

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

(Office of the Registrar General at Srinagar)

Subject:-Guidelines for Recording Evidence of Persons with Disabilities, 2026.

NOTIFICATION

No: 1300 of 2026/RG

Dated: 14 .05.2026

PREAMBLE

Whereas the Rights of Persons with Disabilities Act, 2016 mandates equal access to justice and reasonable accommodation to persons with disabilities:

And whereas the basic jurisprudential concepts are that the courts must be accessible and inclusive for all, every person is competent to testify unless incapable,¹ evidence of vulnerable witnesses must be recorded with safeguards,² and the Courts must ensure substantive equality by adopting disability-sensitive procedures;³

And whereas it is desirable by the courts to enable the Persons with Disabilities to depose freely in a safe and secure environment and ensure that there is no harm or secondary victimization of Persons with Disabilities in anticipation or as a result of participation in the justice system, and further, to ensure that the rights of all the parties in the judicial processes are effectively implemented.

And whereas it is needed in the above context to prepare guidelines for improving the response of the justice dispensation system in summoning and examination of Persons with Disabilities (PWD) as witness in criminal proceedings.

Therefore, in exercise of administrative and supervisory jurisdiction vested in the High Court of Jammu & Kashmir and Ladakh, the following guidelines are hereby issued for strict compliance by all Criminal Courts working under the jurisdiction of this High Court –

1. Applicability –

- a) These guidelines shall be called, "Guidelines for Recording Evidence of Persons with Disabilities, 2026".
- b) Unless otherwise provided, these guidelines shall govern the summoning and examination of persons with disabilities, who are witnesses in any criminal proceedings.
- c) These guidelines shall apply to all criminal courts, including Juvenile Justice Boards working under the jurisdiction of the High Court of

1. *State of Rajasthan V. Darshan Singh* 2012 (5) SCC 789

2. *State of Maharashtra V Dr. Praful B. Desai* 2003 (0) SCC (Cri) 815

3. *Jeeja Ghosh V. Union of India* 2016 (7) SCC 761

Jammu and Kashmir & Ladakh, in all the criminal cases at all stages including inquiry, trial, appeal, and remand proceedings.

- d) These guidelines shall supplement existing procedural laws and Model Guidelines for Recording of Evidence of Vulnerable Witnesses issued by this court vide notification No. 642/RG/Infra dated 25.02.2025.

2. Definitions - For the purpose of this Notification:

- a. "Courts" shall include every Sessions Court, Special Court dealing with criminal proceedings, court of Chief Judicial Magistrate, Judicial Magistrate and Juvenile Justice Board.
- b. "Person with Disability (PwD)" shall have the same meaning as assigned under the Rights of Persons with Disabilities Act, 2016.
- c. "Reasonable Accommodation" means necessary and appropriate modification and adjustments to ensure equal participation without imposing disproportionate burden.
- d. "Support Person" includes interpreter, facilitator, special educator, caregiver, or any person assisting the witness in communication.

3. Construction of the guidelines - These guidelines shall be liberally construed and interpreted in view of the existing laws to uphold the interests of Persons with Disabilities and to promote their reasonable accommodation, without prejudice to the rights of the accused to a fair trial and due process.

4. General Principles - All Courts shall adhere to the following principles:

- a. **Presumption of Competence:** Under Section 124 of Bharatiya Sakshya Adhinyam (Sec 118 of Evidence Act) all persons are competent to testify unless incapable of rational testimony.
- b. Disability shall not be a ground to doubt the credibility or competence of a witness and the testimony of a PwD is not inferior or weak evidence.
- c. **Duty to Accommodate:** Provision of reasonable accommodation mandatory for Persons with Disabilities (PwD) and the procedures must adapt to the witness-not vice versa.
- d. **Dignity and Sensitivity:** Proceedings shall be conducted in a respectful and non-intimidating manner.
- e. **Individual Assessment:** Needs of each witness shall be determined on a case-to-case basis.

5. Identification and Pre-Trial Measures - At the earliest stage, the court dealing with any criminal case shall ascertain whether a witness is a person with disability, where after such court shall record the nature of disability (visual, hearing, intellectual, psychosocial, locomotor, etc.), required accommodations and need for support person. The Investigating officer shall for this purpose be asked to annex with challan, a list of witnesses who are Persons with Disabilities, along with their disability certificates. For arranging necessary support services, the Courts shall coordinate with District Legal Services Authority (DLSA).

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6. No inference of prejudice - The fact that any Person with Disabilities has had the benefit of a special measure to assist them in deposition, shall not be regarded in any way whatsoever as being prejudicial to the position of the other side and this shall be made clear by the court at the time of passing order in terms of these guidelines to the parties when the Persons with Disabilities is examined.

7. Court Infrastructure and Facilities -

- i. All courts shall take requisite steps to put in place barrier-free access, ramps, lifts, signage to courtrooms, accessible witness box and seating arrangements for Persons with Disabilities. Courts shall also ensure the availability of sign language interpreters, assistive devices, speech-to-text/ text-to-speech tools, Braille/ screen reader compatible records and vulnerable witness deposition rooms, where required.
- ii. The courts shall ensure that there is no overcrowding in the court spaces and no intimidation to Persons with Disabilities.
- iii. The courts shall utilize the services of District Legal Services Authority (DLSA) in this regard.

8. Waiting Area - The waiting area for Persons with Disabilities should be well furnished to make them comfortable. The approach to the waiting area shall be in such as may allow the Persons with Disabilities to access it with ease and without having to confront other litigants, police, or the accused and their associates.

