

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4627 of 2020**

Arising Out of PS. Case No.-232 Year-2019 Thana- PIPRA District- East Champaran

CHHOTAN SINGH @ CHHOTU SINGH Son of Subhash Singh Resident of
Village - Chintamanpur Babu Tola, P.S.- Pipra, District- East Champaran
... .. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner : Mr. Umesh Chandra Verma, Advocate
Mr. Abhishek Kumar, Advocate
Mrs. Rashmi Jha, Advocate
Mr. Sharad Kumar Verma, Advocate
For the State : Mr. Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

6 19-10-2020 I am constrained to pass the present order because the *on-line* video court proceeding of my court had to be abruptly terminated on 15.10.2020 as a result of continual disturbances being caused by learned counsel participating in the said proceeding by way of interjections either in midst of arguments or during the course of dictation of orders. It was all the more notable in the case of learned Additional Public Prosecutors frequently interjecting for recording of their appearances in the order-sheet during submissions being made on behalf of the other side or the order being dictated. Disputes were also raised for recording appearance of some learned Additional Public Prosecutors in some cases who had not been allotted the cases by the office of the Advocate General, Bihar. The unregulated



interjections caused so much inconvenience to the Court that the court was compelled to abruptly terminate the proceeding on 15.10.2020.

This Court has been made to understand, which is not in dispute, that for *on-line* video court proceedings, the cases for learned Additional Public Prosecutors to appear in criminal matters are allotted by the Office of learned Advocate General and such allotment is communicated *on-line* to the High Court Registry for preparation of the Daily Cause List. On the basis of the information so received, the Court Master/Technical Assistant attached to the Court sends links to the concerned learned Additional Public Prosecutors. Some learned Additional Public Prosecutors were, however, demanding that their names be entered and their appearance be recorded in the order-sheets as In-charge learned Additional Public Prosecutor of the Court, even in such matters which had been allotted by the Office of learned Advocate General to other learned Additional Public Prosecutors.

In addition, the Court has regularly encountered disturbances in course of *on-line* video hearing of the cases being held in the prevailing extra-ordinary situation of the COVID-19 pandemic. In such background, I have considered it



appropriate to lay down and adopt Standard Operating Procedure (SOP) for holding of *on-line* video hearing of cases in my court to facilitate smooth functioning of such proceedings.

It may be borne in mind that under the Advocates Act, 1961, advocates are the only class of persons entitled to practice the profession of law. By virtue of the provisions under Sections 29 and 30 of the Advocates Act, 1961, they have been declared as the only class having right to practice before a Court of law or a Tribunal on behalf of a person/party. They, however, appear before a Court of law/tribunal to represent a party under an authority given by such person/party in the nature of *vakalatnama* or in any other form according to the procedure prescribed by that Court/Tribunal. Such authority can be in the nature of appointment of law officers also, such as by the Central Government/ State Governments etc. to represent before a Court of law, which appointment works as an authority given by the State Government or the Central Government to appear on their behalf before a Court of law. It is open for the Governments to evolve and adopt a system for distribution of matters among the Advocates on the panel of Central Government/State Governments to appear in civil, criminal or other cases on behalf of such Governments. The allotment of



cases accordingly, may be treated to be an authority for an Advocate to appear before a Court of law on behalf of such Government. An Advocate, who does not have any authority of such nature, cannot represent a party before a Court of law. Who is to be authorized to appear in a criminal case or any other case on behalf of the State Government or the Central Government or any other Institution is pure discretion of the such Governments/ Institutions or their agents authorized for the said purpose. An Advocate without authority cannot stand up in a Court of law to claim his right of appearance before a Court to represent a party. An act of an Advocate representing or intending to represent a party in a case before a court/tribunal without any authority amounts to soliciting briefs which is prohibited under the rules on professional standards that an Advocate is required to maintain under section 49 (1) (c) of the Advocates Act, 1961. It has further been provided under the rules on professional standards framed by the Bar Council of India that an Advocate cannot act on the instructions of any person other than his client or the client's authorized agent.

