same day along with sessions work. By the exercise of care in the fixing of dates, Sessions Judges should be able to prevent loss of time with the minimum of inconvenience to parties and their counsel.

C.L. No. 26/IV-28 dated 23rd March, 1949

(11) Civil Judges, Additional Civil Judges and Judges of the Courts of Small Causes in Agra and the Judges Small Cause Court, Lucknow, are ex officio Assistant Sessions Judges and, any officer who holds any of the offices mentioned above will automatically exercise the powers of an Assistant Sessions Judge within the local limits of the Sessions Division where he is for the time being posted, without the issue of a fresh notification by Government. But District Judges should, while transferring criminal work to Judges of the Courts of Small Causes, make sure that the Small Causes Court work pending on their file does not suffer by reason of the transfer of sessions work to those officers.

C.L. No. 125/IV-h-14 dated 10th December, 1932

(12) Cases under sections 302 and 396 of the Indian Penal Code and dacoity cases should be given preference over cases under section 6(1) of the Criminal Law (Amendment) Act.

C.L. No. 41 /V-g-28 dated 25th April, 1953

(13) Criminal work should, so far as possible, be done by Assistant Sessions Judges on continuous days, which may be reserved for such work in advance every month. As criminal work is received by transfer, it should be fixed for disposal on those days. Some civil cases of a

light nature including fresh Munsif's appeals may also be fixed for hearing on those days so that in case the criminal work is not found to be sufficient to keep the officer fully occupied on the days reserved for criminal work, he may not have to sit idle on those days. By adopting this method, civil work will not be dislocated.

(This does not apply to officers who have been or may be declared unfit for promotion as Additional District Judges and in the absence of any special orders no criminal work should be transferred to them for disposal).

C.L. No. 20/VII-h-13-2/53 dated 7th February, 1953

(14) Criminal appeals against decision of Assistant Sessions Judges, which lie to the Sessions Judge, should not be transferred to junior Additional District Judge but should be heard by the District and Sessions Judge himself.

C.L. No. 47 dated 21st September, 1967

Cases should be handled in a businesslike manner. Adjournments should be avoided. Special efforts ought to be made to secure attendance of witnesses on the date fixed; redundant, prolix and irrelevant cross-examination should not be permitted. Monthly statements of the progress of work with each officer should be submitted to the Court. In case an officer is unable to put in good work the Court will have to take steps to revert him as Civil Judge. A special eye should be kept on sessions cases and criminal appeals and proper guidance be given to subordinate officers.

C.L. No. 78 dated 24th December, 1965

(15) Inviting the attention to Court's general letters no. 73/VIII-a-n, dated 29th October, 1948, the Sessions Judges are directed to maintain a chart in the prescribed proforma with three columns, the first mentioning month and dates, the second mentioning number, year and sections of the I.P.C. under which the offences charged are punishable and the third for remarks e.g. whether accused is in jail, or on bail, a lunatic or absconding or the case is stayed by the High Court. The entries are to be checked by sessions clerks of the court concerned and corrected up to-date.

(iii) Disposal of urgent criminal work during absence

G.L. No. 10/VII-b-62 dated 10th March, 1949

The Sessions Judge can make arrangement with the District Magistrate only when no Additional or Assistant Sessions Judge is available in the division.

A difficulty is likely to arise when during the Sessions Judge's absence the Additional or Assistant Sessions Judge in charge of urgent criminal work, has himself to be unavoidably absent or is incapable of acting by reason of sudden illness or some such cause. To avoid such a contingency Sessions Judges may themselves direct before their departure from the judgeship that during their absence the Additional or Assistant Sessions Judge, as the case may be, shall dispose of, urgent applications, but that if such Judge is also unavoidably absent or incapable of acting the District Magistrates shall do so.

- (iv) **Furnish of statement purpose to the order of Hon'ble court in Criminal Misc. Application No.6475 of 2000 regarding Sessions trial cases pending for more than three years where charges have already been framed.**

C.L.No. 54/VIIb-18dated: Alld: December 6, 2000

With reference to the circular letter No.8/VIIb-18 dated February 9, 2000 wherein it was made implicit to ensure compliance of the directions given by Hon'ble Supreme Court in Raj Deo Sharma cases (AIR 1999 S.C.3524) **instances** have come into notice of the Hon'ble court in judicial side (criminal Misc. Application No.6475 of 2000) that the directions given by Hon'ble Supreme Court are not being observed in letter and spirit. In view of the aforesaid it is incumbent on the court of complete the hearing within time frame and equally it is obligatory on the part of prosecuting agency to produce the witnesses in time so that accused on the heinous offences may not be acquitted on non producing of the witness within the time frame. Hon'ble Court in judicial side has further directed to ascertain the position of the Sessions tribal cases pending in judgeship for more than three years where charges have already been framed.

You are, therefore, requested to furnish the following information by Fax/Special messenger by 23.12.2000.

1. Number of Sessions cases pending for trial for more than three years from the date of framing charge. The list shall indicate the date of framing of charge the date of commencement of examination of witnesses the reason for adjournment and total number of adjournments.
2. Whether section 309 Cr.P.C. is followed in letter and spirit and if not why?
3. Whether there is due service of summons in time and if not whether S.S.P. concerned is informed and if so. Whether any reply is received?
4. Whether any case has been adjourned for examination of the investigating officer and other official witnesses and whether S.S.P. concerned has been informed and if so. Whether any reply has been received from him?
5. Whether Trial Judge adjourned for examination of the investigating officer and other official witnesses and if so, what is the total number of such cases and since how long those are pending and whether any reply has been received from him?
6. Whether the circular of this court referred to above has been communicated to all the officers of the subordinate court by the District Judge concerned?

48. APPEALS UNDER SECTION 476,* CRIMINAL PROCEDURE CODE

C.L. No. 40 dated 11th April, 1958

Appeals under section 476 (new section 340) Criminal Procedure Code are heard by a Civil, Criminal or Revenue Court depending upon the court from whose order the appeal is filed. All such appeals should not be entered in the register of appeals in Form no. 13 of the General Rules (Criminal), 1957, maintained in Criminal Courts.

* Note: Now Section 340 Cr.P.C.

Appeals from orders of criminal courts under section 476, (new section 340) Criminal Procedure Code only should be shown in the register in Form no. 13 of the General Rule (Criminal), 1957.⁺ Other appeals under section 476-B (new section 341) Criminal Procedure Code should be shown in the register of Miscellaneous Appeals (Form no. 81) of General Rules (Civil), 1957+.

49. APPEALS UNDER SECTION 124-A OF THE INDIAN PENAL CODE AND SECTION 110 OF THE CODE OF CRIMINAL PROCEDURE

G.L. No. 20/18B dated 2nd May, 1932

When the offence is of such a nature that the appellant may be a source of danger to the public, as in the case of an offence under section 124-A and other seditious activities or a case under section 110 of the Code of Criminal Procedure, the appeal should be disposed of with the least possible delay even if the appellant has for some special reason been released on bail.

50. FORMS AND RULES IN GENERAL RULES (CRIMINAL)

C.L. No. 112 dated 28th August, 1975

All the courts are to follow the rules and forms prescribed in General Rules (Criminal) with such modifications as may be necessary for regulating the practice and proceedings of their courts.

51. INSPECTION OF RECORD IN CRIMINAL CASES

C.L. No. 96/VIII-42 dated 28th September, 1970

Under rule 139 of General Rules (Criminal)) 1957⁺ a separate register for making entries with respect of inspection in criminal cases only should be maintained in Form No. 6 of General Rules (Civil), 1957.

52. COMPLIANCE OF HIGH COURT'S JUDICIAL ORDERS

G.L. No.2/VIII-b-6-30 dated 5th May 1943 read with

C.L. No. 45/VIII-a dated 4th May, 1953

A certificate that the judicial order of the High Court exercising criminal jurisdiction has been complied with and necessary action taken must be sent by lower criminal courts invariably to the High Court in every case.

C.L. No. 41/VIII-a-30 dated 28th May, 1965

In addition to the certificate mentioned above a quarterly statement, showing compliance and reasons for non-compliance of the Court's orders should be sent to the Court by the end of the month following the quarter in question. Further, as soon as in compliance with the order to surrender to bail, the accused has surrendered or is arrested, the fact should be communicated by the Sessions Judge the District Magistrate or vice versa before whom the convict has surrendered or has been produced after arrest.

C.L. No. 88/Admn.(B) dated 1st June, 1974

⁺ Note: Now 1977 vide Notification No. 504/Vb-12 dated 5.11.1983

⁺ Note: Now 1977 vide Notification No. 504/Vb-12 dated 5.11.1983

Chief Judicial Magistrates must make prompt compliance of all judicial orders issued by the Court.

C.L. No. 165/VIII-h-37 dated 17th November, 1977

The District judges should see that notices or warrants in habeas corpus petitions sent to them for service are given top priority for expeditious service and to ensure that the compliance reports are sent to the Court within time, by registered post A.D.

C.L. No. 32 dated 22nd May, 1981

All the District Judges and Chief Judicial Magistrates are directed to see that the orders of the Court are properly complied with, with all promptness and reports regarding compliance of Court's orders are sent immediately to the Court after the orders have been served and complied with.

C.L No. 19/VIIIb-119Admn.(G) dated 11th April, 1989

Whenever a reference is made to the Chief Judicial Magistrate of the district concerned regarding an inquiry and report about demise of an appellant in a case pending in the Court, the Chief Judicial Magistrate generally forwards to this Court the statement of the police pairokar and statements of one or two witnesses of that area, without applying his mind. This practice is not satisfactory.

Henceforth in such matters the Chief Judicial Magistrate should ensure that the police submit a correct report regarding the death of the appellant and after getting himself satisfied with the report so submitted by the police, he should forward the same to the Court.

53. COMPLIANCE OF ORDERS OF SUPREME COURT AND HIGH COURT

- (i) **Copy of Court's order dated 25.11.1993 passed in Criminal Misc. Case No.669 of 1993 Surya Prakash Dubey and another v. C.J.M. & others.**

C.L. No. 80/Admn.(A) dated December 15, 1993

I am directed to send herewith a copy of Court's order dated 25.11.1993 passed to Criminal Misc. Case No.669 of 1993 *Surya Prakash Dubey and another v. Chief Judicial Magistrate and others* for compliance.

I am also to request you kindly to emphasize upon the Chief Judicial Magistrate, working under you to comply with the aforesaid orders of the Court strictly, in future.

Hon'ble R.K. Agarwal, J

Compliance report from the C.J.M. Pratapgarh has not been received regarding service on opp. party no.4. Notice was sent by the office to the C.J.M. Pratapgarh on 27.10.93 with a direction that the notices be returned to this Court by 11.11.93. It is a matter of regret that C.J.M. Pratapgarh has not taken any care to see that the compliance of the Court's order is made. The Court has noticed that C.J.Ms. do not pay proper attention for complying with the Court's order and the cases are to be adjourned on account of non-compliance of the Court's orders. This state of affair is highly deplorable. District Judge concerned also cannot ignore this state of affair and should during regular inspection as well as surprise inspection must see that the court's orders are, as this lapse also would affect their efficiency regarding administrative control, duly complied with by the C.J.Ms. concerned. Addl. Registrar is directed to send a copy of this order

to all the District Judges and C.J.Ms. and also to the Government advocate. List in the week beginning from 20th December, 1993.

C.L. No. 27/dated July 7, 1995

It has come to the notice that the orders passed by the Hon'ble Court in criminal cases are not often complied and in most of the cases compliance reports are not submitted to the Court properly and promptly despite C.L.No. 88/Admn. (B), dated June 1, 1974 and C.L. No.32, dated 22.5.1984. The Hon'ble Court has taken a serious view of the matter.

I am, therefore, to request you to kindly look into the matter personally and direct the Chief Judicial Magistrates to enter all process and orders issued by the Hon'ble Court in the process register maintained in their offices and it shall be their personal responsibility to ensure that due compliance is made and timely information is sent to this Court.

(ii) Compliance of the Judicial Orders of the High Court and Hon'ble Supreme Court in Criminal Cases

C.L. No.10 dated March 1, 1996

It has been brought to the notice of the Hon'ble Court that subordinate Courts who have passed a sentence of convictions are not often issuing the conviction warrants when the criminal appeal or criminal revisions preferred against their orders are dismissed. Attention of all the Officers is drawn to provision contained in Section 418 Cr. P.C., Rules 24 & 97 of General Rules (Criminal) and C.L. No. 88/Admn. (B), dated 1.6.1974.

Kindly impress upon all the officers working under you that compliance of the orders of superior Courts in such matters shall be their personal responsibility. The Court shall take a serious view in case of default reported to the Court.

Compliance of the direction of the Hon'ble Supreme Court issued in WP (Civil) No. 1128 of 1986 – Common Cause, A Registered Society v. Union of India & Others. (Published in J.T. 1996 (4) SC 701)

C.L.No.31/VIIIb-287 Admin 'G' Section Dated June 12, 1996

While enclosing a copy of order passed in the aforesaid Writ Petition, I am directed to intimate you that the directions contained in the above mentioned order of the Hon'ble Supreme Court, be strictly complied with.

I am, therefore, to request you that the directions of the Hon'ble Supreme Court be communicated to all the Criminal courts in the Judgeship for strict compliance and such compliance report be submitted to the court within three months from the date of receipt of this communication.

(iii) Compliance of the direction of the Hon'ble Supreme Court passed in criminal appeal no.82 of 1995 – Bani Singh and others v. State of U.P.

C.L.No.65/ Admin: (G) Dated 02 Dec., 1996.

While enclosing a copy of the judgment dated 9.7.1996 passed in the aforesaid criminal Appeal reported in Judgment Today (1996 (6) S.C.287. I am directed to communicate you and all the officers posted in the judgeship that directions given in the judgment of Hon'ble Supreme Court be complied with so that the administration of Criminal Justice may be toned up.

I am, therefore to direct you that the direction of the Hon'ble Supreme Court be brought to the knowledge of the officers posted in the Judgeship for strict compliance.

(See for Judgment AIR SC 2429)

(iv) Compliance of the direction of the Supreme Court issued in writ petition (Civil) No. 1128 of 1986 – Common Cuse v. Union of India and others-J.T. 1996(4) S.C. 701

C.L.No. 11/VIIIb-287/Admin (G)/Dated: Alld: March 17, 1997

In continuation of the court's C.L.No.31/VIIIb-287 Dated 12.6.1996 and C.L.No.43/VIIIb-287 dated 6.8.1996, I am directed to intimate you that the directions made in the abovementioned orders of the Supreme Court has been modified by the Hon'ble Supreme Court vide order dated 28.11.1996, the copy of the modified order is enclosed herewith for strict compliance.

I am, therefore, to request you that the directions contained in the modified order be communicated to all the criminal courts of your judgeship, for strict compliance.

(See for Judgment 1996 6 S.C. C. 775)

(v) Compliance of the direction of Hon'ble Supreme Court contained in Judgment rendered in Criminal Appeal No.1045/98, Raj Deo Sharma Vs. the state of Bihar.

C.L.No.61/dated; Allahabad: 17th November, 1998

The Hon'ble Supreme Court while deciding the aforesaid Criminal Appeal has issued direction to be followed by the Criminal Courts particularly sessions courts and special courts of India.

By enclosing the copy of the judgment, I am directed to communicate you that the directions contained in the said judgment be brought to the notice of all the criminal courts for strict compliance.

(See for Judgment: 1999 (39) A.C.Cr. 665)

(vi) Citing of the ruling of Hon'ble Supreme Court and High Court.

C.L.No.18/Dated: Allahabad: 19/8/1999.

It has come to the notice of the court that the decisions/rulings cited at the bar in the cases before the subordinate to courts are not referred in the Judgments/orders given by the Judicial officers, subordinate to the High Court. The court has taken a serious stock of this situation. Under Rule 6 of General Rules (Civil), it is obligatory on the part of the Judicial Officers to follow the ruling of the High Court and of Apex Court. This alone is not sufficient for them to extract a sentence here and there from the Judgment referred at Bar and to build upon it. Enunciation of the reasons or the principal on which a question before the court is to be decided, must also bear the reference of the cases cited for and against by the parties on the subject and should not only refer facts but also refer the law cited on the point in issue from the side of the Bar.

I am, therefore directed to communicate you that the Laws laid down by the High Court and the Apex Court and referred by the Advocates should be followed and their reference should be made in the judgments.

This fact may be brought to the notice of all the Judicial Officers subordinate to High Court for strict compliance.

(vii) Compliance of the directions of Hon'ble Supreme Court contained in judgment-Criminal Miscellaneous petition no.2326/99 in criminal appeal No.1045/98 Raj Deo Sharma vs. state of Bihar.

C.L.No.8/VIIb-18: Dated: Allahabad: February 7, 2000.

The Hon'ble Supreme Court while deciding the aforesaid criminal miscellaneous petition No.2326/99 in criminal Appeal No.1045/98- Raj Deo Sharma vs. State of Bihar has issued certain directions to be followed by the trial Judges. The Hon'ble Supreme court has also desired to circulate the judgment to all the trial Judges so that may comply with the provisions of Section 309 of the code in the letter and spirit.

I am, therefore, directed to send herewith a copy of the judgment, aforesaid and to request you kindly to circulate the same to all the trial judges for strict compliance of the directions as contained therein.

C.L.No.25: VIIIg-38: Dated 16 June, 2000

Hon'ble supreme Court of India on May 1, 1986 in Writ Petition No 1128/86 (Common Cause vs. Union of India and others) gave the following directions for the release of under trial languishing in jail.

1. Where the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with imprisonment not exceeding three years with or without fine and if trial for such offences are pending for one year or more and the accused concerned have not been released on bail but are in jail for a period of six months or more. The criminal court concerned shall release the accused on bail or on personal bond to be executed by the accused and subject to such condition if any as may be found necessary. In the light of section 437 of the Criminal Procedure Code. (Cr.P.C.).

2. Where the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with imprisonment not offences are pending for two years or exceeding five years with or without fine and if the trial for such more and the accused concerned have not been released on bail but are in jail for a period of six months or more the criminal court concerned shall release the accused upon bail or on personal bond to be executed by the accused and subject to the imposing of suitable conditions if any in the light of section 437 (CrP.C.).

3. When the offences under IPC or any other law for the time being in force for which the accused are charged before any criminal court are punishable with seven years or less with or without fine and if the trials for such offences are pending for two years or more and the accused concerned have not been released on bail but are in jail for a period of six months or more the criminal court concerned shall release the accused on bail or on personal bond to be executed by the accused and subject to the imposing of suitable conditions if any in the light of section 437 (CrP.C.).