9. Service of Summons - The summons to the Persons with Disabilities shall be issued in accessible simple language formats (Braille / large print / audio / easy-to-read). The service of summons through Electronic modes (SMS/Email) may be allowed, if permissible under law. The coercive processes shall be avoided unless absolutely necessary.

10. Mode of Appearance -

- M. Shrivastava*
14/05/26
- a) The courts may resort to video conferencing for recording evidence of Persons with Disabilities, in accordance with Video Conferencing (Nyaya Shrutu) Rules, 2025.
 - b) The courts may issue a commission for recording evidence, in accordance with provisions of BNSS/ CrPC.
 - c) The courts may provide pre-trial assistance to Persons with Disabilities through respective DLSAs.

11. Oath and Competency - The oath may be administered to the Persons with Disabilities in a manner understandable to the witness. Competency shall be assessed on the ability to understand questions and give rational answers.

12. Recording of Evidence – The Evidence shall be recorded in a manner suited to the disability and some illustrations are: -

Disability	Type of accommodation
Hearing Impairment	Sign Language Interpreter, Written Questions
Visual Impairment	Audio Reading, Braille, Screen Reader
Speech Impairment	Written Responses, Assistive Device
Intellectual Disability	Simplified Questions, Support Person
Locomotor Disability	Ramp, Seating, Flexible Timing

All the proceedings shall, as far as possible, be audio-video recorded. The court shall ensure that the questions are in simple and clear language. The technical/legal language should be avoided.

13. Examination and Cross-Examination - The courts shall actively regulate proceedings to prevent harassment, intimidation and repetitive, aggressive or confusing questioning. The courts may rephrase the questions, disallow improper questions and grant frequent breaks to Persons with Disabilities, if required. The presence of a support person shall be permitted, subject to neutrality.

14. Certificate by Presiding Officer - After examining Person with the Disabilities as a witness, the court shall record the following certificate at the bottom of last page of such statement –

"Certified that the evidence of witness _____ (PwD) was recorded by me/ in my presence by providing necessary reasonable accommodation, ensuring fairness, dignity and effective participation. Services of Support Person _____ (interpreter, facilitator, special educator, caregiver or any person assisting the witness in communication) were utilized while recording the statement."

15. Directions for presiding officers of all Courts and Juvenile Justice Boards

- MShw*
14/05/26
- i. Persons with Disabilities shall receive high priority and shall be dealt with as expeditiously as possible, minimizing unnecessary delays and adjournments to avoid repeated appearance of the Persons with Disabilities in the Court;
 - ii. The courts shall ensure that Persons with Disabilities are able to exercise their right to access the court without discrimination based on disability.
 - iii. In compliance with Section 313 B.N.S.S, steps may be taken to transcribe the testimony of Persons with Disabilities in Braille to ensure that such witness is not dependant on another person;
 - iv. The courts shall be satisfied that a Person with Disabilities is not scared and that he is able to reveal what happened to him when he is subjected to an examination, during recording of evidence.
 - v. The courts shall ensure that adequate time and opportunity is given to refresh the memory of Persons with Disabilities.

16. In Camera Proceedings - The court may, at the time of testimony of Persons with Disabilities, order in writing the exclusion from the court-room of all persons, who do not have a direct interest in the case including members of the press. Such an order may be made if the court is of the opinion that asking the Persons with Disabilities to testify in open court would cause psychological harm to them, hinder the ascertainment of truth, or result in their inability to effectively communicate due to embarrassment, fear, or timidity.

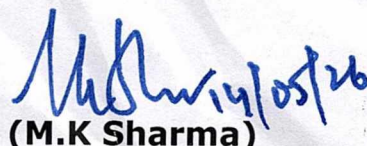
17. Role of Stakeholders - The courts shall ensure compliance with these directions and shall record reasons where accommodation is denied. The Public Prosecutor and Defence Counsel shall be asked to conduct examination in chief and cross-examination with due sensitivity and dignity. The court staff shall facilitate the logistics and accessibility arrangements.

18. Neutrality of Support Persons - The interpreter, facilitator, special educator, caregiver or any person assisting the witness in communication, must not influence testimony and shall observe neutrality for which they shall subscribe oath before the court.

19. Confidentiality and Protection - The courts shall ensure that the identity and disability-related details of Persons with Disabilities are not unnecessarily disclosed. The courts shall ensure protection of the Persons with Disabilities from secondary victimization.

20. Directions for Immediate Implementation - These guidelines shall be implemented from the date of notification. All the Principal District Judges/ District Judges shall ensure creation of a panel of support persons and infrastructure readiness for the Persons with Disabilities.

By Order


(M.K Sharma)

Registrar General

Dated:- 14 .05.2026

No:- 2197D-22088 RG/GS

Copy to the:

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2. Secretary to Hon'ble Mr./Mrs. Justice _____;
.....for kind information of their Lordships.
3. Commissioner/Secretary to Government, Department of Law, Justice and Parliamentary Affairs, UT of J&K;
4. Secretary, Department of Law and Justice, UT of Ladakh;
5. Registrar Vigilance, High Court of J&K and Ladakh, Srinagar;
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7. Registrar Rules, High Court of J&K and Ladakh, Srinagar;
8. Registrar Computers (I.T), High Court of J&K and Ladakh, Srinagar;
9. Registrar Judicial, High Court of J&K and Ladakh, Jammu/Srinagar;
10. All Principal District and Sessions Judges, UTs of J&K and Ladakh;
11. CPC, eCourts, High Court of J&K and Ladakh, Srinagar;
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