Apart from this, in view of the other difficulties which the Court has experienced, the Court has considered it desirable to lay down the following procedure for the smooth



and effective hearing of cases through *on-line* video court proceedings: -

- (1) A link, in the present order, shall mean a link created by the Court Master/Technical Assistant for a meeting of an “*on-line* video Court proceeding,” which is being loosely referred to as ‘virtual court proceedings’.
- (2) The link shall be sent by the Court Master/ Technical Assistant to only such persons who are authorized to participate in the *on-line* video court proceeding, namely, learned Advocates for the parties to the case and the concerned Secretaries/P.As. The Court Master/Technical Assistant may send a link also to any other person/persons whose presence is needed either for smooth functioning of the *on-line* video court proceeding or such person has been directed to appear in compliance of an order passed by the Court.



(3) The link so sent by the Court Master/Technical Assistant shall not be shared by the recipients of the link with any other person except in following circumstances-

(i) A learned Advocate may share the link with a learned Senior Counsel or any other learned Counsel who has been engaged to represent a party/parties on the instructions of learned Advocate who is on record of the case.

(ii) A learned Advocate may share the link with the party for whom he/she is appearing.

(iii) Recipient of the links shall not further share the link except as stated above.

(4) All participants of *on-line* video court proceeding, except the Court Master, shall keep their respective mikes in muted mode once the Court is in session.



- (5) It is indicated that after the beginning of the meeting but before the Court is in session, a learned counsel or party shall be at liberty to inform the Court Master if he intends to make a mention, in exceptional circumstances, in respect of any of the matters which appear on the cause list for the day or any matter disposed by this bench. In such event, the Court Master shall inform the Court as soon as the Court is in session and the Court may instruct the Court Master as it may deem fit.
- (6) After a case is called for hearing, learned counsel for the petitioner/applicant/appellant shall un-mute his mike and begin his submission first. After conclusion of the submissions on behalf of the petitioner/applicant/appellant, learned counsel for the other side shall be called upon to make his submissions who will likewise make his submissions after



un-muting his mike. No other participant shall un-mute his mike unless specifically called upon by the Court.

- (7) After learned counsel representing the parties have concluded their submissions in a case, they shall have an opportunity to add to the submissions which they have already made and thereafter they may make their further submissions as permitted by the Court.
- (8) There shall be no disturbance/interjection by anyone for the entire duration when address is being made by a learned counsel/participant.
- (9) In no circumstance shall a participant interject when an order is being dictated by the Court.
- (10) After conclusion of dictation in a case, the parties may be given liberty by the Court to point out any factual/legal aspect which has been inadvertently recorded or missed to have been recorded.



- (11) During the course of hearing, when a learned counsel for a party is addressing the Court, his video must be on and he must be so visible as to enable the Court to identify the person making submissions on behalf of a party.
- (12) After conclusion of hearing of all the matters to be taken up for the day, the Court may allow the participants to make any mention, if required.
- (13) Every participant should ensure that his name appears along with his image on the screen during *on-line* video court proceeding.

The Court has laid down the SOP as above, keeping in mind that it may not become possible for the time being to run physical court in normal mode, as was being done before the outbreak of COVID-19 pandemic and holding of video courts *on-line* may become the normal mode in future and, therefore, smooth functioning of *on-line* video court proceeding is imperative in the interest of justice. In order to improvise and facilitate the modalities for *on-line* video court



proceeding, the above noted SOP has been outlined.

Let this order be communicated to the Office of the learned Advocate General, learned Chairman, Bihar State Bar Council and the Presidents of the three Associations of the Advocates of this Court forthwith.

Coming to the present case, it is stated by learned counsel appearing on behalf of the petitioner that a supplementary affidavit has been filed, which is however not available on record. For just adjudication of the matter, the supplementary affidavit is required to be seen.

List this case on 21.10.2020.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