It has been viewed seriously by the Hon'ble Court that above directions are not followed by the courts and without verifying whether any accused falls under the aforesaid category, routinely extending the period of remand. Further it has also been noticed that these matters are

also not taken up in the monitoring cell committee constituted vide the Government Letter No.3986/7-Nyay-2-64G/94 dated 26.11.1994. In order to ensure the directions of the Hon'ble Supreme Court following instructions are issued for immediate implementation:-

1. All Courts whether Judicial Magistrates of first Class or Special courts, before extending the period of remand of any prisoner, should ascertain the period of remand already undergone by the prisoner and examine whether he is entitled to be released on bail as per the directions, not able to furnish surety/security they may be released on personal bonds to ensure their attendance on the dates of hearing.
2. In the Monitoring Cell Meeting review of the cases of all prisoners who are in judicial custody for the period of 6 months or more shall also be considered.
3. As and when a cases falling under any of the three categories as at (a) to (c) above mentioned by the Supreme Court is noticed, the concerned court should suo moto, "release the accused on bail or on personal bond to be executed by the accused and subject to such conditions, if any, as may be found necessary in the light of section 437 of the Code of Criminal Procedure"

I am, therefore desired to request you to direct all criminal courts to ensure strict compliance of the directions of the Hon'ble Supreme Court.

(viii) Compliance of the directions of Hon'ble Supreme Court contained in the order dated 30.8.99 in the applications of Criminal Misc. Petition Nos. 6715/97,5969/98 and 4744/99 in Writ Petition (criminal) No.1171 of 1982 –Laxmi Kant Pandey Vs. Union of India and others.

C.L.No.29/ VIIIf –45: Dated; July 06, 2000

In continuation to the Court's Notification No.314/VII-45, dated October 30, 1991, I am directed to send herewith a copy of letter no. 3545/89/x, dated September 28, 1991 of the Hon'ble Supreme Court of India, New Delhi along with the order dated 30.8.1999 passed by the said Court in the applications of Criminal Misc. Petition Nos. 6715/97, 5969/98 and 4744/99 in Writ Petition (criminal) No.1171 of 1982-Laxmi Kant Pandey vs. Union of India and others which has already been disposed off by the Hon'ble Supreme Court vide its judgment dated 6th Feb. 1984 reported in AIR SC 469 and to say that it may be read along with the instructions contained in the aforesaid Court's Notification No.314/ VII-45 dated October 30,1991.

I am, therefore, to request you kindly to ensure that the directions of Hon'ble Supreme Court contained in its order dated 30-8-1999 be strictly complied with by all concerned.

(See for Judgment 2001 (9) SCC 379)

(ix) Circulation of copy of judgment dated 28.8.2000 delivered in Criminal Capital Sentence Reference No. 3 of 2000 connected with Criminal Appeal Nos. 112, 132, 133, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151 and 152 of 2000.

C.L. No. 14/2001 Dated: 23rd March, 2001

I am to directed to send herewith a copy of judgment dated 28.8.2000 passed by Hon'ble D.K. Trivedi, J. and Hon'ble Kamal Kishor J. High Court, Lucknow Bench, Lucknow in Criminal Capital Sentence Reference No. 3 of 2000 state vs. Ram Sewak and others connected

with Criminal Appeal No. 112 of 2000, Criminal Appeal No. 132 of 2000, Criminal Appeal No. 133 of 2000, Criminal Appeal No. 142 of 2000, Criminal Appeal No. 143 of 2000, Criminal Appeal No. 144 of 2000, Criminal Appeal No. 145 of 2000, Criminal Appeal No. 146 of 2000, Criminal Appeal No. 147 of 2000, Criminal Appeal No. 148 of 2000, Criminal Appeal No. 149 of 2000, Criminal Appeal No. 150 of 2000, Criminal Appeal No. 151 of 2000 and Criminal Appeal No. 152 of 2000 for information and necessary action.

C.L. No. 23/D.R. (J) Dated: 23 April, 2001

In criminal contempt case No. 16 of 1999 and 19 of 1999 in Re: Swami Nath Yadav, advocate and four others Hon'ble Court held Sri Swami Nath Yadav, Prabodh Kumar Yadav, Sorakh Yadava, Sheo Dutta Yaddav and Raj Kumar Yadava to be guilty for contempt of court and they were sentenced of one month's simple imprisonment and also fine of Rs. 2000/- against them. Against said judgment Criminal Appeals No., 70-71 of 2001 was preferred before Hon'ble Supreme Court. Hon'ble Supreme Court in Criminal Misc. Petition No. 349-350 of 2001 entitled Prabodh Yadav and Sorakh Yadav Vs. State of U.P. has been pleased to suspend sentence awarded to the alleged contemner. However, they have been debarred from practice in any court till the disposal of these appeals. Hon'ble Supreme Court has passed following orders:-

“The imprisonment sentence passed on the appellants will remain suspended on the following conditions:

1. Appellants shall not practice in any court till the disposal of this appeal and
2. They shall execute a bond for a sum of Rs. 5000/- with two solvent sureties to the satisfaction of the C. J. M. Azamgarh”.

I am therefore desired to inform you that Sri Prabodh Kumar Yadav and Sorakh Yadav have been debarred from doing practice in any court.

You are therefore requested to bring the order of Hon'ble Supreme Court in the notice of all concerned for compliance.

(x) Compliances of the directions of Hon'ble the Supreme Court rendered in criminal Appeal No. 392 of 2001- State of U.P. vs. Shambhu Nath Singh and others.

C.L. No. 17/2001 Dated: 4 May, 2001

While enclosing herewith the copy of the judgment of Hon'ble the Supreme Court of India passed in criminal Appeal No. 392 of 2001, State of U.P. vs. Shambhu Nath Singh and others, I am directed to invite your attention to the legal position and to ask you to ensure that witnesses in criminal cases summoned for the day should not be returned back without their examination.

I am, therefore, to request you kindly to ensure that the directions of the Hon'ble Supreme Court contained in the aforesaid Criminal Appeal be strictly complied with by all concerned.

(See for Judgment 2001 A.L.J.835)

(xi) To comply with the observation made by the Hon'ble High Court in Criminal Misc. Application No. 1520 of 2001. Dinesh Kumar and others vs. State of U.P. & others with regard to entertaining surrender applications.

C.L. No. 18/2001, Dated: 15th May, 2001

While deciding Criminal Misc. Application No. 1520 of 2001, Dinesh Kumar & Others Vs. State of U.P. & others Hon'ble High Court has observed that the magistrates have adopted a peculiar procedure for entertaining surrender applications and thereafter in such cases the court concerned calls for the report as to whether the person making such an application is required in the case or not. The Hon'ble Court has further observed that there is only one provision in the code, which permits appearance/surrender of the accused, or one who is suspected in an offence for seeking bail under section 437 of the Code of Criminal Procedure.

I am therefore, desired to send herewith a copy of order dated 15.3.20001 passed by the Hon'ble Court in the aforesaid Criminal Misc. Application for your information, necessary action and strict compliance of the observations made by the Hon'ble Court.

(xii) Reproducing the injuries in the Judgment from the injury reports of the injured person.

C.L. No. 13/Vib-47 Dated: 3rd March, 2002

It has come to the notice of the Court that. Sessions Judges, Additional Sessions Judges and Magistrates do not specifically mention in their judgments the injuries found by the doctors on the person of the injured. On this account the Court experiences difficulty in passing orders on the bail applications filed in appeals. The injury reports in some cases are not readable because of being written in bad handwriting.

I am, therefore, directed to request to you to impress upon all the Presiding Officers of the Criminal Courts, under you to invariably reproduce in their Judgments the injuries from the injury reports of the injured persons.

(xiii) Circulation of order dated 26.03.2001 of the Hon'ble Court passed in Criminal Misc. Application No. 1661 of 2001

C.L. No. 23/ Dated: 23rd July, 2002

Hon'ble Court (Hon'ble Mr. Justice R.K. Dash) while disposing of the Criminal Misc. Application No. 1661 of 2001 has observed with concern that the procedure as prescribed in Code of Criminal Procedure is being overlooked by the police and the Magistrate both.

I am, therefore, directed to send her with a copy of order passed in criminal Misc. Application No. 1661 of 2001- Ashok Yadav & others vs. State of U.P. & another and to request you to circulate the same to all the Judicial Officers in your Judgeship for their guidance and strict compliance of the procedure as prescribed in Code of Criminal Procedure.

(See for Judgment 2001(2) A Cr. R 1202)

(xiv) To ensure compliance of the orders of Hon'ble Supreme Court passed in Transfer Petition (c) Nos.417-423 of 2002. Union of India & ors. Vs. Radhika Backliwal & ors.

C.L. No. 33/ Dated: 27th September, 2002

The Hon'ble Supreme Court in Transfer petition (C) Nos.417-423 of 2002. Union of India & ors. Vs. Radhika Backliwal & ors. has been pleased to stay the proceedings in Writ Petitions filed and pending in respect of retail dealers/ gas agencies /SAO/LDO dealership in

various High Courts/ Proceedings before Subordinate Courts relating to cancellation dated 9th August, 2002. The Hon'ble Supreme Court has also directed that the contents of the order be informed to the subordinate courts.

I am, therefore, to send herewith a copy of order passed by Hon'ble Supreme Courts in Transfer Petition (C) Nos.417-423 of 2002. Union of India & ors. Vs. Radhika Backliwal & ors. for information and to request you to kindly ensure strict compliance of the orders, aforesaid.

(See For Judgment 2003 (2) SCC 316)

(xv) Circulation of the copy of Judgment and order passed by Hon'ble the Supreme Court in Criminal Appeal No. 863 of 2002. Delhi Administration (Now N.C.T. of Delhi) vs. Manohar Lal.

C.L. No. 38/ Dated: 22nd November, 2002

I am directed to send herewith a copy of the Judgment and order of Hon'ble the Supreme Court passed in Criminal Appeal No. 863 of 2002. Delhi Administration (Now N.C.T. of Delhi) Vs. Manohar Lal and to request you to kindly bring the contents of the Judgment and order, aforesaid, to the notice of all the Judicial Officers in your judgeship for their information and compliance.

(For Judgment, see 2002 SCC (Cri.)1670)

(xvi) To ensure strict compliance of the orders of Hon'ble the Supreme Court passed in Special Leave Petition (Crl.) No. 2745 of 2002. Sunderbhai Ambalal Desai Vs. State of Gujarat.

C.L. No. 39/2002 Dated: 26th November, 2002

I am directed to send herewith a copy of orders dated 1st October, 2002 passed by Hon'ble the Supreme Court in Special Leave Petition (Cri.) No. 2745 of 2002. Sunderbhai Ambalal Desai Vs. State of Gujarat and to request you kindly to bring the contents of the order of Hon'ble the Supreme Court to the notice of all the officers concerned in your judgeship and to ensure strict compliance of the directions as contained in the aforesaid orders of the Apex court.

(See for Judgment A.I.R. 2003 S.C. 638)

(xvii) Reproducing the details of the medical examination including post-mortem examination in the Judgment.

C.L. No. 4/2003 Dated: 20th February, 2003

During the proceedings in Government Appeal No. 406 of 2000, State Vs. Bal Kishan & others, the Hon'ble court (Hon'ble Mr. Justice S.K. Agarwal and Hon'ble Justice R.S. Tripathi) has observed with concern that the post-mortem examination reports are not detailed properly and also the reports, are either not given or derailed in a most cursory manner. The Hon'ble court has deprecated this practice.

In this regard, I am directed to say that the trial courts especially Additional District Judges, who are holding trials for heinous offences, be advised to detail the medical examinations including post-mortem examination reports properly and at least injuries should be detailed in the judgments so that the Hon'ble court may appreciate their observations especially

on the medical conflicts. In this regard, a court C.L. No. 13, dated March 3, 1982 has already been issued earlier (copy enclosed).

I am, therefore, to request you kindly to ensure strict compliance of the directions as above and also the directions issued earlier though the Court's C.L. No. 13, dated March 3, 1982 and in future non-compliance of the directions of the court shall be viewed seriously by the Court.

These directions may kindly be brought to the notice of all concerned for future guidance and strict compliance.

(Xvii-a) To mention the age of convicted persons in the conviction warrants by the Trial Courts

C.L. No. 6/Admin. 'G-II' Dated 11.02.2010

The Hon'ble High Court has been pleased to direct that the age of convicted persons must be recorded in the conviction warrants, sent to jail.

I am, therefore, to request you to kindly bring the contents of this Circular Letter to the notice of all concerned working under your administrative control for strict compliance.

(xviii) Submission of death Report by the Chief Judicial Magistrate in the cases pending in the Court.

C.L. No. 7/ VIIIb-119 Dated: 27th September, 2002

In continuation of the Court's earlier circular letter no 19/VIIIb-119/Admin "G" dated April 11, 1989. I am directed to say that the Hon'ble Court, the Division Bench presided over by Hon'ble Mr. Justice S.K. Agarwal has been pleased to direct that Death Report submitted by Chief Judicial Magistrate received from any Police Station be forwarded to this Court after holding an enquiry i.e. after recording evidence oral as after well as documentary, if any, by the Chief Judicial Magistrate.

The Court has further directed that for holding enquiry the statement of concerned constable, Gram Pradhan and two member of the family may be recorded. Medical Report relating to death and the report of Police Station be forwarded to the Court with a letter that the enquiry is being held in the matter and after conclusion of the enquiry, report relating to enquiry be submitted before the Court by the Chief Judicial Magistrate.

I am also to add kindly to bring the contents of the circular letter to the notice of the Chief Judicial Magistrate working under your administrative control for strict compliance.

C.L. No. 30/2006: Dated: 7.8. 2006

I am directed to say that in Sheela Barse Vs. Union of India reported in (1993) 4 Supreme Court Cases 204, Hon'ble Supreme Court issuing directions extracted as below has held that no person should be held in jail merely on the ground of mental illness:-

- a) It is directed that the function of getting mentally ill persons examined and sent to places of safe custody hitherto performed by Executive Magistrate shall hereafter be performed only by Judicial Magistrate.
- b) The Judicial Magistrate, will, upon a mentally ill person being produced, have him or her examined by a Mental Health professional/Psychiatrist and if advised by such

MHP/Psychiatrist sends the mentally ill person to the nearest place of treatment and care.

- c) The Judicial Magistrate will send reports every quarter to the High Court setting out the number of cases of persons sought to be screened and sent to places of safe custody and action taken by the Judicial Magistrate thereon.

I am, therefore, directed to communicate to you the aforesaid directions of Hon'ble Apex Court with the request to kindly bring the contents of the circular letter to the notice of all the Judicial Magistrate(s) in the Judgeship under your administrative control for information and strict compliance.

- (xix) To ensure strict compliance of the Court's directions passed in first Appeal from Order No. 1010 of 2003. The Oriental Insurance Company Ltd. vs. Smt. Nargis and others.**

C.L. No. 8/2004 Dated: 29th March, 2004

In First Appeal from Order No. 1010 of 2003. The Oriental Insurance company Ltd. vs. Smt. Nargis and others, the Hon'ble Court (Hon'ble M.Katju, J. and Hon'ble R.S Tripathi, J.) has expressed its concern that provision as contained in Section 170 of the U.P. Motor Vehicles Act, 1988 and directions passed by the Hon'ble Supreme Court in United India Insurance Co. Ltd. vs. Jyotsanaben Sudhirbhai Patel and others –Jt 2003 (6) SC 547 are not being complied with strictly by the tribunal in passing order. As such, the Hon'ble Court has been pleased to issue a general direction to all the Motor Accident Claims Tribunals in the State of U.P. that in future they must record reasons in writing before allowing any application U/S 170 of the Act since it is a statutory requirement of section 170 and failure to do so may invite disciplinary action against the Judge of the Tribunal by this Court under its general supervisory powers.

In this regard, I am directed to send herewith a copy of the order dated 12.2.2004 passed by the Hon'ble Court in First Appeal from order No. 1010 of 2003, referred to above, and to request you to kindly communicate the same to all the Motor Accident Claims Tribunal in your district for their information and strict compliance of the directions as contained in the aforesaid order of the Hon'ble Court.

(See for Judgment 2004 A.L.J. 2124)

- (xx) Circulation of Judgment dated 21.11.2003 of the Hon'ble Court passed in Criminal Misc. Petition No. 6417 of 2002. Govind and others vs. State of U.P. and others.**

C.L. No. 13/2004 Dated: 31st March, 2004

I am directed to send herewith a copy of the Judgment delivered by the Hon'ble Court (Hon'ble R.K.dash, J. and Hon'ble K.K. Mishra, J.) on Criminal Misc. Petition No. 6417 of 2002. Govind and Others v. State of U.P. and others and to request you to kindly circulate the same to all the Judicial Officers in your Judgeship for their guidance and strict compliance as desired by the Hon'ble Court.

- (xxi) Court's concern for noncompliance of the directions for quoting medical examination report as well as post mortem examination report in trial courts judgment.**

C.L. No. 33/ Dated: 28th April, 4.2004

Time and again inconvenience is being caused to the Hon'ble Court during proceedings of Government Appeals to the effect that the trial courts are still not quoting medical examination report as well as post mortem examination report in the judgments despite there is clear direction in the Court's Circular Letter No. 13/VIb-47, dated 23.3.1982 and No. 4/2003, dated 20.2.2003 on subject.

Recently, while hearing Government Appeal No. 2367 of 2002- State vs. Ramesh Kumar and Others inconvenience has again been caused to the Hon'ble Court (Hon'ble S.K. Agarwal, J. and Hon'ble R.C. Panday.J.) that the post mortem examination report has not been quoted anywhere in the judgment of the trial court nor there was any proper discussion of the medical evidence. The Hon'ble Court has expressed its deep concern over this unhealthy practice of the trial courts, which is causing undue difficulties in passing orders on bail applications and deciding Govt. Appeals even for admission also.

In this regard, I am directed to say that the judgment of acquittal or conviction, the trial court should and must quote the medical examination report as well as post mortem examination report and omission to make mention of these facts shall be taken serious notice.

I am, therefore, to request you to kindly ensure strict compliance of the directions being issued once again in this respect to prevent unhappiness of the Hon'ble Court.

Kindly bring the contents of the circular letter to the notice of all the Judicial Officers in your Judgeship for strict compliance of the directions, aforesaid.

(xxii) Strict compliance of the directions given by the Hon'ble Court in Cri. Misc. Application No.2154 of 1995 Smt. Amarawati and another Vs. State of U.P.

C.L. No. 44/2004 Dated: 16th October, 2004

I am directed to say that the Full Bench comprising seven Hon'ble Judges of the Court in Cri. Misc. Application No. 2154 of 1995-Smt. Amrawati and another Vs. State of U.P. has considered to following questions:-

1. Whether the arrest of an accused is a must if cognizable offence is disclosed in the F.I.R. or in a criminal complaint.
2. Whether the High Court can direct the subordinate Courts to decide the Bail Application on the same day it is filed; and
3. Whether the case Dr. Vinod Narain vs. State of U.P. Writ Petition No. 3643 of 1992 reported in 1995 (32) A.C.C. 375 has been correctly decided by the five Judge Full Bench of this Court.

