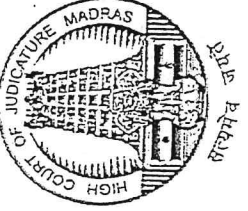


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ROC No. 7062A/2018/Comp4/VC

Date: 14.06.2018
High Court, Madras.

From

C.Kumarappan, B.Sc., B.L.,
Registrar (IT-cum-Statistics),
(Central Project Co-ordinator under the e-Courts Mission Mode Project),
High Court, Madras-600104.

To

Mr.S.Sathi Kumar,
Principal District Judge,
Madurai. (w.e.)

Or,

Sub: Computerisation of High Court and Subordinate Courts - Video conferencing facility provided in the High Court, Madras, Madurai Bench of Madras High Court, Madurai, Subordinate Courts and Central Prisons -- draft guidelines framed by the Registry -- Views/feedback on the draft guidelines may be forwarded --regarding.

I am to state that the High Court of Madras is in the process of framing rules for the examination of witnesses through Video Conferencing. As directed, I am herewith enclosing the draft guidelines and request you to go-through the same and provide your views/feedback of the said guidelines on or before 27.06.2018.

Yours faithfully,

2/10 V24

Registrar (IT-cum-Statistics)



VIDEO CONFERENCING GUIDELINES ISSUED BY THE HIGH COURT
OF JUDICATURE AT MADRAS FOR THE STATE OF TAMIL NADU
AND UNION TERRITORY OF PUDUCHERRY

DRAFT GUIDELINES FOR THE CONDUCT OF COURT PROCEEDINGS
BETWEEN COURTS AND REMOTE SITES

Note: *These are only draft rules/guidelines. They are only for Private Circulation. They have to be finalized after consultation with wide range of persons and experts. These are not to be reproduced, quoted, copied or uploaded.*

Video conference facilities enabling audio and visual communication between persons at different locations have now been installed in:

- The High Court of Judicature at Madras for the States of Tamil Nadu and UT of Puducherry
- All the District and Taluka Courts in the States of Tamil Nadu and UT of Puducherry
- Central Prisons and District/Taluka Jails in the States of Tamil Nadu.

Video-conferencing provides Courts in the State of Tamil Nadu and U.T of Puducherry with the facility to receive evidence and submissions from witnesses or persons involved in Court proceedings in circumstances where it would be expensive, inconvenient or otherwise not desirable for a person to attend a Court in person. An overriding factor is that the use of video conferencing in any particular case must be consistent with furthering the interests of justice and should cause minimal disadvantage to the parties. However, it is for the Court to decide whether evidence should be recorded by video-conferencing.

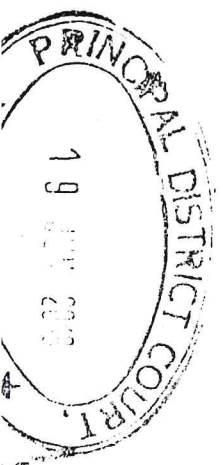
Even with the advancement of technology, there is a delay of millisecond between video picture seen and sounds being heard. Allowances appropriate to this time gap need to be made to avoid one participant talking over another.



Microphones set up at the bench, the bar table and at the witness box are highly sensitive. Persons during a video conferencing should be mindful that the video conference is activated until the same is disconnected and that microphones are "live" and as such all remarks are audible to the court.

1. GENERAL:

- 1) In these guidelines, reference to the 'court point' means the Courtroom or other place where the Court is sitting or the place where Commissioner appointed by the Court to record the evidence by video conference is sitting and the 'remote point' is the place where the person to be examined via video conference is located, for example, a prison or Observation Home/ Special Home/Protection Home.
- 2) Person to be examined includes a person whose deposition or statement is required to be recorded or in whose presence certain proceedings are to be recorded.
- 3) Wherever possible, proceedings by way of video conference shall be conducted as judicial proceedings and the same courtesies and protocols will be observed. All relevant statutory provisions applicable to judicial proceedings including the provisions of the Information Technology Act, 2000 and the Indian Evidence Act, 1872 shall apply to the recording of evidence by video conference.
- 4) Video conferencing facilities can be used in all matters including remands, bail applications and in civil and criminal trials where a witness is located intrastate or overseas. However, these guidelines will not apply to proceedings under Section 164 of Cr.P.C.
- 5) The guidelines applicable to a Court will mutatis mutandis apply to a Local Commissioner appointed by the Court to record the evidence.