Upon consideration of the above questions, the Full Bench has ordered as under:-

1. Even if cognizable offence is disclosed in the F.I.R. or complaint the arrest of the accused is not a must, rather the police officer should be guided by the decision of the Supreme Court in Joginder Kumar Vs. State of U.P., 1994 Cri. L.J. 1981 before deciding whether to make an arrest or not.
2. The High Court should ordinarily not direct any subordinate Court to decide the bail application the same day, as that would be interfering with the judicial discretion of

the Court hearing the bail application. However, as stated above, when the bail application is under Section 437 Cr.P.C. ordinarily the Magistrate should himself decide the bail application the same day, and if he decides in a rare and exceptional case not to decide it on the same day he must record his reasons in writing. As regards the application under Section 439 Cr.P.C., it is in the discretion of the learned Sessions Judge considering the facts and circumstances whether to decide the bail application the same day or not, and it is also in his discretion to grant interim bail the same day subject to the final decision on the bail application later.

3. The decision in Dr. Vinod Narain Vs. State (Supra) is incorrect and is substituted accordingly by this judgment.

I am, therefore, directed to send herewith a copy of the judgment and order dated 15.10.2004 passed by the Full Bench of the Court in Cri. Misc Application No. 2154 of 1995, aforesaid for your information and strict compliance of the directions as contained therein. The directions of the Court may kindly be brought to the notice of all the Judicial Officers in the Judgeship for their guidance.

(See for Judgment 2004 (4) E.S.C.2321)

Compliance of the direction passed by the Hon'ble Court in Criminal Misc. Application No. 3129 of 2008-Annapurna Devi Vs. State of U.P. & Others.

C.L.No. 8/2009 Admin.G-II Dated: 07.04.2009

While passing Judgment and order in Criminal Misc. Application No. 3129 of 2008 – Annapurna Devi vs. State of U.P. & Others, the Hon'ble Court has observed that:

“It is also made clear that when such orders for registering or investigating a case under Section 156(3) Cr.P.C. are passed, the Magistrates concerned should generally fix a time frame preferably within one or two weeks by which time, the FIR should be registered. It is regrettable that a tendency is growing among many police officers not to file FIRs expeditiously and to keep the matters hanging for long periods of time before registering the FIR in pursuance of the Magistrate's order for investigation in a case. On some occasions the accused are even successful in obtaining orders staying arrests in proceedings under section 482 Cr.P.C. on the basis that FIRs have not yet been registered, whereupon the matter could only be questioned by a Division Bench Writ Court.”

I am, therefore, directed to send herewith a copy of Judgment and order dated 5.3.2008 passed by the Hon'ble Court in the above mentioned case with the request to kindly circulate a copy of this circular letter to all the Judicial Officers in the judgeship under your supervision and control for their information and guidance.

(xxiii) Strict compliance of the direction as contained in the Judgment and Order passed by the Hon'ble Court in Habeas Corpus Petition No. 35964 of 2003.

C.L. No. 5/2005 Dated: 5th February, 2005

While deciding the Habeas Corpus Petition No. 35964 of 2003 in re- Lakshmi Narain Vs. State of U.P. & others the Hon'ble Court (Hon'ble Mr. Justice S.K. Agarwal & Hon'ble Mr. Justice R.C. Panday) has noticed with concern that despite directions of the Court for arrest of the of the accused Lakshmi Narain alias Lallu to serve out the sentence. He continued to enjoy

the liberty as if he was never convicted. It cannot be said that the office of the lower Court was not in collusion as without their collusion this accused Lakshmi Narain alias Lallu would not have remained out of jail after dismissal of his appeal from this Court for such a long period of 18 years. Possibility of many more persons in the State who might be enjoying freedom like Sri Lakshmi Narain alias Lallu. Even after their conviction without being lodged in jail due to connivance of the staff of the District Judgeships concerned and the local police may not be ruled out.

Therefore, I am directed to send herewith a copy of Court's order referred to hereinabove and request you to kindly direct and require the Chief Judicial Magistrate of the judgeship under your administrative control to submit a report as soon a copy of the judgment of conviction or a copy of the order-sheet of this court is received by him from this Court in compliance specifically indicating therein whether the accused has been arrested and remanded to jail or not in pursuance thereto.

(See for Judgement 2005(51) ACC 55)

(xxiv) Submission of Death Report by the Chief Judicial Magistrate in the cases pending in the Court.

C.L. No. 15/2005: VIIIb-119: Dated: 19th April, 2005

In criminal appeal No. 2408 of 1981- Ram Chand vs. State, the Hon'ble Court (Hon'ble Imtiyaz Murtaza ,J and Hon'ble M. Caudhary, J.) has observed and ordered as under:-

“It has come to over notice that whenever it is reported that any of the accused appellant or revisionist has died and report regarding verification of the death is called for from the CJM concerned the reports submitted in most of the cases are vague and enigmatic based on the reports of head constable and that too not within the time specified by the Court. It is not proper.

Henceforth Sessions Judges should ensure and emphasize upon the Chief Judicial Magistrates that in case an accused appellant whose death is required to be verified is either murdered or killed in police encounter the report of the police officer not below the rank of sub-inspector along with particulars of the crime countersigned by the station officer should be submitted and Chief Judicial Magistrate concerned should record the statement of the Sub-Inspector concerned on oath who shall prove the GD entry regarding registration of the crime and get its true copy proved and filed.

In other cases CJM concerned should ensure that fact regarding death of any accused appellant should be enquired by any police officer not below the rank of sub-inspector posted at the police station concerned who himself shall enquire into the matter carefully and promptly and submit his report under his signature countersigned by the station officer concerned. After receiving the police, report in the court CJM concerned shall record statement of the sub-inspector on oath who enquired into the matter in addition to the statements of any of the witnesses having personal knowledge of the matter. And then CJM concerned after his subjective satisfaction shall submit his report along with the statements of witnesses recorded by him and the report submitted by the police along with the papers concerned to this court within the time specified.”

Therefore, in continuation of Court's earlier C.L. No. 19/VIII-b-119/Admin. “G”, dated April 11, 1989 and C.L. No. 7/ VIII-b199, dated March 29, 2003 I am directed to send herewith a copy of the order dated 2.12.2004 passed by the Hon'ble Court in criminal Appeal No. 2408 of

1981, aforesaid, for your information and compliance with the request to kindly bring the contents of the Court's circular letters, referred to above, as well as the order dated 2.12.2004 to the notice of the Chief Judicial Magistrate in your Judgeship for strict compliance of the directions issued by the Court in this regard.

(xxv) Circulation of copy of the Judgment and order passed by the Hon'ble Court in first Appeal From Order No. 246 of 1998- Dr. Prem Pal Singh and another vs. Shri Pokar Ram and another.

C.L. No. 16 /2005 Dated 19th April, 2005

I am directed to send herewith a copy of Judgment and Order dated 08.12.2004 passed by Hon'ble Court (Hon'ble Mr. Justice A.K. Yog and Hon'ble Mr. Justice R.B. Misra) in first Appeal from Order No. 246 of 1998- Dr. Prem Pal Singh and another Vs. Shri Pokar Ram and another for information and strict compliance.

I am further to add that the directions given by the Hon'ble Court in the aforementioned Judgment and Order may kindly be communicated to all those who are exercising jurisdiction of the Motor Accident Claims Tribunal in the Judgeship under your administrative control for their information and compliance faithfully and punctually.

(See Judgment 2005(1) A.W.C. 818)

(xxvi) Circulation of copy of the Judgment and order passed by the Hon'ble court in First Appeal No. 271 of 2005- Moti Lal vs. Bhagwan Das.

C.L. No. 24 /2005 Dated 8th August, 2005

I am directed to send herewith a copy of Judgment and Order dated 4.3.2005 passed by Hon'ble Court (Hon'ble Sushil Harkauli, J. and Hon'ble G.P. Srivastava, J.) in First Appeal no. 271 of 2005- Moti Lal vs. Bhagwan Das for information and strict compliance.

I am further to add that the directions given by the Hon'ble Court in aforesaid Judgment and Order may Kindly be brought to the notice of all the Judicial Officers in the Judgeship under your administrative control for their information and guidance faithfully and punctually.

(See for Judgment 2005 (60) ALR7)

C.L. No. 50/2006: Dated 15th November, 2006

In Criminal Misc. Writ Petition No.12873 of 2005 – Ramesh and another v. State of U.P. & others, the Hon'ble High Court has observed that the staff of the subordinate court do not communicate the orders passed by Hon'ble Court in time and as such this type of careless activity malign the image of judiciary, if not properly followed in true perspective.

While enclosing herewith a copy of the order dated 15.09.2006 passed in Criminal Misc. Writ Petition No. 12873 of 2005 – Ramesh and another v. State of U.P. and others aforesaid, I am directed to request you to kindly direct all officers working under your supervisory control to be more careful about their staff in respect of communication of the order of the High Court to uphold the majesty.

Kindly ensure strict compliance of the directions above.

(xxvii) Endorsement regarding age of he accused when he mention his age at the time of his examination under Section 313 Cr. P.C.

C.L. No. 5/2006 Admin ‘G’ Dated: 15th February, 2006

While taking orientation and inviting attention to court’s Circular Letter Nos. 69 dated 13.8.1968, 117/VIIc-34 dated 5.8.1974, 89 /Admin. ‘A’ dated 3.5.1977, 71/VIIc-34 /Adm. ‘G’ dated 7.11.1981 and 33/ Admin, ‘G’ /VII-f-45 dated 13.5.1986. I am desired to say that the Hon’ble Court (coram Hon’ble Mr. Justice Imtiyaz Murtaza and Hon’ble Mr. Justice Amar Saran) in Cri. Jail appeal No.58 of 2001- Kaloo Vs. State of U.P. 2006(54) ACC 343 has been pleased to “direct all the Sessions Judges and Magistrates in the State of U.P. to make a positive endorsement as to their own estimate of the age of the accused when the accused mention their ages at the time of their examination under Section 313 Cr. P.C. This endorsement must be made in each and every case even if the Court concerned is in agreement with the age as mentioned by the accused. This direction has become necessary because we are finding that the requirement in Rule 50 of the General Rules (Criminal) that the court must not down its own estimate of age in case it is not in agreement with the age mentioned by the accused are more often than not being overlooked by trial courts. Only if the Court is required to record a positive finding about the age of the accused in each trial after looking to the age mentioned by the accused in his statement, other material on record, the court’s subjective impression of the age, and in the event that the court deems it appropriate by getting the medical examination of the accused conducted or by seeking further documentary or other evidence of age, that we can ensure that the mandate of Rule 50 of the General Rules (Criminal) and directions of the Apex Court are observed in letter and spirit. Only by this exercise will a proper estimate of the age be available on record which is very necessary for deciding on questions of the appropriateness of the procedure adopted for the trial of the case, i.e. whether the trial of the accused should have been conducted according to the procedure prescribed under the Juvenile Justice Act or otherwise, what should be the appropriate sentence, if the accused is of very young age or he is very old, and certain cases whether death or life sentence would be the appropriate sentence considering the age of the Accused”.

Therefore, I am directed to send out her with a copy of the judgment and order dated 30.9.2005 in Cri. Jail Appeal No. 58 of 2001- Kaloo vs. State of U.P. with the request that the contents of and directions in the judgment and orders afore stated, be unerringly gone through all the way for ensuring strict compliance by all concerned.

Compliance of directions/orders given by Hon’ble Supreme Court in Writ Petition (Civil) No. 549 of 2008 – Health for Millions Tr. Legal Advisor Vs. Union of India & ors.

C.L. No. 34/2009/Admin. ‘G-II’: Dated July 16, 2009

While passing order in Writ Petition (Civil) No. 549 of 2008 – Health for Millions Tr. Legal Advisor Vs. Union of India & Ors., the Hon’ble Apex Court has observed that:

“.....that Government of India undertakes to implement Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008, with effect from 31st May, 2009, and enforcement thereof shall not be further extended under any circumstances. In view of this statement made at the Bar and the undertaking. It is not necessary to pass any further order in these writ petitions by way of interim measure. However, we direct that no Court in the country shall pass any order, which is inconsistent with this order.”

Therefore, I have been directed to send herewith a copy of the Order dated 06.05.2009 passed by the Hon’ble Apex Court in the above mentioned case with the request to kindly

circulate a copy of this circular letter to all the Judicial Officers in the Judgeship under your supervision and control for their information, necessary action and compliance.

Compliance of directions/orders given by Hon'ble Supreme Court in Petition for Special Leave to Appeal (Civil) Nos. 11801-11804 of 2005 – Jai Prakash vs. M/s. National Insurance Co. & Ors.

C.L. No. 13/2010/Admin. 'G-II': Dated 17.05.2010

While passing order in Petition for Special Leave to Appeal (Civil) Nos. 11801-11804 of 2005 – Jai Prakash Vs. M/s. National Insurance Co. & Ors. The Hon'ble Apex Court has observed that:

“.....All Claims Tribunals in his State to register the reports of accidents received under section 158(6) of the Act as applications for compensation under Section 166(4) of the Act and deal with them without waiting for the filing of Claim applications by the injured or by the family of the deceased. The Registrar General shall ensure that necessary Registers, forms and other support is extended to the Tribunal to give effect to Section 166(4) of the Act.

For complying with section 166(4) of the Act, the jurisdictional Motor Accident Claims Tribunals shall initiate the following steps:

- (a) The tribunal shall maintain an Institution Register for recording the AIRs, which are received from the Station House Officers of the Police Stations and register them as miscellaneous petitions. If any private claim petitions are directly filed with reference to an AIR, they should also be recorded in the Register.
- (b) The Tribunal shall list the AIRs as miscellaneous petitions. It shall fix a date for preliminary hearing to enable the police to notify such date to the victim (family of victim in the event of death) and the owner, driver and insurer of the vehicle involved in the accident. Once the claimant/s appears, the miscellaneous application shall be converted to claim petition. Where a claimant/s files the claim petition even before the receipt of the AIR by the Tribunal, the AIR may be tagged to the claim petition.
- (c) The Tribunal shall inquire and satisfy itself that the AIR relates to a real accident and is not the result of any collusion and fabrication of an accident (by any 'Police Officer-Advocate-Doctor' nexus, which has come to light in several cases).
- (d) The Tribunal shall by a summary enquiry ascertain the dependent family members/legal heirs. The jurisdictional police shall also inquire and submit the names of the dependent legal heirs.
- (e) The Tribunal shall categorise the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability.
- (f) Wherever the insurer does not dispute the liability under the policy, the Tribunal shall make an endeavor to determine the compensation amount by a summary enquiry or refer the matter to the Lok Adalat for settlement, so as to dispose of the claim petition itself, within a time frame not exceeding six months from the date of registration of the claim petition.

- (g) The Insurance Companies shall be directed to deposit the admitted amount or the amount determined, with the claims tribunals within 30 days of determination. The Tribunals should ensure that the compensation amount is kept in fixed deposit and disbursed as per the directions contained in General Manager, KSRTC v. Susamma Thomas; [1994 (2) SCC 176]
- (h) As the proceedings initiated in pursuance of Section 158(6) and 166(4) of the Act, are different in nature from an application by the victim/s under Section 166(1) of the Act, Section 170 will not apply. The insurers will therefore be entitled to assist the Tribunal (either independently or with the owners of the vehicles) to verify the correctness in regard to the accident, injuries, age, income and dependents of the deceased victim and in determining the quantum of compensation.

The aforesaid directions to the Tribunals are without prejudice to the discretion of each Tribunal to follow such summary procedure as it deems fit as provided under Section 169 of the Act. Many Tribunals instead of holding an inquiry into the claim by following suitable summary procedure, as mandated by Section 168 and 169 of the Act, tend to conduct motor accident cases like regular civil suits. This should be avoided. The Tribunal shall take an active role in deciding and expeditious disposal of the applications for compensation and make effective use of Section 165 of the Evident Act, 1872, to determine the just compensation.

Therefore, I have been directed to request you to kindly circulate a copy of this circular letter to all the Judicial Officers in the judgship under your supervision and control for their information, necessary action and compliance.

Circulation of the copy of the judgment dated 03.12.2010 of Hon'ble the Division Bench comprising Hon'ble Mr. Justice Devi Prasad Singh and Hon'ble Mr. Justice S.C. Chaurasia in Misc. Writ Petition No. 10503 (M/B) of 2009, Vishwanath Chaturvedi v. Union of India and others

Letter No. 3154/2011/Admin.G-II dated 21.02.2011

I am directed to send a copy of the Judgement dated 03.12.2010 of Hon'ble the Division Bench comprising Hon'ble Mr. Justice Devi Prasad Singh and Hon'ble Mr. Justice S.C. Chaurasia in Misc. Writ Petition No. 10503(M/B) of 2009, Vishwanath Chaturvedi v. Union of India and others, and to request you to kindly circulate copy of the judgment to all the Judicial Officers working under your control with the instruction to comply strictly with the directions given by the Hon'ble Court in the said Judgement.

Circulation of the copy of the Judgment dated 22nd November, 2010 passed by the Hon'ble Apex Court in Petition(s) for Special Leave to Appeal Crl. No. 9507/2010 (Cri. MP No. 23051/2010) Rajbir @ Raju & Another v. State of Haryana

C.L. No. 11/2010/Admin G-II dated 07.03.2011

While enclosing a copy of the Judgment & order dated 22.11.2010 passed by Hon'ble the Apex Court (Hon'ble Mr. Justice Markandey Katju and Hon'ble Justice Gyan Sudha Misra) in Special Leave Petition (Crl.) No. 9507 of 2010 (entitled Rajbir @ Raju & Anr. V. State of Haryana), I am directed to say that the Hon'ble Supreme Court has directed to ordinarily add section 302 IPC to the charge of section 304-B IPC. So that death sentence can be imposed in such heinous and barbaric crimes against women.

I am, therefore, to request you to circulate this circular letter and copy of Judgment/Order of Hon'ble the Supreme Court to all the Judicial Officers under your administrative control for their information & guidance.

54. EXPLANATION BY MAGISTRATES

G.L. No. 12/VII-a-82 dated 2nd May, 1950

The provision in rule 100 : Chapter X of the General Rules (Criminal), 1957*, that when a Sessions Judge on examining the record of any proceeding, thinks fit to report the result of examination for the orders of the High Court, he should, except in a case in which delay should be avoided, call for and submit with the report the explanation of the officer whose proceedings have been examined by him, was made with the object of getting the views of the officer whose proceedings have been examined by the Sessions Judge as well. It is, however, impressed upon all District Magistrates and all Magistrates in their districts that whenever they are called upon to give explanations as required by the rules or by order of the High Court or the Sessions Judge, they have to carry out the orders and whatever explanation they submit should be properly worded and should not show either disrespect or discourtesy to any superior officer or court.

55. INITIATION OF CONTEMPT PROCEEDINGS

C.L. No. 86/VIIg-2 dated 7th September, 1953

Before making a recommendation for starting contempt proceedings a case should be examined in the light of the principles affirmed by the Supreme Court in their judgment in Brahma Prakash Sharma and others versus The State of Uttar Pradesh, Criminal Appeal no. 24 of 1951, decided on 8th May, 1953 (1953 A.L.J.R., p. 571).

C.L. No. 40/VII c-25 dated 25th March, 1975

While making preliminary enquiries in contempt matters the statements of alleged contemnors and the witnesses must either be recorded on oath or taken on affidavits.

C.L. No. 57/VIII e-c-167 dated 20th May, 1961

Whenever a report, regarding contempt of subordinate courts is made, it should be accompanied by, as many copies of the report as there are parties against whom proceedings are proposed to be initiated together with one extra copy.

C.L. No. 68/V110-25 dated 19th June, 1979

The Court has noticed that contempt references from the subordinate courts are often received after the period of expiry of one year from the alleged date of contempt with the result that the same are filed.

Attention of all the judicial officers including District Judges is invited to the provisions of Section 20 of the Contempt of Courts Act 1971 which provides that no court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

Timely submissions of service reports in Contempt matters by the Chief Judicial Magistrates.

* Note: Now 1977 Vide Notification No. 504/vb-13, dated 5.11.1983

C.L. No. 11/2009/IIIb-36/Admin 'G', Dated: April 7, 2009

Taking serious view of the non submission of reports within stipulated time by the Chief Judicial Magistrates in the matter of effecting service of summons in Contempt Applications, the Hon'ble Court has desired that all the Chief Judicial Magistrates must ensure that summons are duly served upon the alleged contemnor and compliance report is sent to the Hon'ble Court on or before the date fixed in summons.

Therefore, in continuation of earlier Circular Letters (1. C.L. No. 109/VIIIC-2/Admin. 'G' dated 30.11.1990. 2 C.L. No. 19/Admin. 'G' dated 3.2.1991. 3. C.L. No. 23/06/Admin. 'G' dated 29.5.2006), I have been directed to say that the Chief Judicial Magistrates shall ensure service of summons in Contempt Applications well within stipulated time.

I am further to request you to kindly bring the contents of this Circular letter to the knowledge of all the Judicial Magistrates under your administrative control for strict compliance.

Non-submission of Service Report in Contempt matters by the Chief Judicial Magistrates.

C.L. No. 23/2006: Admin 'G'. Dated: 29.5.2006

Hon'ble Court while dealing with Contempt Petition has noticed that the reports with regard to the service of the summons are not being submitted by the Chief Judicial Magistrates within time. As a result of which, the contempt matters cannot proceed get delayed on account of the non-availability of the service report.

Therefore, while drawing attention of all concerned to Court's Circular letter No. 109/VIIIC-2/Admin. 'G' dated 30.11.1990 and Circular letter No. 19/Admin. 'G' dated 3.2.1991; I am directed to request that the contents of and directions in the circulars aforesaid, be unerringly gone through all the way for ensuring strict compliance by all concerned especially the Chief Judicial Magistrate under your administrative control by transmitting service reports within the time prescribed. Non-submission of service report within time may be viewed seriously and action might be initiated against the defaulting Chief Judicial Magistrate.

Service of process issued in contempt petitions and other cases.

C.L. No. 19/Admin./C/Sec. Dt. Allahabad, February 3, 1991.

I am directed to say that when contempt petitions and other cases are filed in this Court, processes are sent to the districts for service. But it has been experienced that either the processes are not returned by the Chief Judicial Magistrate concerned or many times reports received from the districts are found to be incorrect sometimes reports are returned by the Chief Judicial Magistrates with a lot of delay either due to fault of their own office or due to the lapse on the part of the police. In the above state of affairs, much time of the court is wasted in join through the files and assigns orders, either to await or search the process or issue reminder. To avoid above situation and loss of time and restore the efficacy of the processes, the Court is of the view that the processes sent by the Court are promptly entered in the relevant registers, maintained in the office of the Chief Judicial Magistrates and sent to the police and returned to their own office ensured at least one week before the date fixed and to dispatch the same promptly so as to reach this Court before the due date.

I am, therefore, to request you kindly to direct that the Chief Judicial Magistrate will peruse the register of the process of this Court maintained in his office on each working day to ensure that no process is lying unattended or unreturned by the due date.

Service Report of notices sent to Chief Judicial Magistrates for service upon the persons.

C.L.No. 109/VIIC-25, Admn. (G) Dated: Allahabad: November 30, 1994

I am directed to say that while exercising original jurisdiction on criminal contempt and civil contempt this Court sends a motion of notice in contempt proceedings for procuring the attendance of the contemnor. It has been observed by the Court that whenever such notices are sent for service upon the persons concerned the court is not obliged in the proceedings or the court.

I am, therefore, to say that whenever such notices are sent to the Chief Judicial Magistrates of the Districts for service upon the persons concerned a report about the fate of the same should invariably be transmitted to the Court indicating whether it has been served or not, accepted or refused before the date of hearing of the case as mentioned in the notices.

Kindly instruct the Chief Judicial Magistrate of your judgeship to ensure strict compliance as above.

56. REVISIONS

G.L. No. 15/X dated 20th September, 1951

Unless on a perusal of the judgment and the grounds of Criminal Revision filed under section 435 (new section 397) of the Code of Criminal Procedure the Judge is satisfied that notice should be issued, counsel for the applicant may be heard first. Notice should be issued to State Counsel and the opposite parties (if any) if the court after hearing counsel for the applicant is satisfied that there is *prima facie* some merit in the application.

These instructions do not fetter the discretion of Sessions Judges to dispose of any revision application without hearing any party as provided under section 440 (new section 403) of the Code of Criminal Procedure; and where an application appears to be obviously frivolous or groundless there is no reason why a Sessions Judge may not, if he thinks fit, reject it without even hearing counsel for the applicant.

C.L. No. 63/IV h-14 dated 12th June, 1979

Sessions Judges should see that criminal revisions are equally distributed for hearing in the file of Sessions Judges and Additional Sessions Judges.

C.L. No. 6/VIII-188/Admn.(G) dated 24th January, 1989

The Court has noticed that piecemeal decisions are being given by the Sessions Judges hearing criminal revisions against the one and the same order creating an anomalous position.

Henceforth criminal revisions filed before the Sessions Judges against one and the same order of the Magistrates should be heard by the same court. All the Presiding Officers of the courts concerned should ensure strict compliance.

C.L. No. 43/Ve-84/Admn. (G) dated 20th July, 1989

If a revision is filed in the High Court under section 397(i) Cr.P.C. it must be mentioned therein that no revision has been filed before the Sessions Judge against the same order and if a revision is filed before the Sessions Judge under section 397(i), Cr.P.C., it must be mentioned therein that no revision has been filed in the High Court against the same order.

C. L. No. 50/2007Admin (G): Dated: 13.12.2007.

It has been observed by the Hon'ble Court that in many cases , the Criminal revisions may be decided without the compulsion of issuing notices to the opposite parties and the revisional power should be exercised when it is shown that there is legal bar against the continuance of the criminal proceedings or the framing of the charge or the facts as stated in F.I.R. even if taken at the face value and accepted in their entirety, do not constitute offense which the accused has been charged with . In that situation even without issuing notice to the opposite party the Court exercising revisional jurisdiction may make the disposal of that revision.

Therefore, in continuation of the earlier issued G.L.No. 15/X dated 20th September, 1951, I am directed to say that in above noted circumstances without issuing notice to the opposite party the Court concerned may proceed to decide the revision and summary disposal of the revision may also be made in accordance with the directions given by the Hon'ble Apex Court in AIR 2000 S.C. 522 Kanti Bhadra Shah and another Vs. State of West Bengal and AIR 2002 S.C. 107 Munna Devi Vs. State of Rajasthan.

Therefore, I am directed to request you to kindly bring the contents of this Circular Letter to all the Judicial Officer under your administrative control for their guidance and Strict compliance.

**57. DISPOSAL OF REFERENCE UNDER THE INDIAN RAILWAYS ACT, 1890
AND THE RAILWAYS (LOCAL AUTHORITIES TAXATION) ACT, 1941**

G. L. No. 4/180-1(2) dated 26th March, 1945

The Government of India in Express G.G.O.no. F-III-44/TX-17(17), dated the 9th December, 1944, express the intention that cases referred to judicial officers under Government of India, Railway Department (Railway Board) notification no. F-42./TX-17-16, dated the 11th January, 1944, should not be treated as ordinary judicial proceedings before them but that judicial officers should function as quasi judicial tribunals and observe the rules of natural justice which would not necessarily be the same as those by which ordinary cases are dealt with and that the provisions of the Court Fees Act, 1870, should not be applied to in these cases.

58. DISPOSAL OF GOODS SUBJECT TO EXCISE DUTIES

C.L. No. 92/VII-f-38 dated 9th November, 1956

In order to prevent violations of the Central Excise and Salt Act, 1944 and the Central Excise Rules, 1944, when a subordinate court is about to pass orders for the disposal of goods subject to central excise duties, it should notify the fact to the nearest Superintendent of the Central Excise. The places at which Superintendents of the Central Excise are stationed are mentioned in the list given below:

**LIST OF SUPERINTENDENTS IN THE CENTRAL EXCISE, COLLECTORATE,
ALLAHABAD, U.P.**

1	Superintendent of Central Excise,	Allahabad
2	Ditto	Banaras
3	Ditto	Azamgarh
4	Ditto	Gorakhpur
5	Ditto	Bareilly
6	Ditto	Moradabad

7	Ditto	Rampur
8	Ditto	Shahjahanpur
9	Ditto	Budaun
10	Ditto	Lucknow
11	Ditto	Gonda
12	Ditto	Faizabad
13	Ditto	Sitapur
14	Ditto	Farrukhabad
15	Ditto	Kannauj
16	Ditto	Kasganj
17	Ditto	Mainpuri
18	Ditto	Kaimganj
19	Ditto	Kanpur (Central)
20	Ditto	Kanpur (Muffasil)
21	Ditto	Kanpur (Old)
22	Ditto	Jhansi
23	Superintendent of central Excise	Agra
24	Ditto	Mathura
25	Ditto	Meerut
26	Ditto	Muzaffarnagar
27	Ditto	Bulandshahr
28	Ditto	Aligarh
29	Ditto	Dehradun

59. ARREST AND DETENTION OF JUDICIAL OFFICERS

(i) Arrest and detention of Judicial Officers-Guidelines

C.L. No. 54/IX-f-69/Admn.'G' dated October 22, 1992

I am directed to enclose herewith a copy each of letter No. F.No.L.19017/3/92-Jus, dated 13.4.92/23.4.1992 a copy of letter No. L.19017/4/90-Jus., dated 26.4.1990/2.5.1990 from the Government of India, Ministry of Law and Justice (Department of Justice) New Delhi with a copy of letter No. VII-11017/15/88- G.P.A.II, dated 4.10.1988, and D.O. No.VI-25013/42/89-G.P.A.II, dated 27.3.92/31.3.1992 from the Joint Secretary to Government of India, Ministry of Home Affairs, New Delhi regarding use of handcuffing by the Police and on the subject noted above, for information and necessary compliance.

I am to add that the contents of this letter and enclosures may kindly be brought to the notice of all judicial officers working under your supervision for their information and future guidance.

Arrest and detention of Judicial Officers-Guidelines' to Registrars

L.No.F.No.L. 19017/3/92-Jus, Government of India, Ministry of Law & Justice (Department of Justice) dated 3.4.1992/23.4.1992

C.No. 190117/4/90-Jus. dated 26.4.1990/3.5.1990

I am directed to invite your attention to the above cited communication of this Department (copy enclosed) and to say that the Supreme Court in its Judgement delivered on 11.9.1991 in Writ Petition (Criminal) Nos. 517, 518 and 523-27 of 1989 *Delhi Judicial Service*

Association, Tis Hazari Court Delhi v. State of Gujarat and others has laid down certain guidelines in the case of arrest and detention of a Judicial Officer. These guidelines have been circulated by the Ministry of Home Affairs to the Home Secretaries of all States and Union Territories Administration vide DO letter no. VI-25013/42/89-G.P.A.II, dt. 31.3.1992 for compliance. A copy of the same is attached for information and for circulation to all concerned.

2. A perusal of the Judgment of the Supreme Court will also show that the Apex Court has also observed that

"No Judicial Officer should visit a Police Station on his own except in connection with his official and judicial duties and functions. If it is necessary for a Judicial Officer or a Subordinate Judicial Officer to visit the Police Station in connection with his official duties, he must do so with prior intimation of his visit to the District and Sessions Judge."

3. It is requested that the above observations of the Supreme Court may also kindly be brought to the notice of all concerned including the Subordinate Courts under the jurisdiction of your High Court for compliance.

Practice of handcuffing the arrested persons by police as a matter of routine- guidelines regarding.

L.No.L.19017/4/90-Jus.Government of India, Ministry of Law & Justice (Department of Justice) dated 26.4.1990/2.5.1990

I am directed to invite your attention to the judgment of the Supreme Court in *Prem Shankar Shukla v. Delhi Administration* (AIR 1980 SC 526) wherein the indiscriminate use of handcuffs by the law enforcing agencies has not been approved by the Supreme Court. The Honourable Court has also laid down suitable guidelines in the matter. The directions of the Supreme Court had been circulated to all State Government by Ministry of Home Affairs vide their letter No. VII-11017/15/88- G.P.A. II, dated 4.10.1988 (Copy enclosed) for compliance. A perusal of the judgment will show that a duty has also been cast on the judiciary as well for ensuring proper implementation of its directives.

I am therefore, to request you kindly to bring these directives of the Supreme Court to the notice of all Subordinate Courts under the jurisdiction of your High Court for proper compliance.

Use of handcuffs-guidelines regarding

L.No. VII-11017/15/88-GPA.II Government of India, Ministry of Home Affairs, dated 4.10.88

I am directed to say that this Ministry has issued instructions on the use of handcuffs by police from time to time. It was stressed in this Ministry's letter No. F .2/13/57-P .IV dated 26th July, 1957 (copy enclosed) that the use of handcuffs should be restricted to cases where the prisoner was a desperate character or there were reasonable grounds to believe that he would use violence or attempt to escape or where there were other similar reasons. While reiterating these instructions, it was impressed upon the State Government vide this Ministry's letter No.8/70/74-GPA.I dated 8th November, 1974 (copy enclosed) that there should ordinarily be no occasion to handcuff the prisoners such as Satyagrahis, persons occupying good positions in public life and professionals like journalists, jurists, doctors, writers, educationists. The instructions were reiterated in this ministry's D.O.No. 15/38/76-G.P.A.II dated 29.7.1976 (copy enclosed).

2. Further instructions on the use of handcuffs by Police were communicated to State Government in a letter-dated 22.8.1978 (copy enclosed) written by the then Prime Minister to State Chief Ministers. In this letter, the Prime Minister suggested that handcuffs should not be used except where there was a reasonable apprehension of violence, escape or reasons and, in no case, merely to humiliate or harass a person. Generally, even such apprehensions would be justified only where such a person is suspected of being involved in any grave non-bailable offence, has a history of previous conviction for serious offence, or is a known bad character. There should also be a clear prohibition in the rules of the use of handcuffs in respect of persons who are bed-ridden in hospital, old and infirm, women prisoners, juveniles and prisoners involved in Civil Proceedings. Persons accused of violating prohibitory orders in the context of political or other similar demonstrations should also not be subjected to handcuffs.

3. The Supreme Court of India, however, in its order of Writ Petition (CRL) No.163 of 1988 dated 4.8.1988 has directed that rules or guidelines may be issued in conformity with the judgment of that Court in a case of *Prem Shankar Shukla v. Delhi Administration* (SCR 855 of 1980) as regards the circumstances in which handcuffing of the accused should be resorted to. While declaring Rule 26.21A and 26.22 of Chapter XXVI of the Punjab Police Manual as violative of Articles 14, 19 and 21 of the Constitution, the Supreme Court laid down the following guidelines for handcuffing the prisoners:

- (i) That no prisoner shall be handcuffed or fettered routinely or merely for the convenience of the Custodian or escort.
- (ii) That it is arbitrary and irrational to classify prisoners for purposes of handcuffs, into 'B' Class and ordinary class. No one shall be fettered in any form based on superior class differentia as the law treats them equally.
- (iii) Handcuffing of prisoners should be resorted to only in exceptional circumstances where there is a clear and present danger of escape or where the concerned accused is so violent that he cannot otherwise be secured. Handcuffing may be avoided by increasing the strength of the armed escort or by taking prisoners in well-protected vans.
- (iv) It is only in exceptional circumstances where there is no other reasonable way of preventing the escape of the prisoner that recourse to handcuffing him may be taken. Even in such extreme cases where handcuffs have to be put on, escorting authority must record contemporaneously the reasons for doing so. The belief in this behalf must be based on antecedents, which must be recorded, and proneness to violence must be authentic. Vague surmises or general averments that the under trial is a crook or desperado, rowdy or maniac cannot suffice. Merely because the offence is serious, the inference of escape proneness or disparate character does not follow.
- (v) These recorded reasons must be shown to the Presiding Judge and his approval should be taken. Once the Court directs that the handcuffs are not to be used, no escorting authority should over-rule this correction.

4. It is requested that the above guidelines may kindly be brought to the notice of all concerned through the Directors General of Police and Inspectors General of Prisons. It may kindly be ensured that the instructions are scrupulously observed.

5. A copy of the instructions issued in the matter may kindly be endorsed to this Ministry.

D.O.No. VI-25013/42/89-GPA-II Bharat Sarkar/ Government of India

Grih Mantralaya/Ministry of Home Affairs dated 27.3.1992/31.3.1992

Please refer to this Ministry's instructions regarding use of handcuffing by the Police issued vide this Ministry's letter No. VII-11017/15/88-GPA-II, dated 4.10.88. Recently the Supreme Court of India in its Judgment in a Writ Petition (Criminal) No. 517,518 and 523-27 of 1989-Delhi Judicial Service Association, Tiz Hazari Court, Delhi v. State of Gujarat and others, have laid down following guidelines which should be followed in the case of arrest and detention of Judicial Officers:

- (a) If a judicial officer is to be arrested for some offence, it should be done under intimation to the District Judge or the High Court as the case may be.
- (b) If facts and circumstances necessitate immediate arrest of a judicial officer of the subordinate judiciary, a technical or formal arrest may be affected.
- (c) The fact of such arrest should be immediately communicated to the District and Sessions Judge of the concerned district and the Chief Justice of the High Court.
- (d) The Judicial Officers so arrested shall not be taken to a police station, without the prior order or directions of the District and Sessions Judge of the concerned District, if available.
- (e) Immediate facilities shall be provided to the Judicial Officer for communication with his family members, legal advisers and judicial officers, including the District and Sessions Judge.
- (f) No statement of a judicial officer who is under arrest be recorded nor any panchnama be drawn up nor any medical tests be conducted except in the presence of the Legal Adviser of the Judicial Officers concerned or another judicial officers of equal or higher rank, if available.
- (g) There should be no handcuffing of a judicial officer. If, however, violent resistance to arrest is offered or there is imminent need to effect physical arrest in order to avert danger to life and limb, the persons resisting arrest may be over powered and handcuffed. In such a case, immediate report shall be made to the District and Sessions Judge concerned and also to the Chief Justice of the High Court. But the burden would be on the police to establish the necessity for effecting physical arrest and handcuffing the judicial officer and if it is established that the physical arrest and handcuffing of the judicial officers was unjustified, the police officers causing or responsible for such arrest and handcuffing would be guilty of misconduct and would also be personally liable for compensation and/or damages as may be summarily determined by the High Court.