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2. APPEARANCE BY VIDEO CONFERENCE:

A Court may either *suo moto* or on application of a party or a witness, direct by a reasoned order that any person shall appear before it or give evidence or make submissions to the Court through video conference.

3. PREPARATORY ARRANGEMENTS FOR VIDEO CONFERENCE:

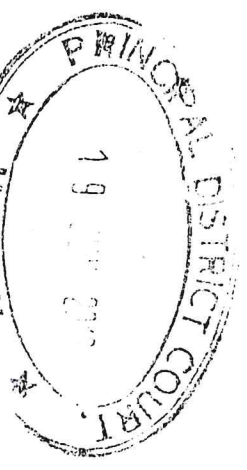
- 1) There shall be Coordinators both at the court point as well as at the remote point.
- 2) In the High Court, Joint Registrar (Computer) shall be the coordinator at the court point.
- 3) In the District, official-in-charge of the Video Conferencing Facility (holding the post of Sheristhar/Grade I Bench Clerk/District System Administrator or above) nominated by the District Judge shall be the coordinator at the court point.
- 4) The Coordinator at the remote point may be any of the following:-
 - i. Where the person to be examined in overseas, the Court may specify the coordinator out of the following:
 - (a) The official of Consulate/Embassy of India,
 - (b) Duly certified Notary Public/ Oath Commissioner,
 - ii. Where the person to be examined is in another State/U.T, a judicial Magistrate as may be deputed by the District Judge concerned.
 - iii. Where the person to be examined is in custody, the concerned Jail Superintendent or any other responsible official deputed by him,
 - iv. Where the person to be examined is in a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, the Medical Superintendent or In-charge of the said hospital or any other responsible official deputed by him,



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- v. Where the person to be examined is a juvenile or a child who is an inmate of an Observation Home/Special Home/Childrer's Home/Shelter Home, the Superintendent/Officer In-charge of that Home or any other responsible official deputed by him,
- vi. Where the person to be examined is in women rescue homes, Protection Home, the Superintendent/Officer In-charge of the women rescue homes/Protection Home or any other responsible official deputed by him/her.
- vii. Wherever a coordinator is to be appointed at the remote point under Clause 3(4) Sub-Clause (ii);(iii),(iv),(v) & (vi), the Court concerned will make formal request through the District Judge concerned to concerned official.
- viii. In case of any other person, as may be ordered by the Court.
- 5) The coordinators at both points shall ensure that the minimum requirements as mentioned in the Guidelines No.4 are in position at the court point and the remote point and shall conduct a test between both the points well in advance, to resolve any technical problem so that the proceedings are conducted without interruption.
- 6) It shall be ensured by the coordinator at the remote point that:-
 - i. The person to be examined or heard available and ready at the room earmarked for the video conference at least 30 minutes before the schedule time.
 - ii. No other recording device is permitted except the one installed in the video conferencing room.
 - iii. Entry into the Video conference room is regulated.



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- 7) It shall be ensured by the coordinator at the court point that the coordinator at the remote point has certified copies or soft copies of all or any part of the court record in a sealed cover directed by the Court sufficiently in advance of the scheduled video conference.
- 8) The court shall order the coordinator at the remote point or at the court point where it is more convenient, to provide:-
 - i. a translator in case the person to be examined is not conversant with Court language;
 - ii. an expert in sign language in case the person to be examined is speech and/or hearing impaired;
 - iii. for reading of documents in case the person to be examined is visually challenged;
 - iv. an interpreter or special educator, as the case maybe, in case the person to be examined is temporarily or permanently mentally or physically disabled.

4. MINIMUM REQUISITES FOR VIDEO CONFERENCE:

- 1) A desktop or laptop with Internet connectivity and printer
- 2) Device ensuring uninterrupted power supply
- 3) Video camera
- 4) Microphones and speakers
- 5) Display unit
- 6) Document visualizer
- 7) Comfortable sitting arrangements ensuring privacy
- 8) Adequate lighting
- 9) Insulations as far as possible / proper acoustics
- 10) Digital signatures from licensed certifying authorities for the coordinators at the court point and at the remote point

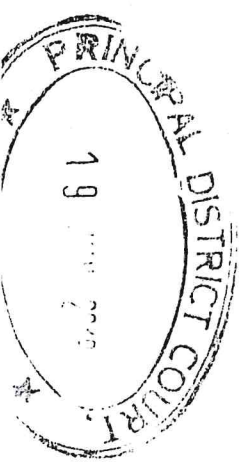


5. COST OF VIDEO CONFERENCING:

- 1) In criminal cases, the expenses of the video conference facility including expenses of preparing soft copies/certified copies of the court record for sending to the coordinator at the remote point and fee payable to translator/interpreter/special educator, as the case may be, and to the coordinator at the remote point shall be borne by such party as the court directs taking into account the Criminal Rules of Practice and Circular orders 1948 including any amendment if any.
- 2) In civil cases, as general rule, the party making the request for recording evidence by video conference shall bear the expenses.
- 3) In other cases, the court may make an order as to expenses as it considers appropriate taking into account rules/instructions regarding payment of expenses to complainant and witnesses as may be prevalent from time to time.