2. The above guidelines are not exhaustive but those are minimum safeguards, which must be observed in case of arrest of a judicial officer. These guidelines should be implemented by the State Government.

3. The State Government/Union Territories Administration are requested to bring these guidelines to the notice of the concerned officers for compliance. A copy of the instructions issued by the States/ Union Territories may also be forwarded to this Ministry.

60. CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

C.L. No. 38/Admn.(G) VIIIf-256 dated April 12, 1994

(i) Imposing of lower penalties than those prescribed under the Child Labour (P&R) Act, 1986.

It has come to the notice of the Court that Sections 14 and 15 of the Child Labour (P&R) Act, 1986 are not being complied with properly.

The Court has, therefore, been pleased to direct you to impress upon all the Presiding Officers working under you to make proper compliance of Sections 14 and 15 of the Child Labour (P&R) Act, 1986 while awarding punishment in cases concerning Child Labour Prohibition and Regulation Act, 1986.

61. COMMUNICATION OF ORDERS OF SUPREME COURT

C.L. No. 68/VIIb-47/Admn.(G) dated July 6, 1990

(i) Communication of orders of Supreme Court of India in Criminal matters

I am directed to enclose herewith a copy of D.O. letter No. 1/89-C/Registrar (J), dated June 18, 1990, on the above subject, and to say that in order to prevent fake and forged orders purporting to be from Supreme Court of India, the authorities of Supreme Court with detailed discussion with various authorities of Ministry of Home Affairs of the Government of India, had decided to evolve a fool-proof procedure to be adopted with effect from 1.8.1990 for transmission of orders of the Supreme Court in respect of (i) Staying execution of capital sentences, and ascertaining factual position regarding condemned prisoners; (ii) release of convicts; and (iii) enlargement on bail of prisoners.

The detailed procedure to be adopted in the matter has been stated in the letter aforesaid.

I am, therefore, to request you kindly to acknowledge the receipt of this Circular Letter and intimate the same to this Court immediately for onward necessary action.

Supreme Court of India, New-Delhi 11000 D.O. No.1/89-SC/Registrar (J) dated June 18, 1990

You may be aware that a significant number of instances have occurred during the last few years where unscrupulous persons have got convicts lodged in various jails in the country released outright or on bail by producing fake or forged orders purporting to be from this Court before the executing Court/competent authorities and obtaining consequential orders and producing them to the detaining authorities. In order to prevent such occurrences in future, we had detailed discussion with various authorities and have with the active assistance of the Ministry of Home Affairs of the Government of India arrived at a full-proof procedure to be adopted with effect from 1.8.1990 for transmission of orders of the Court in respect of: (i) staying execution of capital sentences, and ascertaining factual position regarding condemned prisoners; (ii) release of convicts; and (iii) enlargement on bail of prisoners.

2. The procedure to be adopted for transmission of such orders is as follows:-

“When this Court passes any order on the three matters indicated in the previous paragraph, the said order will be conveyed through wireless network to the concerned judicial authorities or the jail concerned or to both with copies to the authorities through whom the cause has arisen. Thereafter the formal order of the court will as usual be sent through the normal communication channels.”

3. With the introduction of the above procedure the Executing Court will act only on receipt of the wireless message conveyed through the Police net work. If any order is presented before the court without being preceded by the Wireless Message for execution, the authority should get in touch with Mr. Manohar Lal, Joint Registrar (Telephone Nos.: Off: 381379, Res. 2240477) or Mr. Ramesh Sharma, Joint Registrar (Telephone Nos. Off: 381379 Res: 622922) or Mr. P.N. Likhyan, Additional Registrar (Telephone Nos: Off: 385046 Res: 5506999) and obtain confirmation of the authenticity of the order before processing if further. Any change in the names of the officers to be contacted will be intimated well in advance.

4. May, I, in the circumstances, request you to intimate the revised procedure indicated in paras 2 and 3 above to all the Judicial Officers under your jurisdiction immediately and confirm having communicated the procedure and the officers having received the communication, to me at the earliest?

Please treat this as most urgent and acknowledge receipt.

62. COMPLAINT CASES

(i) Follow up Proper procedure in complaint cases as laid down in Sections 204, 205, 87, 88 & 309(2) of Cr. P.C. Act No.2 of 1974.

C.L. No.C-72/1990, dated: July 26, 1990

I am directed to say that in Criminal Misc. Case No.612 of 1987- *Vishwanath Jiloka v. I Munsif Lower Criminal Court, Bahraich* decided by Hon'ble S.R. Bhargava, J., on 3.4.1989 (reported in 1989 Criminal L.J. 2082), the following observations were made by the Court:-

"When contingency for issuing a warrant as laid down in S. 87 has not arisen the Magistrate should invariably think of issuing summons only. While issuing summons the Magistrate should bear in mind S. 205 Cr. P.C., which empowers the Magistrate to dispense with personal attendance of the accused and to permit him to appear by his pleader. The Magistrate may at any stage of the proceedings, even though he has earlier exempted personal attendance of the accused, order the accused to be personally present. Where the accused in a complaint case are of different districts or State, the Magistrate should invariably issue a summons to the accused dispensing his personal attendance and permitting him to appear through pleader. This will automatically minimise mischievous and vexatious complaints filed simply for causing harassment and humiliation to the accused. Even when the personal attendance of the accused in a criminal case has not been exempted or when a warrant is issued to the accused in a complaint case under S. 204 (1) (b) and the accused after being served with summons or warrant or having come to know of the same appears before the Magistrate, it is not at all legal for the Magistrate to take him into custody and then grant judicial remand necessitating a bail application and a bail order under S. 437 Cr.P.C. When a person appears or is brought before a Magistrate or court in response of summons or warrant, the proper procedure to be followed is laid down in S. 88 Cr. P.C. In case of breach of bonds furnished under

Section 88 Cr. P .C. action can be taken for enforcing the bonds and further for arrest under Section 89 Cr.P.C. Therefore, the practice followed in the Courts of Magistrate by even some members of the Bar, namely, moving an application for surrender of the accused in a complaint case and then after the accused is taken in the custody applying for bail, is contrary to provisions of Cr.P.C. and is altogether un-warranted. It should be immediately given up and the accused of the complaint cases should be assured that they will be honourably dealt with in the courts of the Magistrate.

When an equally efficacious procedure is available for securing attendance of the accused in a complaint case, namely, obtaining bond with or without sureties under Section 88 Cr.P.C. power of judicial remand under Section 309(2) should not be used, otherwise there would be unnecessary infringement of the fundamental right of liberty. Perusal of Sections 88, 89 and 309(2) Cr.P.C. however, make it clear that in cases where accused of complaint case commits default and absents himself from the court entailing his arrest on a warrant issued under Section 89 Cr.P.C. and is unable to offer sufficient cause for his absences, power of judicial remand under Section 309(2) can be used."

I am, therefore, to request that Munsif-Magistrates may kindly be directed to follow-up the procedures strictly.

63. CRIME AGAINST WOMEN

- (i) Regarding expeditious disposal of cases relating to the incidents of rape, molestation, abduction, kidnapping and atrocities being committed on women.**

C.L.No. 16/VIIIh-13/Admn. 'G'/dated: Allahabad: March, 23 1996

It has come to knowledge of the court that cases relating to rape, kidnapping and atrocities to women are not being decided early. A decision has been taken that all such cases be decided within six months of the filing of the charge sheet.

I am, therefore, directed to communicate that the directions as given above be complied with strictly by all the Judicial Officers.

- (ii) Concerning directions laid down in the judgment dated 16th January, 1996 of Hon'ble the Supreme Court of India in Criminal Appeal No. 616 of 1985 (The State of Punjab v. Gurmit Singh and others)**

C.L.No. 17/Admn. 'G'/dated March 25, 1996.

For trial by Lady Judges of the cases of sexual assault on the females, wherever available, avoiding the disclosure of the name of the prosecutrix in their judgments.

In pursuance of the order of Hon'ble the Supreme Court, I am directed to intimate that the cases of sexual assault on the females be tried by lady Judges, wherever available. Trials of Sexual assault cases be held in camera under the provisions contained in Section 327(2) and (3) Cr.P.C. and the mention of the name of the porsecutrix in Judgment be avoided.

I, therefore, directed that the aforesaid guidelines be strictly complied with and the Judgment* of Hon'ble the Supreme Court, on the said subject copy enclosed, be circulated for strict compliance of, the directions contained therein.

Criminal Appeal No. 616 of 1985
The State of Punjab v. Gurmit Singh

JUDGMENT

DR. ANAND J.

“...Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity but also inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim; a rapist degrades the very soul of the helpless female. The Courts, therefore shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Courts find it difficult to place implicit reliance on her testimony, it may look for evidence, which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.

There has been lately, lot of criticism of the treatment of the victims of sexual assault in the court during their cross-examination. The provisions of Evidence Act regarding relevancy of facts notwithstanding, some defence counsel adopt the strategy of continual questioning of the prosecutrix as to the details of the rape. The victim is required to repeat again and again the details of the rape incident not so much as to bring out the facts on record or to test her credibility but to test her story for inconsistencies with a view to attempt to twist the interpretation of events given by her so as to make them appear inconsistent with her allegations. The Court therefore should not sit as silent spectator while the victim of crime is being cross-examined by the defence. It must effectively control the recording of evidence in the court. While every latitude should be given to the accused to test the latitude of the prosecutrix and the credibility of her version through cross-examination, the court must also ensure that cross-examination is not made a means of harassment or causing humiliation to the victim of crime. A victim of rape, it must be remembered, has already undergone a traumatic experience and if she is made to repeat again and again, in unfamiliar surroundings, what she had been subjected to, she may be too ashamed and even nervous or confused to speak and her silence or confused stray sentence may be wrongly interpreted as “discrepancies and contradictions” in her evidence.

* For perusal of Judgment See 1996 Cr.L.J. 1728(SC). An extract of the Judgment containing guidelines is being reproduced.

The alarming frequency of crime against women led the Parliament to enact Criminal Law (Amendment) Act, 1983 (Act 43 of 1983) to make the law of rape more realistic. By the Amendment Act, Sections 375 and 376 were amended and certain more penal provisions were incorporated for punishing such custodians who molest a woman under their custody or care. Section 114-A was also added in the Evidence Act for drawing a conclusive presumption as to the absence of consent in certain prosecution for rape, involving such custodians. Section 327 of the Code of Criminal Procedure, which deals with the right of an accused to an open trial, was also amended by addition of sub sections-(2) and (3) after renumbering the old Section as sub-section (1). Sub-sections (2) and (3) of section 327, Cr. P.C. provide as follows:

Section 327, Court to be open-

- (2) Notwithstanding anything contained in sub-section(1), the inquiry into and trial of rape or an offence under Section 376, Section 376-A, Section 376-B, Section 376-C or Section 376-D of the Indian Penal Code shall be conducted in camera:

Provided that the presiding judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court.

- (3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the Court.

These two provisions are in the nature of exception to the general rule of an open trial. In spite of the amendment, however, it is seen that the trial Courts either are not conscious of the amendment or do not realize its importance for hardly does one come across a case where the enquiry and trial of a rape case has been conducted by the court in camera. The expression that the inquiry into and trial of rape “shall be conducted in camera” as occurring in sub-section (2) of Section 327 Cr.P.C. is not only significant but very important. It casts a duty on the court to conduct the trial of rape cases etc. invariably “in camera”. The courts are obliged to act in furtherance of the intention expressed by the Legislature and not to ignore its mandate and must invariably take recourse to the provisions of Section 327(2) and (3) Cr.P.C. and hold the trial of rape cases in camera. It would enable to victim of crime to be a little comfortable and answer the questions with greater ease in not too familiar a surroundings. Trial in camera would not only be in keeping with the self-respect of the victim of crime and in tune with the legislative intent but is also likely to improve the quality of the evidence of prosecutrix because she would not be so hesitant or bashful to depose frankly as she may be in an open court, under the gaze of public. The improved quality of her evidence would assist the court in arriving at the truth and sitting truth from falsehood. The High Courts would therefore be well advised to draw the attention of the trial courts to the amended provisions of Section 327 Cr.P.C. and to impress upon the Presiding Officers to invariably hold the trial of rape cases in camera, rather than in the open Court as envisaged by Section 327(2) Cr.P.C. When trials are held in camera, it would not be lawful for any person to print or publish any matter in relation to the proceedings in the case, except with the previous permission of the Court as envisaged by Sec. 327(3) Cr.P.C. This would save any further embarrassment being caused to the victim of sex crime. Wherever possible it may also be worth considering whether it would not be more desirable that the cases of sexual assaults on the females are tried by lady Judges, wherever available, so that the prosecutrix can make her statement with greater ease and assist the Courts to properly discharge

their duties, without allowing the truth to be sacrificed at the alter of rigid technicalities while appreciating evidence in such cases. The Courts should, as far as possible, avoid disclosing the name of the prosecutrix in their orders to save further embarrassment to the victim of sex crime. The anonymity of the victim of the crime must be maintained as far as possible throughout. In the present case, the trial Court has repeatedly used the name of the victim in its order under appeal, when it could have just referred to her as the prosecutrix. We need say no more on this aspect and hope that the trial Courts would take recourse to the provisions of Sections 327(2) and (3) Cr.P.C.

Liberal, trial of rape cases in camera should be the rule and an open trial in such cases an exception.

(iii) Statement showing pendency and disposal of cases relating to rapes, molestation, abduction, kidnapping and atrocities committed on woman.

C.L.No.53/VIIIh-13 Dated/December 11, 1997

This is in continuation of court's circular Letter No.16/VIIIh-13/dated 23.3.1996 by which you were required to dispose of cases relating to rape, and kidnapping atrocities committed on woman within six months from the date of filing the charge sheet.

In 50th Anniversary of India's Independence, the Government of India have included in its programme, the disposal of aforesaid cases expeditiously.

I am, therefore, to request you kindly to submit a statement showing year-wise pendency & disposal of the cases mentioned above to the court by 20th December 1997.

(iv) Case relating to violence against the women and to ensure speedy disposal.

C.L.No. 28/ VIID-108 dated: July, 5.2000

National Commission for women has made certain recommendation that the atrocities against the women have become a permanent issue and the High Court and Supreme Court denounced it. More attention in the court for dealing the cases of such nature against the women is required. Emphasis was also given by the Commission that a mechanism for having speedy disposal of cases be devised.

Hon'ble Court expressed with concern that in subordinate courts women litigants have to uniquely disproportionately and with unacceptable frequency endure a climate of condescension, indifference and hostility. Her cases are not given priority. At any rate, it is abundantly clear and it is necessary that conducive atmosphere is maintained in the courtroom and priorities are given in cases where in women is appearing either as witness or victim of the crime.

I am, therefore, directed to request you to bring into the notice of Civil Judicial Officers/Magistrate and other criminal courts to take up the cases relating to violence against women on priority basis and also to ensure speedy disposal. Further effective monitoring of such cases be also made so as achieve early resolution of disputes.

Strict compliance of the Guidelines laid down by the Hon'ble Apex Court in Vishakha and others v. State of Rajasthan and others; (1997) 6 SCC 241.

C.L. No. 29/2009/Admin. (G-II), Dated: May 30, 2009

The Hon'ble Apex Court in Vishakha and others v. State of Rajasthan and others; (1997) 6 SCC 241 has laid down certain guidelines to ensure the prevention of sexual harassment of women, which are as under:-

1. Duty of the Employer or other responsible persons in work places and other institutions:

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- (a) physical contact and advances
- (b) a demand or request for sexual favour.
- (c) Sexually colored remarks;
- (d) Showing pornography;
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work, whether she is drawing salary, or honorarium or voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps:

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation, they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- (b) The Rule/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other Law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action:

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim; such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

8. Workers' Initiative:

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.”

In this regard, I am directed to say that the guidelines laid down by the Hon’ble Apex Court in the aforesaid case be complied with strictly in letter & spirit.

Recommendation made by the Inter Ministerial Committee constituted by Ministry of Overseas Indian Affairs, Government of India to curb the menace of the fraudulent overseas marriages and to determine legal action against such overseas Indian spouses.

C.L. No. 43/2009/Admin. ‘G-II’ Dated: Allahabad 2.9.2009

The Secretary, Ministry of Overseas Indian Affairs, Government of India has brought to the notice of Hon’ble Court on the issues relating to delivery of justice to the Indian women, who were married and thereafter deserted by their overseas husband to prevent such fraudulent marriages and to determine the possible legal action that could be taken against such overseas spouses.

Upon consideration of the matter, the Hon’ble Court is of the view that the situation, however, needs attention as it involves the right of the married women subjected to cruelty on demands of dowry, concealment of earlier/existing marriages, marriages of convenience; and deceit in marital affairs.

To overcome the problem and to determine possible legal action that could be taken against such Indian overseas spouses, the Hon’ble Court has desired that all such matters pending for maintenance before the Chief Judicial Magistrate and 1st Class Magistrates and the suits for restitution of conjugal rights, divorce and custody of children pending before the Civil Judges and Sessions Judges, wherever the family courts have not been set up, and all such cases, where the family courts are set up (in 12 districts in the State of Uttar Pradesh), should be put on Fast Track. Wherever the woman deserted by her overseas husband, is claiming maintenance, and is seeking some relief relating to her marriage including custody of children, the cases should be decided very expeditiously. All these cases should not be unnecessarily adjourned and that as far as possible these cases should be decided within a period of six months from the date they are instituted.

I am further directed to say that upon consideration of the matter the Hon’ble Court has desired that the District Judges concerned shall report back the data of such cases in every six month, so that the Court may suggest measures, if any unnecessary delay is being caused in such cases.

I am, therefore, directed to request you to kindly bring the above directions to the notice of all the Family Courts and all the Judicial Officers working under your administrative control for information and strict compliance.

64. INVESTIGATION

- (i) **Letter of request to competent authority for investigation in a country or place outside India and vice-versa.**

C.L. No. 102/VII-b-1/Admn.(G) dated November 16, 1990

I am directed to say that the Ministry of Home Affairs, Government of India has forwarded a copy of Notification No. 2/8/90- Judl. Cell dated 4.6.1990 (Copy enclosed) in pursuance of sub-section (2) of Section 166-A of the Code of Criminal Procedure, 1973 (2 of 1974), on the above subject, specifying the procedure to be followed in the above matter for being followed. A copy of the extra ordinary Gazette of India Part II dated 20.4.1990 is also enclosed herewith by which amendment has been made in the Code of Criminal Procedure.

I am, therefore, to request you kindly to apprise all courts under your supervision the contents of this Circular Letter for information and necessary action.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1990

(No.10 of 1990)

(20th April. 1990)

An Act further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty- first Year of the Republic of India as follows:-

- | | | |
|-----------|---|---|
| 1. | (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1990. | Short title It and commencement. |
| | (2) It shall be deemed to have come into force on the 19th day of February, 1990. | |
| 2 of 1974 | 2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code of Criminal Procedure), in Chapter XII, after Section 166, the following sections shall be inserted, namely:-
"166-A. (1) Notwithstanding anything contained in this Code, if, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court of an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the | Insertion of new Sections 166-A and 166-B.
Letter of request to competent authority for investigation in a country or place outside India. |

case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

Letter of request from a country or place outside India to a Court or an authority for investigation in India.

166-B.(1) Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit-

(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced; or

(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.

(2) All the evidence taken or collected under sub-section (1) or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or Police Officer, as the case may be to the Central Government for transmission to the Court or the authority issuing the letter of request in such manner as the Central Government may deem fit."

Repeal and Saving	3 (1) The Code of Criminal Procedure (Amendment) Ordinance, 1990 is hereby repealed.	Ord. 1 of 1990
	(2) Notwithstanding such repeal, anything done or any action taken under the Code of Criminal Procedure, as amended by the said Ordinance, shall be deemed to have been done or taken under the Code of Criminal Procedure, as amended by this Act.	

(ii) Compliance of the direction or Hon'ble the Supreme Court issued in Writ Petition No. 340-343 of 1993 Vineet Narain and others vs. Union of India

C.L. No. 15/VIIIb-287 dated March 16, 1996

While enclosing a copy of the order passed, in the aforesaid Writ Petition, I am directed to communicate you and all the Judicial Officers posted in the Judgeships that the direction containing in the order* of Hon'ble the Supreme Court, be complied with.

I am therefore to direct you that the direction of Hon'ble the Supreme Court be brought to the knowledge of the officers posted in the Judgeship for strict compliance.

* Reported in (1996)2 SCC 199: 1996 A Cr R 216 (SC): 1996 A W C 465 (SC)

WRIT PETITION (CRL.) Nos. 340-343 OF 1993

Vineet Narain v. Union of India, 1996 (2) SCC 199: 1996 A Cr R 216 (SC)

**J.S. Verma,
S.P.Bharucha
S.C. Sen, J.J.**

ORDER

The true scope of this writ petition has been indicated during the earlier hearings. At this stage, when some charge sheets have been filed in the special court and there is considerable publicity in the media regarding this matter, with some speculation about its true scope, it is appropriate to make this order to form a part of the record.

The gist of the allegations in the writ petition are that Government agencies, like the CBI and the revenue authorities, have failed to perform their duties and legal obligations inasmuch as they have failed to properly investigate matters arising out of the seizure of the so called "Jain Diaries" in certain raids conducted by the CBI. It is alleged that the apprehending of certain terrorists led to the discovery of financial support to them by clandestine and illegal means, by use of tainted funds obtained through 'hawala' transactions; that this also disclosed a nexus between several important politicians, bureaucrats and criminals, who are all recipients of money from unlawful sources given for unlawful considerations; that the CBI and other Government agencies have failed to fully investigate into the matter and take it to the logical and point of the trail and to prosecute all persons who have committed any crime; that this is being done with a view to protect the persons involved, who are very influential and powerful in the present set up; that the matter discloses a definite nexus between crime and corruption in public life at high places in the country which poses a serious threat to the integrity, security and economy of the nation; that probity in public life, to prevent erosion of the rule of law and the preservation of democracy in the country, requires that the Government agencies be compelled to duly perform their legal obligations and to proceed in accordance with law against each and every person involved, irrespective of the height at which he is placed in the power set up.

The facts and circumstances of the present case do indicate that it is of utmost public importance that this matter is examined thoroughly by this Court to ensure that all Government agencies, entrusted with the duty to discharge their functions and obligations in accordance with law, do so, bearing in mind constantly the concept of equality enshrined in the Constitution and the basic tenet of rule of law: "Be you ever so high, the law is above you". Investigation into every accusation made against each and every person on a reasonable basis, irrespective of the position and status of that person, must be conducted and completed expeditiously. This is imperative to retain public confidence in the impartial working of the Government agencies.

In this proceeding, we are not concerned with the merits of the accusations or the individuals alleged to be involved, but only with the performance of the legal duty by the Government agencies to fairly, properly and fully investigate into every such accusation against every person, and to take the logical final action in accordance with law.

In case of persons against whom a prima facie case is made out and a charge sheet is filed in the competent court, it is that court which will then deal with that case on merits, in accordance with law.

However, if in respect of any such person the final report after full investigation is that no prima facie case is made out to proceed further, so that the case must be closed against him, that report must be promptly submitted to this Court for its satisfaction that the concerned authorities have not failed to perform their legal obligations and have reasonably come to such conclusion. No such report having been submitted by the CBI or any other agency till now in this Court, action on such a report by this Court would be considered, if and when that occasion arises. We also direct that no settlement should be arrived at nor any offence compounded by any authority without prior leave of this Court.

We may add that on account of the great public interest involved in this matter, the CBI and other Government agencies must expedite their action to complete the task and prevent pendency of this matter beyond the period necessary. It is needless to observe that the results achieved so far do not match the available time and opportunity for a full investigation ever since the matter came to light. It is of utmost national significance that no further time is lost in completion of the task.

(iii) Implementation or directions of Hon'ble Supreme Court dated 29.8.1990 in Criminal Appeal No.386 of 1978 Kishore Chandra v. State of Himachal Pradesh

C.L. No. 23/IXf-69/Admn. (G) dated April 2, 1992

I am directed to send herewith a copy of the Government letter No. D 372/VII-Nyaya-3-1899/90, dated January 31, 1992 containing an extract of the Hon'ble Supreme Court's judgment*, dated August 29, 1990, on the above noted subject and to request you kindly to circulate a copy of this letter with enclosures to all the Judicial Officers under your supervision, the Bar Associations at Headquarters and at Tehsil levels, for their information and necessary action.

In this case, the Hon'ble Supreme Court has made the following observations:-

Before parting with the case, it is necessary to state that from the facts and circumstances of this case it would appear that the investigating officer has taken the appellant, a peon, the driver and the cleaner for ride and trampled upon their fundamental personal liberty and lugged them in the capital offence punishable under Section 302, I.P.C. by freely fabricating evidence against the innocent. Undoubtedly, heinous crimes are committed under great secrecy and that investigation of a crime is a difficult and tedious task. At the same time, the liberty of a citizen is a precious one guaranteed by Art. 3 of Universal Declaration of Human Rights and also Art. 21 of the Constitution of India and its deprivation shall be only in accordance with law. The accused has the fundamental right to defend himself under Art. 10 of Universal Declaration of Human Rights. The right to defence includes right to effective and meaningful defence at the trial. The poor accused cannot defend effectively and adequately. Assigning an experienced defence counsel to an indigent accused is a facet of fair procedure and an inbuilt right to liberty and life envisaged under Arts. 14, 19 and 21 of the Constitution. Weaker the person accused of an offence, greater the caution and higher the responsibility of the law enforcement agencies. Before accusing an innocent person of the commission of a grave crime like the one punishable under Section 302, I.P.C., an honest, sincere and dispassionate investigation has to be made and

* For perusal of Judgment see Kishore Chandra v. State of Himachal Pradesh (1991) 1 SCC 286:1991 SCC (Cri) 172 : AIR 1990 SC 2140: 1990 Cr.L.J.2289 (SC).

to feel sure that the person suspected of the crime alone was responsible to commit the offence. Indulging in free fabrication of the record is a deplorable conduct on the part of an investigating officer, which undermines the public confidence reposed in the investigating agency. Therefore, greater care and circumspection are needed by the investigating agency in this regard. It is time that the investigating agencies evolve new and scientific investigating methods, taking aid of rapid scientific development in the field of investigation. It is also the duty of the State, i.e. Central or State Governments to organize periodical refresher courses for the investigating officers to keep them abreast of the latest scientific development in the art of investigation and the march of law so that the real offender would be brought to book and the innocent would not be exposed to prosecution.

Though Art. 39A of the Constitution provides fundamental rights to equal justice and free legal aid and though the State provides amicus curiae to defend the indigent accused, he would be meted out with unequal defence if, as is common knowledge the youngster from the Bar who has either a little experience or no experience is assigned to defend him. It is high time that senior counsel practicing in the court concerned, volunteer to defend such indigent accused as a part of their professional duty. If these remedial steps are taken and an honest and objective investigation is done, it will enhance a sense of confidence of the public in the investigating agency.

We fervently hope and trust that concerned authorities and Senior Advocates would take appropriate steps in this regard.

क्रिमिनल अपील संख्या 386 आफ 1978 - किशोर चन्द ब. हिमाचल प्रदेश स्टेट से सम्बन्धित मामले में माननीय उच्चतम न्यायालय के निर्णय दिनांक 29.8.1990 के सम्बन्ध में।

राजकीय पत्र सं० : डी 372/सात-न्याय-3-1899/90 दिनांक 31 जनवरी, 1992

उपर्युक्त विषय पर माननीय उच्चतम न्यायालय के निर्णय दिनांक 29 अगस्त, 1990 की एक फोटो प्रति संलग्न करते हुए मुझे यह कहने का निदेश हुआ है कि इस निर्णय में माननीय उच्चतम न्यायालय द्वारा दिए गए निदेशों/आलोचनाओं के अनुपालन हेतु समुचित कार्यवाही करने का कष्ट करें तथा कृत कार्यवाही से कृपया शासन को भी अवगत कराने का कष्ट करें।

C. L. No. -21/12006 : Dated: 29 May, 2006

I am directed to invite the attention of all the Judicial Officers towards order passed by Hon'ble Court in Criminal Misc. Writ Petition No. 2173 of 2006-Nardev @ Tomy & Ors. vs. State of U.P. & Ors.

In which Hon'ble Court has observed that the Magistrates are not careful at the time of passing orders under Section 156 (3) Cr.P.C. while they ought to be careful in scrutinizing individual cases as also the orders should not be passed on routine basis.

Therefore, while enclosing herewith a copy of judgment and order dated 22.2.2006 passed by Hon'ble Court in Criminal Misc. Writ Petition No.2173 of 2006 - Nardev alias Tomy and others Vs. State of U.P. and others, I am to request you to kindly circulate the copy of the judgment to all the Magistrate under your supervision and control in judgeship for their guidance and strict compliance.

C. L. No. 51/2006: Dated: 15.11.2006.

The Hon'ble Court while passing judgment /order In criminal Misc. application No. 6152 of 2006 -Smt. Masuman Vs. State of U.P. and others has expressed deep anguish over non-

observance of the provisions under Section 156(3) Cr.P.C in its true spirit by the Judicial Officers, which in the Court's observation has made the provision of 156(3) of the Code otiose.

Therefore In continuation of the Court's earlier Circular letter no.21 of 2006 dated 29.11.2006, I have been directed to send herewith a copy of the judgement and order dated 25.09.06 passed by the Hon'ble Court in above criminal misc. application 6152 of 2006- Smt. Masuman Vs. State of U.P. and others connected with various other Criminal misc. applications with the request to kindly ensure that the provisions as contained in Section 156(3) of Cr.P.C are strictly followed by the Judicial Officers in the Judgeship under your supervision and control while providing them with a copy of the Judgement and order aforesaid for their intimation, guidance & compliance.

(iv) Guidelines regarding application of provisions as contained in Section 156(3) Cr.P.C.

C.L. No. 5/08/Admin 'G' Section Dated: Allahabad: 21.01.2008

I am directed to say on the above subject that the Hon'ble Court has been pleased to withdraw the Court's Circular Letter No. 51 of 2006 Dated 15.11.2006 issued as a guideline for application of the provisions as contained in Section 156(3) of Cr.P.C.

Therefore you are requested to kindly bring this fact to the knowledge of all the Judicial Officers working under your administrative control for information.

65. JURISDICTION

(i) Special Courts under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

C.E. No.77 Main B-Admn. (D) dated July 30, 1990

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of Notification No. 44/VII.A.N.124/89, dated January 30, for general information.

Notification/Misc. No. 44/VII-A.N. 124/89 dated January 30, 1990.

In exercise of the powers under Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No.33 of 1989), the Governor, with the concurrence of the Chief Justice of High Court of Judicature at Allahabad is pleased to specify the District and Sessions Judges of Pauri Garhwal, Chamoli, Tehri Garhwal, Uttarkashi, Almora and Pithoragarh and the second Additional District and Sessions Judges of other districts of Uttar Pradesh to be the Special Courts of their respective districts try the offences under the said Act.

(ii) Withdrawal of the powers of Assistant Sessions Judge, earlier conferred on Court of Small Causes, Civil Judges and Additional Civil Judges, and of recess facility to them.

C. L. No. 50/IV-g-27; dated May 21, 1994

I am directed to say that Court's Circular Letter No. 26/IV-28, dated March 23, 1994 by which the Judges of the Court of Small Causes, Civil Judges and Additional Civil Judges were appointed as Ex-officio Assistant Sessions Judges, was reconsidered by the Court and on reconsideration the Court has revoked the aforesaid Court's Circular Letter with immediate effect.

I am further to say that all the Civil Judges/Additional Civil Judges, Judge Small Causes Court and Additional Judge Small Causes Courts in the State are conferred powers under Section 11(3) of the Code of Criminal Procedure, 1973 by the Court vide Notification No. C-394/JR (S)/94, dated, Allahabad, May 21, 1994, copy enclosed.

The Civil Judges/Additional Civil Judges, Judge Small Causes Court/Additional Judge Small Causes Court who used to avail sessions recess as they were earlier exercising powers of Assistant Sessions Judges shall not be allowed any recess, instead these; officers after conferment of powers under Section 11(3) of the above mentioned Code may be detained during summer vacations, winter vacation in the Hills for doing the criminal work as Additional Chief Judicial Magistrates.

So far as Civil powers are concerned, the Government of Uttar Pradesh has already in exercise of the powers under clause (b) of sub-section (1) of Section 36 of the Bengal, Agra and Assam Civil Courts Act, 1887 invested in consultation with the High Court, the powers of the Court of Civil Judge on all the Additional Chief Judicial Magistrates in Uttar Pradesh vide notification No. 969/VII-A.N.-214-90, dated March 6, 1990 and communicated to the District Judges vide Court's Circular Letter No.38, dated, March 21, 1990.

I am, therefore, to request that the contents of this Circular may be brought to the notice of all concerned.

HIGH COURT OF JUDICATURE AT ALLAHABAD
NOTIFICATION

No. C-394/JR (S)/94 dated May 21, 1994

In exercise of the powers conferred under Section 11(3) of the Code of Criminal Procedure, 1973, the High Court is pleased to confer the powers of Judicial Magistrate, First Class upon all the Judges Small Causes Court, Additional Judges, Small Causes Court, Civil Judges and Additional Civil Judges in the State.

(iii) Special court for trying cases under section 122 D (7)198A (7) and 211 (5) of U.P.Z.A. and L.R. Act and section 27 (6) of U.P. Imposition of Ceiling on Land Holdings Act.

C.L.No.45/Admn-A3 dated : Allahabad: 14th October, 1997

With reference to the court's letter No.19161/Admin.A-3 dated November 15, 1996 on the above subject I am directed to request you kindly to furnish data of cases pending section 122 D(7), 198(7) and 211 (5) of the U.P. Zamindari abolition and land reforms Act and Section 27(6) (g) of the U.P. Imposition of ceiling on Land Holdings Act in your judgship, to the court immediately.

(iv) Conferment of powers of Special Courts to one of the existing Sessions Courts to try cases falling under the Electricity Act-2003.

C.L. No. 29/main-B/Admin.(a-3) Dated : 21.9.2004

On the above subject, I am sending herewith a copy of Government Notification no. 1232/VII-Nyaya-2-2004-206/81, dated August 31,2004, regarding constitution of IV Senior most court of Additional District & Sessions Judge in each district as Special court under section 153 of the U.P. Electricity Act-2003 and where such Additional District and Sessions Judge is

not available, the Senior most Additional District & Sessions Judge of the district as special court under the aforesaid Act.

I am, therefore, to request you kindly to ensure compliance of the aforesaid Government Notification.

विद्युत अधिनियम 2003 (अधिनियम संख्या-36 सन् 2003) की धारा 153 के अधीन शक्ति का प्रयोग करके राज्यपाल उक्त धारा की उप धारा (1) के अधीन जिले के समस्त चतुर्थ वरिष्ठतम अपर एवं सत्र न्यायाधीश के न्यायालयों को, और जहाँ ऐसे न्यायालय नहीं है, वहाँ जिले के वरिष्ठतम अपर जिला एवं सत्र न्यायाधीशों के न्यायालयों की विशेष न्यायालय के रूप में गठित करते हैं और उच्च न्यायालय इलाहाबाद के मुख्य न्यायाधीश की सहमति से उक्त न्यायालयों के समस्त पीठासीन अधिकारियों को अपनी अपनी अधिकारिता के भीतर उक्त अधिनियम की धारा 135(4) के अधीन निर्दिष्ट अपराधों के शीघ्र विचारण के प्रयोजन से उक्त न्यायालयों के न्यायाधीश के रूप में नियुक्ति करते हैं।

66. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

(i) Constitution of Special Court under Narcotic Drugs and Psychotropic Substances Act, 1985

C.L. No. 103/Main 'B' dated November 16, 1990

I am directed to request you kindly to furnish the figures of cases pending in your Judgeship under the aforesaid Act, as on 31.10.1990, along with your proposal for the Additional District Judge/Additional Sessions Judge to be nominated for the purpose for trial and disposal of cases, under the aforesaid Act, to the Court, at an early date, so that the Government may be moved with full facts and figures.

I am to add that with regard to the districts of Agra, Allahabad, Aligarh, Bareilly, Faizabad, Ghaziabad, Gorakhpur, Jhansi, Kanpur Nagar, Lucknow, Meerut, Moradabad, Nainital, Saharanpur and Varanasi, it may also be intimated that at present which Court has been nominated to deal with such cases in your respective district.

(ii) Committee for the review of N.D.P.S. Cases

C.L.No. 14 dated : May 20, 1999

I am directed to say that in the light of directions contained in writ petition No.307of 1993- Supreme Court Legal Aid Committee Vs. Union of India & others, a committee for the review of N.D.P.S. Cases in the courts of the State of Uttar Pradesh was constituted by state Government. While Hon'ble Chairman of the Committee was assessing N.D.P.S. Cases pending in the Subordinate courts, the committee experienced certain irregularities and difficulties in the course of the meeting. Recommendations contained in the report of the committee were considered by the court and the court issues the following guidelines which be followed in the disposal of like cases:-

1. In cases where charge sheet is filed against the accused who were absconding for a long period and sureties were also not available the court should start proceedings under section 299 Cr. P.C. and thus to dispose of the cases in the manner as provided in law.
2. Similar is the situations in which accused jumped bail and is absconding.
3. Court should expedite the cases of those persons who have previous Narcotics history, are resident of other district and are in jail for a long period.