6. PROCEDURE GENERALLY:

- 1) The identity of the person to be examined shall be confirmed by the court with the assistance of the coordinator at remote point at the time of recording of the evidence.
- 2) In civil cases, party requesting for recording statement of the person to be examined by video conferencing shall confirm to the court location of the person, his willingness to be examined by video conferencing, time, place and facility of such video conferencing.
- 3) In criminal cases, where the person to be examined is a prosecution witness or court witness, the prosecution and where person to be examined is a defense witness, the defense counsel will confirm to the court his location, willingness to be examined by video conferencing, time, place and facility of such video conferencing.



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- 4) In case person to be examined is an accused, prosecution will confirm his location at remote point.
- 5) Video conference shall ordinarily take place during the court hours. However, the Court may pass suitable directions with regard to timings of the video conferencing as the circumstances may dictate.
- 6) The record of proceedings including transcription of statement shall be prepared at the court point under supervision of the court and accordingly authenticated. The soft copy of the transcript digitally signed by the coordinator at the court point shall be sent by e-mail through NIC or any other Indian service provider to the remote point where printout of the same will be taken and signed by the deponent. A scanned copy of the statement digitally signed by coordinator at the remote point would be sent by e-mail through NIC or any other Indian service provider to the court point. The hard copy would also be sent subsequently, preferably within three days of the recording, by the coordinator at the remote point to the court point by courier/post.
- 7) The court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his privacy keeping in mind his age, gender and physical condition.
- 8) Where a party or a lawyer requests that in the course of video conferencing some privileged communication may have to take place, Court will pass appropriate directions in that regard.
- 9) The audio-visual shall be recorded at the court point. An encrypted master copy with hash value shall be retained in the court as part of the record. Another copy shall also be stored at any other safe location for backup in the event of any emergency (Disaster Recovery). Transcript of the evidence recorded by the Court shall be given to the parties as per applicable rules. A party may be allowed to view the master copy of the audio video recording retained in the Court on



application which shall be decided by the Court consistent with furthering the interests of justice.

10) The coordinator at the remote point shall be paid such amount as honorarium as may be decided by the Court in consultation with the parties.

11) In case any party or his/her authorized person is desirous of being physically present at the remote point at the time of recording of the evidence, it shall be open for such party to make arrangements at party's own costs including for appearance/representation at the remote point subject to orders to the contrary by the Court.

7. PUTTING DOCUMENTS TO A PERSON AT REMOTE POINT:

If in the course of examination of a person at a remote point by video conference, it is necessary to put a document to him, the court may permit the document to be put in the following manner:

- 1) If the document is at the court point, by transmitting a copy of it to the remote point electronically including through a document visualizer and the copy so transmitted being then put to the person;
- 2) If the document is at the remote point, by putting it to the person and transmitting a copy of it to the court point electronically including through a document visualizer, the hard copy would also be sent subsequently to the court point by courier/post



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8. PERSONS UNCONNECTED WITH THE CASE:

- 1) Third parties may not be allowed to be present during video conferencing subject to orders to the contrary, if any, by the Court.
- 2) Where, for any reason, a person unconnected with the case is present at the remote point, then that person shall be identified by the coordinator at the remote point at the start of the proceedings and the purpose for his being present explained to the court.

9. CONDUCT OF PROCEEDINGS:

- 1) Establishment and disconnection of links between the court point and the remote point would be regulated by orders of the court.
- 2) The court shall satisfy itself that the person to be examined at the remote point can be seen and heard clearly and similarly that the person to be examined at the remote point can clearly see and hear the court.

10. CAMERAS:

- 1) The Court shall at all times have the ability to control the camera view at the remote point so that there is an unobstructed view of all the persons present in the room.
- 2) The court shall have a clear image of each deponent to the extent possible so that the demeanour of such person may be observed.

11. RESIDUARY CLAUSE:

Such matters with respect to which no express provision has been made in these guidelines shall be decided by the Court consistent with furthering the interests of justice.