4. In cases where charge sheet is submitted without the report of chemical examiner, the court before accepting the charge sheet must direct the Investigating Officer to file the charge sheet along with report of Chemical Examiner.
5. Where police had challaned persons under Narcotic not having in their possession 'Bhang', 'Bhang' is not Narcotic as define in the Act, court should dispose such cases according to law.

It has also come to the notice of the court that list in the district are not being prepared as per directions. District Judges should see that the lists are prepared as per directions.

I am, therefore, to request you kindly to bring the contents of this letter to all the concerned Judicial Officer for their information and strict compliance.

C. L No: 31 /2006: Dated: 7.8. 2006

While deciding Criminal Misc. Application NO. 1239 of 2002 - Rajesh Singh Vs. State of U.P. the Hon'ble Court has observed with concern that the provisions as contained in N.D.P.S. Act and Cr. P.C. are not being followed in true spirit by the Judicial Officers in the Subordinate Courts. The Hon'ble Court has observed in the matter quoted herein as below:-

"...the original provisions of the N.D.P.S. Act, 1985 has been substantially amended by the amending Act No.9 of 2001, Section 36-A of the original Act provided for trial of offences under the Act by the Special Courts. This section has been amended and amended sub clause 1 (a), which is relevant for the purpose of this petition, is extracted below:

Section 36-A --"Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

a) all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one or more as may be specified in this behalf by the Government."

Sub-clause (5) of the said section is also relevant and is extracted below:

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offences punishable under this act with imprisonment for a term of not more than three years may be tried summarily."

4. From the perusal of the above provision along with Section 4 of the Cr.P.C., It is clear that in case the punishment provided for the offence under the N.D.P.S. Act is more than three years, the offence is triable by Special Court and to that extent the provision of Section 36-A NDPS Act over rides the provisions of the Cr.P.C. The trial for offences under the N.D.P.S. Act, which are punishable for imprisonment of three years or less, should be a summary trial by the Magistrate under Chapter XXI of the Cr .P .C. For the purpose to further clarify the position of law, it is also necessary to refer to Section 4 Cr .P .C., which is as follows:-

Section 4 "Trial of offences under the Indian Penal Code and other laws - (1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, enquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2). All offences under any other law shall be investigated, enquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, enquiring into, trying or otherwise dealing with such offences.

5. The above clause (2) therefore, show that all the offences should be tried according to the provisions of Cr. P.C. except where there is special provision in any other enactment regarding the trial of any offences. Section 36-A of N.D.P.S. Act only provide for trial by Special Courts for offences punishable under N.D.P.S. Act with imprisonment for a term of more than three years only. Therefore, if an offence is punishable with imprisonment for a term up to three years, it shall have to be tried by the Magistrate in accordance with the provision of Section 4 (2) Cr.P.C.

6. It will not be out of place to mention that after the enforcement of amending Act No.9 of 2001 this procedure for trial has to be followed for all the offences irrespective of the date of commission of the offence. It is basic principle of law that amendment in procedural law will apply to the pending cases also. Not only this there is also specific provision regarding it in amending Act No.9 of 2001. Section 41 of the Act provides as follows:-

Section 41: " Application of this Act to pending cases -(1) Notwithstanding anything contained in sub section (2) of Section 1, all cases pending before the Courts or under investigation at the commencement of this Act shall be disposed of in accordance with the provisions of the principal act as amended by this Act and accordingly, any person found guilty of any offence punishable under the principal Act, as it stood immediately before such commencement shall be liable for a punishment which is lesser than the punishment for which he is otherwise liable at the date of the commission of such offence:

Provided that nothing in this section shall apply to cases pending in appeal.

(2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Act has not come into force."

8. Now the next question that arises for decision is as to what is the punishment provided for the present offence under amended N.D.P.S. Act. It appears that the punishment for recovery of Narcotic Drugs or Psychotropic Substance has been divided in 3 categories as mentioned in the table given at the end of the Act. In this table, 2 columns No.5 and 6 are material, the first is regarding the small quantity and the other is regarding commercial quantity. The third category will follow from this table where the quantity is above small quantity but is less than commercial quantity. The ganja has been given at live No.55 'of this table, 1000 gm of ganja has been categorized as small quantity and 20 kg. of ganja has been categorized as commercial quantity. Accordingly, to the third category in respect of recovery of ganja is above 1 kg. and below 20 kg.

In view of the above observations of the Hon'ble Court, I am directed to send herewith a copy of the judgement passed in the aforesaid Crl. Misc. Application for your information and to kindly bring the contents of the circular letter as also judgement to the notice of all the Judicial Officers in the Judgeship for their guidance.

C. L. No. 36/2006/Admin 'G': Dated: 10.8. 2006

While hearing Criminal Misc. Bail Application No.5108 of 2006-Jagdish Vs. State of U.P., the Hon'ble Court has observed with concern that the recovered article under N.D.P.S. Act is not being weighed either by the arresting officer or by the S.H.O. concerned as also by the Magistrate who grants the first remand to the accused. The Hon'ble Court has further observed that the learned Sessions Judge who dispose of the bail application of the applicant even do not care to get the recovered article weighed while after the amendment of 2003 of N.D.P.S. Act, 1985 the weight of recovered article goes to the root of the Jurisdiction because only the weight of recovered article determines the jurisdiction. .

I am, therefore, directed to request you that all the recovered articles under N.D.P .5. Act as and when are recovered be weighed either by the arresting officer or the S.H.O. of the Police Station concerned and in case both the authorities fail to discharge their duty it is incumbent upon the Special Judge/Magistrate who grants first remand to the accused to get the recovered article weighed.

Now, while enclosing herewith a copy of order passed in Criminal Misc. Bail Application No.5108 of 2006-Jagdish Vs. State of U.P. aforesaid, I am further to request you to kindly ensure strict compliance of the directions as contained in the circular letter by all the Judicial Officers working under your supervision and control in the judgeship faithfully and punctually.

Compliance of the directions passed by Hon'ble Court in Criminal Jail Appeal No. 6680 of 2006 (In S.T. No. 23 of 2006 arising out of Case Crime No. 567 of 2006 P.S. Dhampur, District Bijnor.)

C.L. No. 15/2009/Admin. 'G-II': Dated: April 9, 2009

The Hon'ble Court while deciding the Criminal Jail Appeal No. 6680 of 2006 Lalit alias Kalliya Karak Behadur versus State of U.P. arising out of S.T. No. 23 of 2006 pertaining to Crime No. 567 of 2006 P.S. Dhampur, District Bijnor, reduced the punishment awarded from 10 years RI to 2½ years and has provided the guidelines for awarding punishment to the effect that it is fair and justifiable to adjust the sentence in conformity with the scheme of sentence in the NDPS Act, 1985 and to fix the quantum of sentence in proportion to the sentence given in scheme of the Act.

Therefore, while enclosing a copy of the judgment passed in above mentioned case, I am directed to request you to kindly adhere to the guidelines as provided above, while awarding punishment in cases covered under the NDPS Act.

I am further to request you to kindly bring the contents of the Circular Letter to the knowledge of all the Judicial Officers working under your administrative control for strict compliance.

Disposal of cases involving petty offences

C.L. No. 23/2010/Admin. E (F.T.C. Cell): Dated 12.08.2010

I have been directed to say on the above subject that the Hon'ble Court has directed as follows:-

(1) That the Chief Metropolitan Magistrate and all Addl. Chief Metropolitan Magistrates/Metropolitan Magistrates/Chief Judicial Magistrates/Addl. Chief Judicial

Magistrates/Judicial Magistrates/Civil Judges (Junior Division) has empowered for summary trial under Section 260(1)(C) of Cr.P.C. shall issue Special Summons under Section 206 Cr.P.C. on Form No. 30 of Schedule-II of Cr.P.C., in the following form:-

"Form No. 30

SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

To (Name of the accused)of (address)

WHEREAS your attendance is necessary to answer a charge of a petty offence(state shortly the offence charged), you are hereby required to appear in person (or by pleader) before(Magistrate) ofon theday of20, or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty in writing and the sum ofrupees as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein

thisday of 20.....

(Seal of the Court)

(Signature)"

A note shall also be mentioned on the aforesaid Special Summons that if the accused desires to deposit the amount of fine after pleading guilty, he may deposit the fine in the Bank. The Special Summons will be enclosed a receipt in three parts with the mention of particulars of the case, the amount of fine to be deposited and the Account Number of the Bank. One part or such receipt shall be given to the litigant after he deposits fine in the Bank, the second part shall be sent by the Bank to the court concerned and third part shall be retained by the Bank.

(2) That with effect from 1st of July, 2010, a separate register shall be maintained for registering the cases involving petty offences and if possible, the registration of such cases can be done directly on computer.

(3) The office of the District Court shall identify all such cases, which deal with petty offences and ensure that sufficient number of cases are listed before the Courts each day and the summons are issued immediately after orders are passed by the Courts.

(4) A Website be created for each District containing details of such cases involving petty offences where summons have been issued.

(5) A Centralized Account be opened in each District in one Bank for the purpose of deposit of fine by the accused persons against whom special summons are issued and the same can be transferred in the Government Account where amount of fine is deposited.

(6) Each District Judge shall inform the High Court every fifteen days about the progress made in his district so that the data can be compiled and placed before the Committee monitoring the disposal of such cases.

I am, therefore, to request you to kindly direct all concerned under your administrative control to ensure compliance of the above directions of the Hon'ble Court in right earnest.

67. PETTY CRIMINAL CASES

(i) Transfer of Petty Criminal Cases under the Local and Special Acts to the Courts of Executive Magistrate having powers of special Judicial Magistrate First Class

C.L. No. 47/Admn. (A) dated May 19, 1994

I am directed to send herewith a copy of G.O. No. 4521/8/9/26(5)/89, dated August 2, 1989, issued by the Special Secretary, Government of U.P., Home (Police) Section-9, Lucknow, addressed to all the District Magistrates of U.P., regarding disposal of petty criminal cases by the Executive Magistrates having powers of Special Judicial Magistrates and to request you kindly to get 100 petty criminal cases in which the offence is punishable with fine only under the Special and Local Acts and in which the offence is triable by the Special Executive Magistrates who have been conferred with such powers of Special Judicial Magistrate, by this Court from time to time, under Section 13(3) of Code of Criminal Procedure, 1973 (Act No. 2 of 1974), transferred to the Court of Executive Magistrates posted in his District immediately under intimation to the Court and the list of such cases transferred to the Courts of Executive Magistrates may also be sent to this court as well as to the Government.

कार्यपालक मजिस्ट्रेट द्वारा छोटे फौजदारी मुकदमों के निस्तारण एवं उनका सावधिक विवरण भेजने के संबंध में।

शासनादेश संख्या-4521/आठ-9-26/5/89, गृह (पुलिस) अनुभाग-9 दिनांक 2 अगस्त, 1989

दिनांक 7.4.89 को उच्च न्यायालय के वरिष्ठ न्यायाधीश माननीय श्री के.सी.0अग्रवाल की अध्यक्षता में हुई बैठक में यह निर्णय लिया गया था कि प्रयोग के तौर पर माननीय उच्च न्यायालय द्वारा जिला न्यायाधीशों को इस आशय के निदेश दिये जायेंगे कि जिलों में नियुक्त ऐसे कार्यपालक मजिस्ट्रेट्स जिन्हें न्यायिक मजिस्ट्रेट के अधिकार प्राप्त हैं, को सौ-सौ छोटे अपराधों के मुकदमों स्थानान्तरित कर दिये जायें।

2- उपर्युक्त बैठक में ही यह जानकारी दी गयी कि द.प्र.0सं.0 की धारा 107/117,145 एवं 133 के मुकदमों तथा यू.पी.0 एक्ट नं.0 XIII आफ 1972 के अन्तर्गत आबंटन/रिलीज के मुकदमों जो कार्यपालक मजिस्ट्रेट के न्यायालय में दायर किये जाते हैं, का समय से निस्तारण नहीं किया जाता है और उनके निस्तारण एवं जुर्माने की वसूली के बारे में आवश्यक सावधिक विवरण संबंधित मुख्य न्यायिक मजिस्ट्रेट/मुख्य मैट्रोपोलिटन मजिस्ट्रेट को नहीं भेजे जाते हैं।

3- उक्त के सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि समस्त जिलाधिकारी यह सुनिश्चित करेंगे कि प्रस्तर -1 में उल्लिखित माननीय उच्च न्यायालय के निर्देश पर जब भी फौजदारी मुकदमों कार्यपालक मजिस्ट्रेट्स के न्यायालयों में प्राप्त होते हैं तो उनका तत्परता पूर्वक निस्तारण किया जाता है। यह भी आवश्यक होगा कि जिलाधिकारी कार्यपालक मजिस्ट्रेट के न्यायालय में वर्तमान में लम्बित फौजदारी मुकदमों के निस्तारण में विलम्ब के कारणों की समीक्षा कर लें और कार्यपालक मजिस्ट्रेट्स को समुचित निर्देश देकर उनका तत्परतापूर्वक निस्तारण कराया जाना तथा कार्यपालक मजिस्ट्रेट्स के न्यायालयों में लम्बित/निस्तारित होने वाले मुकदमों के संबंध में नियमानुसार सावधिक विवरण (रिटर्न्स) मुख्य न्यायिक मजिस्ट्रेट/मुख्य मैट्रोपोलिटन मजिस्ट्रेट्स को भविष्य में समय से प्रेषित किया जाना सुनिश्चित करें।

C.L.No.17/Main 'A'/ J.R (I) dated: 21-4-2000

The Government of Uttar Pradesh, by Notification no. 3093/VII-Nayay-2-201 G/92 dated 26.8.96, had established courts of special Judicial Magistrate, I class and of special metropolitan Magistrate in only 46 districts of the state of UP. As defined in Rule 2 of the Uttar Pradesh Petty Offences (Trial by Special Judicial Magistrate) Rule, 1997, Special Judicial Magistrate will try petty offences. In order to dispose of the pendency of petty cases, Hon'ble court is considering for creation of further courts of Special; Judicial Magistrate. In this regard, the details of pending cases in your judgeship, which can be triad Special Judicial Magistrate/ Special Metropolitan Magistrate are required.

I am, therefore, to request you kindly to submit details showing number of pending cases of petty offences, which can be triad by Special Judicial, Magistrate/ Special Metropolitan Magistrate in your Judgeship to the Hon'ble court at the earliest.

C.L.No.19/ Main 'A'/J.R. (I) /Dated: May 12, 2000

This is in reference to court's circular letter No. 17/main 'A' /J.R. (I) dated 21.4.2000 pertaining to pendency of cases of petty offences in your Judgeship. With a view to dispose of the cases, Hon'ble court is considering for creation of more court of Spl. Judicial Magistrate/ special Metropolitan magistrate in the district.

I am to say that Government of India has also sought information by 31.5.2000 for creation of more courts of special Judicial Magistrate/Special Metropolitan Magistrate in the district of Uttar Pradesh, which has to be furnished to Parliament in respect of parliamentary question.

In order to prepare proposal on the aforesaid reference, information on the following proforma is to be obtained from you:-

1. Total number of pending cases of petty offences in your Judgeship as on 01.4.2000.
2. Indicate probable number of post of SJM/SMM (excluding existing posts) as per norms, if required, to be created on the basis of pendency of cases in your Judgeship.

I am, therefore, to request you kindly to furnish the latest information as on 1.4.2000 on the above proforma to the court by return post/fax.

C. L. No. 56/2007Admin (G): Dated: 13.12.2007

The Hon'ble Court has been pleased to observe that the pendency of criminal cases has swelled to a large extent by inclusion of criminal cases of petty nature and the same could be brought down by making maximum use of the provisions made under Section 206 (1) Cr. P.C. which provides for summary disposal of such cases by the Magistrates U/s 260 of Cr.P.C.

Therefore, I am directed to request you to kindly bring contents of this Circular Letter to all the magistrates working under your administrative control and to impress upon them to ensure compliance of the above directions of Hon'ble Court in letter and spirit.

68. PREVENTION OF CRUELTY OF ANIMALS

- (i) **Copy of Judgment dated 19.1.96 passed by Hon'ble Mr. Justice A.N. Gupta in Criminal Misc. Case No. 25 of 1996 (Bal Gangadhar Tripathi & another v. State of U.P. and another) regarding prevention of Cruelty to animals**

C.L. No. 5/Admn. 'G'/dated February 14, 1996

I am directed to send a copy of Judgment dated 19.1.96 in Criminal Misc. Case No.25 of 1996 (Bal Gangadhar Tripathi and another v. State of U.P. and another), on the above subject, for guidance of all the Courts.

Criminal Misc. Case No. 25 of 1996

Bal Gangadhar Tripathi V. State of U.P. Hon'ble A.N. Gupta, J.

Eight trucks loaded with calves from Kosi Kalan district Mathura and one truck similarly loaded from Kanpur were proceeding towards Bihar and on 12.12.95 when a Police Party headed by S.I. Shiv Murti Singh was informed that they were loaded mercilessly and cruelly in those trucks without proper documents, he intercepted them at about 9.00 p.m. within jurisdiction of

his Police Station, namely, Akbarpur district Faizabad (Ambedkar). They were coming on a high speed and when the police party signaled them to stop, they tried to run away by increasing the speed but incidentally railway crossing ahead was found closed and motor trucks had to stop there which were seized by the chasing police party. It was found that these trucks were loaded with 44, 44,42,42,43,27,27,29 and 27 calves, respectively, in all 325 calves. On checking, it was found that the trucks neither had proper documents of their registration etc. nor there was any certificate or licence or any medical certificate that these calves were fit to be slaughtered. They were found mercilessly and cruelly stacked almost like goods in the said trucks. Accordingly, the police party seized the said trucks and the calves and a Case Crime No.514 of 1995 under section 11(d) of U.P. Prevention of Cruelty to Animals Act, 1960, Section 7 of Criminal Law Amendment Act and 3/8 U.P. Prevention of Cow Slaughter Act.

Sri Bal Gangadhar Tripathi who is petitioner No.1 before me, although an Advocate by profession based at Faizabad but is engaged in advancement of prevention of cruelty to animals. With the same mission petitioner No.2 Bhola Nath is working at Faizabad. They have set up an Organization known by the name of "Go Vansh Evam Go Sanrakshana Sanvardhan Parishad". These calves were given in the Supurdgi of petitioner No.1. The case is still under investigation. Some of the persons were owners of the trucks as well as calves loaded therein and in some cases owners of the trucks and the calves were different persons. All of them applied before learned Magistrate for release of the trucks as well as of the calves. Both the petitioners requested the learned Magistrate to give them opportunity of hearing, which was granted. After hearing the applicants and the petitioners, the learned Magistrate rejected the release applications. Thereafter, those owners filed revisions before learned Sessions Judge which are pending. In those revisions, the two petitioners applied for an opportunity of hearing but the same has been rejected by him by means of the impugned order dated 10.1.96. Now, the petitioners in keeping with their mission have approached this Court under section 482, Cr. P .C. by filing this petition.

A perusal of the order of learned I Addl. Sessions Judge, Faizabad shows that he held that under Section 301 Cr .P .C. the persons who are neither complainants nor accused before the court, have any right of hearing and in any case since neither any inquiry, trial or appeal was pending, the petitioners could not be heard. He also observed that in criminal cases it is the Government which has to protect rights of the citizens and for the purposes of criminal machinery since the Government has, appointed Public Prosecutors, it was not necessary to hear the petitioners.

The animals are national assets. They are not only essential for the human living as they provide milk etc. but they help in maintaining ecological balance, even they help in maintaining proper environment. Although the different Legislatures have passed enactments for prevention of cruelty to animals but the Government machinery and Governmental efforts by themselves are not sufficient and therefore, the voluntary organizations have definitely an important role to play in the matter. It is very rare to find any private citizen approaching a court of law for prevention of cruelty to animals. In fact, it is voluntary organizations and the persons having zeal and mission who come to court and bring the matter to the notice of the Court or to the notice of the appropriate governmental authorities. Thus, these matters are in the nature of public interest litigation although the cases may be tried or concluded largely within the frame work of the Code of Criminal Procedure. In such matters to deny a right of hearing to the voluntary organisation would be unjust and improper. In fact, a Division Bench of this Court in the case (in

which I was also a Member) Vishwa Hindu Adhivakta Sangh v. Union of India 1993 LCD 112 (paragraph 62) observed that in matters of larger public interest the court must hear those persons who are vitally interested in the out-come of those cases. The Hon'ble Supreme Court in the case of State of West Bengal & others v. Ashutosh Lahiri & others, (1995) 1 Supreme Court Cases 189 held that any person representing Hindu community challenging exemption granted under Section 12 of West Bengal Animal Slaughter Control Act to cow slaughtering on Bakri'd-day, has a locus standi to be heard in the matter. Further, under Article 48 of the Constitution in Part IV relating to Directive Principles of State Policy, it has been provided that the State shall have endeavour to prohibit the slaughter of cows and calves and other mitch and draught cattle. These matters cannot be decided just by narrowly interpreting Section 301 Cr.P.C. Even if Section 301 in strict terms may not be applicable to the facts of the case yet being almost in the nature of Public Interest Litigation and the petitioners being vitally interested in the same it would be just and proper to permit them to have a hearing in the revision because apart from other things in such matters the prosecution or accused may not bring forth all the relevant facts in order to escape from clutches of law and therefore, voluntary organizations which are represented by the petitioners should be heard by the courts.

In the result, this petition under section 482 Cr.P.C. is allowed. Order dated 10.1.96 passed by learned I Addl. Sessions Judge, Faizabad is hereby quashed. It is directed that the petitioners shall be heard in the revisions pending before him. It is made clear that the learned Sessions Judge shall not be influenced by any observations made in this judgment so far as merits of the revisions pending before him are concerned.

Copy of this judgment shall be furnished to the petitioners as well as to the learned Government Advocate free of cost, within five days.

The Registrar is directed to circulate a copy of this judgment to all the courts in Uttar Pradesh for their guidance.

69. RELEASE OF INMATES OF PROTECTIVE HOMES

(i) Circulation of the copy of order passed by the Hon'ble Supreme Court on 12.4.93 in writ petition No.1900/1981 Dr. Upendra Bakshi v. State of U.P. No. 5777 dated May 15, 1993

I am desired to enclose here with a copy of the order* passed by the Hon'ble Supreme Court on 12.4.93 in the aforementioned writ petition for the necessary compliance by the subordinate courts.

Extracts of Judgment

In this public interest litigation petition the State Government was requested to evolve a scheme for rehabilitation of girls lodged in protective homes in the State so as to enable the Court to lay down broad guidelines for administration of protective homes under Suppression of Immoral Traffic in Women and Girls Act at the final hearing of the writ petition. The State Government had shifted the Protective Home at Agra in the new building. The Hon'ble Apex Court directed the State Government to carry out the following directions:

* For perusal of Judgment see AIR 1987 SC 191 : 1986(4) SCC 106

- (1) The approach road to the new building shall be made into a pucca or semi-pucca road so that it does not get blocked or waterlogged by rain. This shall be done within 3 months from today.
- (2) The big hall as also three rooms used as classrooms and the kitchen shall be provided with cross ventilation by putting up sufficient number of windows so as to ensure passage of air in and out of the rooms. The District Judge or the Additional District Judge nominated by him shall determine how many windows are necessary to be constructed for this purpose.
- (3) Exhaust fans shall be provided in the big hall, three classrooms, kitchen and offices.
- (4) The State Government shall provide police protection throughout day and night for the inmates of the Protective Home in the new building.
- (5) The State Government shall either provide accommodation to the staff of the Protective Home in or near the new building or provide conveyance to the member of the staff for coming to the Protective Home and going back to their respective homes unless public transport is available in the immediate vicinity of the Protective Home.
- (6) Mosquito nets have been provided by the State Government to each and every inmate as also to the members of the staff staying in the Protective Home but if that has not yet been done, the State Government shall immediately take steps to provide mosquito nets to each and every inmate and member of the staff staying in the Protective Home.
- (7) The State Government shall provide a conveyance for taking the inmates to the court and bringing them back to the Protective Home and similarly, conveyance shall also be provided to the District Judge or Additional District Judge inspecting the Protective Home.
- (8) The District Manager (Telephones), Agra shall immediately shift the telephone to the new building and whatever steps are necessary for this purpose shall be taken by the State Government without any delay.
- (9) The State Government shall immediately provide cooking gas in the kitchen so that it is not necessary to use wood for cooking which may emit a lot of smoke and lead to discomfort and suffocation on account of lack of ventilation.
- (10) The State Government shall immediately proceed to carry out rewiring as also to install the electric meter in a safe place where there is no dampness. The latest Inspection Report of the Additional District Judge dated June 30, 1986 revealed that the electric meter has been shifted to the chamber of the Superintendent. The new place to which it is shifted is not damp so as to imperil the safety of the inmates. That is a matter, which would have to be looked into, by the District Judge or the Additional District Judge when he goes for inspection. The State Government shall without any undue delay proceeds to take the necessary steps to install a generator so that the safety of the inmates is not jeopardized.
- (11) The State Government shall set up, within a period of two weeks from the receipt of the court's order, a Board of Visitors on which there shall be at least three social activists working in the field of welfare of women and particularly suppression of immoral traffic in women and there shall also be included in the Board of Visitors two persons to be

nominated by the District Judge, Agra within two weeks from the date of the Court's order.

- (12) The Superintendent of the Protective Home shall take care to see that no women or girl is detained in the Protective Home without due authority and process of law. The District Judge, Agra who carries out monthly inspection of the Protective Home shall verify during every visit that no women or girl is detained except under the authority of law and if he finds that any of them is detained without any authority of law, he shall take steps to see that she is released and repatriated to her parents or husband or other proper authority.
- (13) The District Judge, Agra is directed to nominate two socially committed advocates who would by turns visit the Protective Home once in a fortnight and enquire from the inmates in regard to their needs and requirements and provide them legal aid and assistance, where required. Each of the advocates visiting the Protective Home pursuant to this direction shall be paid by the State Government an honorarium of Rs. 50 per visit plus out of pocket expenses.
- (14) It is absolutely essential that the inmates in the Protective Home should be provided a proper rehabilitation programme so that when they come out of the Protective Home, they are in a position to look after themselves and they do not slide into prostitution on account of economic want. The inmates must be given vocational training and guidance by way of rehabilitation. The State Government is directed to produce at the next hearing of the writ petition a detailed rehabilitation programme, which they have either set up or they propose to set up within a specified time limit. The Superintendent of the Protective Home is directed to consider whether it would be possible to arrange for their wedding to proper persons in case they want to get married. The Superintendent of the Protective Home can follow the example of the Nari Niketan in Delhi where a committee was set up by this Court for the purpose of investigating into the antecedents of the would be bridegrooms in order to ensure that they were genuine persons wishing to marry the inmates and not bogus or sham bridegrooms who were going through the ceremony of marriage merely for the purpose of selling the inmates or pushing them into prostitution. The District Judge will constitute an appropriate committee for this purpose consisting of himself and at least two social activists. The State Government will also initiate proper follow up action in this behalf with a view to ensuring that the inmates are not taken back to the brothels or/ and they do not once again slide into prostitution.
- (15) The District Judge, Agra or any other Additional District Judge nominated by him shall visit the Protective Home once every month for the purpose of ensuring that the aforesaid directions given by the Court are carried out fully and effectively and he shall submit an Inspection Report to this Court on/or before the 15th of every month.

70. PROVIDING OF STATISTICAL INFORMATION TO THE STATE LAW COMMISSION CONCERNING THE ESTABLISHMENT OF DIVISIONAL COURT.

C.L.No.41/ Dated: August: 3, 1996

A proposal of the establishment of divisional court is pending with the State Law Commission, Uttar Pradesh. It is proposed that the establishment of such courts will improve the court management and judicial administration.

The State Law Commission requires certain statistical informations on the matters relating to the establishment of divisional courts, the information will be required from the district Courts.

The Hon'ble court has directed that on receiving of such requirements from the State Law Commission the required information may be provided to the State Law Commission at the earliest.

I am, therefore, to request you that aforesaid directions of the Hon'ble court be complied without fail.

71. STATISTICAL INFORMATION REGARDING JUDGE STRENGTH INSTITUTION, PENDENCY AND DISPOSAL OF CASES IN SUBORDINATE COURTS AS PER THE PROFORMA

C.L.No.28/ Admin.A-3 Dated: Allahabad: July 29, 1998

I am directed to send herewith a copy of letter No.FNJPC/DCJS/8/98, Dated June 24, 1998 along with preformed annexed therewith, sent by Member-Secretary, first National Judicial pay commission, 1st floor, city civil court complex, Annexe, central college road Bangalore, on the subject noted above and to request you kindly to furnish the information asked for there in, the enclosed proforma attached with the aforesaid letter within 15 days from the receipt of the letter so that it may be submitted to the member- Secretary of the First National Judicial pay commission as desired.

72. ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) ACT, 1981 AND ESSENTIAL COMMODITIES ORDINANCE 1998 HAVE BECOME IN EFFECTIVE FROM 31.3.1997 AND 8.7.1998

C.L.No.5/Admin.A.3dated: 30 March, 1999.

I am directed to refer the letter no.Bha.Sa.64/29-7-98—102/98, dated 3.10.1998 of Sri Prabhat Chandra Chaturevedi, Secretary Government of U.P. addressed to all the District Magistrates of the State (copy enclosed), on the above subject, and to say that on consideration of the matter court has been pleased to order that being the provision of Essential Commodities (Special Provisions) Act, 1981, read with Essential Commodities Ordinance 1998 in effective by virtue of non extension of power the section 6 (e) of UP. General Clause Act, 1904 provides that the cases in which cognizance have been taken shall continue to be tried by the Special Judge.

I am further directed to say that so far as new cases, which have arisen out of essential commodities Act 1995 after 8.7.1998, cognizance shall be taken as per the provision of said act by Magistrate having Jurisdiction of the cases.

73. MINIMIZING THE POSSIBILITIES OF LEAKAGE AND BREAKAGE OF SAMPLES OF FOOD ARTICLES DRAWN UNDER P.F.A. ACT AND RULES

C.L.No.19 dated: August: 19, 1999

Director General, Health Services, New Delhi has brought to the notice of Hon'ble Court that Central Food Laboratories (CFL) has been experiencing difficulty in the analysis of samples received from various trying courts. Samples of milk, ice-candy and ice-cream have been found to be improperly sealed which has resulted in leakage/evaporation of the contents in the sample bottles. Evaporation of water in the milk or ice-candy samples has caused increase in the fat or

solids-non fat content of the samples, thereby giving discrepancies in the results reported by Public Analysts and CFL. Further difficulty has also been felt by CFL that broken sample bottles are being sent by trying courts.

I am, therefore desired to inform you that it be brought to the notice of all the trying courts/ Magistrates to ensure that (i) sample bottles/containers be packed, fastened and sealed properly, (ii) in case of liquid samples a mark be made on the sample bottle to indicate the volume of the sample contained in the bottle, (iii) exact volume of sample taken in the bottle be indicated and (iv) while forwarding the samples to Central Food Laboratories safe transportation of the samples be ensured.

74. FURNISHING OF STATEMENT OF CASES PENDING UNDER THE UTTAR PRADESH PUBLIC EXAMINATION (PREVENTION OF UNFAIR MEANS) ACT, 1998

C.L. No. 26/VII-d-108, Dated: 2nd August, 2001

In the meeting of the State Legal Services Authority it has been decided that statement of cases registered under U.P. Public Examination (Prevention of Unfair Means) Act, 1998 pending in different Magisterial Courts be obtained and placed in the next meeting of the Authority.

I am, therefore, to request you kindly to send the statement of the cases registered under U.P. Public Examination (Prevention of Unfair Means) Act, 1998 pending in different Magisterial Courts to the Court treating it as MOST URGENT and information should be sent through FAX immediately.

(i) Code of Criminal Procedure (Amendment) Act, 2005 & 2006

C.L. No. 49/2006: Dated 15.11.2006

The government of India has introduced amendments in Sections 1, 20, 24, 29, 53, 82, 102, 110, 122, 176, 195, 202, 206, 223, 228, 260, 292, 293, 320, 340, 356, 258, 377, 378, 389, ,

1. The Code of Criminal Procedure (Amendment) Act, 2005 (published in Gazette Extraordinary Part II – Section 1 dated 23rd June, 2005.
2. The Code of Criminal procedure (Amendment) Act, 2006 (Amendment) Act, 2005 (published in Gazette Extraordinary Part II – Section 1 dated 5th June, 2005
3. Notification dated 21.06.2006 giving effect to the provisions of the Code of Criminal Procedure (Amendment) Act, 2005, (published in Gazette Extraordinary Part-II – Section 3-Sub Section (ii) dated 21st June, 2006.
4. The Criminal Law (Amendment) Act, 2005 (Extraordinary Part-II- Section 1 dated 12th June, 2006.
5. Two Notifications dated 12.04.2006 and 03.07.2006 giving effect to the provisions of the Criminal law (Amendment) Act 2005 (published in Gazette Extraordinary Part-II, Section 3 – Sub section
6. (ii) dated 12th April, 2006 and (Extraordinary Part-II, Section 3 – Sub-section (ii) dated 3rd July, 2006.

428, 438, 436, 437, 446, 459 and in First and Second Schedules of the Code of Criminal Procedure, 1973 besides inserting new sections 25A, 50A, 53A, 54A, 164A, 291A, 311A, 436A, 441 and new Chapter XXIA in the Principal Act. The insertions of Sections 153-A, 174A, 195A & 229-A have also been made in the Indian penal Code, 1860 and an amendment has been introduced in Sections 154 of the Indian

Evidence Act, 1877, vide Amending Acts and Notifications published in Gazette of India noted in the margin.

Therefore, while enclosing herewith one copy each of the amending acts and the notifications, I am directed to request you to kindly bring the Amendments to the Notice of all the Judicial Officers of the Judgeship working under your supervisory control for their information and compliance in letter and spirit.

75. 69TH REPORT OF THE DEPARTMENT RELATED PARLIAMENTARY STANDING COMMITTEE ON HOME AFFAIRS ON THE ACTION TAKEN BY GOVERNMENT ON THE 61ST REPORT OF THE COMMITTEE ON THE DEMAND FOR GRANTS OF DEPTT. OF JUSTICE FOR THE YEAR 2000-2001

C.L. No. 36 Dated: 12th October, 2001

I am directed to request you that the Parliamentary Standing Committee in its 69th report has called for action taken by the Government in 61st report.

In the above report, the committee directs “the Department to furnish to it a brief statistical analysis of pendency of cases (court-wise/age-wise) to have a clear picture at a glance and also details of feedback from the concerned State Government /UTS /High Courts as to when they would begin proceedings to close cases involving minor offences pending for two years and more/ disposal of case of under trials who are languishing in various jails in the country.”

In the above context to facilitate the reply to the committee, you are requested to indicate the action taken on the closure of cases involving minor offences pending for two years and more as well as report/statement on disposal of cases of under trials who are languishing in jail in your Judgeship. The information may be sent to the Court within a week from the receipt of this letter so that the same be submitted to the Parliamentary Standing Committee in time.

(i) Sending of timely information of arrest, detention, conviction and release of the Members of Parliament and Members of Legislative Assembly to the Speaker.

C.L. No. 14407/VIII-2-24/Admin. (F-II) Dated: 28th September, 2002

I am directed to invite your kind attention to Court’s circular letter dated 29.7.98 wherein it was impressed upon that the information of arrest, detention, conviction and release of Member of Parliament and Member of Legislative Assembly may be sent to the Speaker concerned timely.

It has come to the notice of the Court that the direction contained in Court’s circular letter No. 12012/VIII-e-24/Admin.(f), dated 29.7.98 are not being complied with strictly by the Presiding Officer working under you.

I am, therefore, to request you kindly to impress upon all the Presiding Officers to follow the directions contained in circular letter cited above may be complied with concerning information regarding arrest, detention, conviction and release of M.Ps. and M.L.As. to the Speaker concerned timely.

76. ASSIGNMENT OF THE WORK OF COMMITTAL OF CASES AND REMAND/BAIL BY MAGISTRATE LOCALLY PERTAINING TO JURISDICTION OF OUTLYING COURTS IN ALL SESSIONS DIVISIONS IN THE STATE OF U.P.

C.L.No.19/ 2006/ Dated Allahabad: May 10th May, 2006

I am directed to say that after consideration of larger interest of society and efficient functioning of the criminal Judicial Apparatus .the Hon'ble court has been pleased to resolve as follows:-

- i. The committal and remand/bail work in sessions triable cases should not be assigned to the outlying court where there is no sub-Jail.
- ii. The work of committal of cases and remand/bail for offences punishable under section 302,304,304-B and 396 I.P.C. and under the N.D.P.S. Act should be retained at the District Headquarter.
- iii. Committal and remand/bail of the offences of lesser gravity (other than Section 302,304,304-B and 396 I.P.C. and under the N.D.P.S. Act,) triable by the court of sessions may be assigned to the outlying courts where there is sub jail.
- iv. A sub-copying section should be made functional under the senior-most judicial officer of the outlying court for copying case diary/document in respect of cases, committal proceeding of which to be handled there.
- v. The scheme of assignment of committal and remand/bail work, as proposed here in above, in some measure should be kept flexible in case some modification is required, keeping in view the condition of a particular district. In that eventuality, the District Judge may approach the High court setting out the detailed exceptional and special reasons seeking modification in the above scheme for his district.
- vi. Such request of the District Judge concerned should be jointly examined by the Hon'ble Administrative Judge of that district and another Hon'ble Judge of the Administrative Committee, to be nominated by Hon'ble the Chief Justice. The report should then be placed before the Administrative Committee for appropriate orders as may be suggested by such two Hon'ble Judges.

I am, therefore, to request you kindly to bring this fact to the notice of all the Judicial Officers posted in your judgship and ensure the compliance strictly.