

## EFFECTIVE DISTRICT ADMINISTRATION AND COURT MANAGEMENT

by

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A very Good morning and warm greetings to each one of you assembled here today. I feel elated and immensely happy in addressing you on the topic - "*Effective District Administration and Court Management*". For a number of reasons, the past three decades have witnessed heavy accumulation of cases. One noticeable reason for this is that the institutional framework within which courts historically operated placed little emphasis on sound management and administration. Even today, court administration remains the greatest challenge to the profession.

An independent and efficient judicial system is one of the basic structures of our Constitution. The centrality of a strong justice mechanism lies in its essential contribution in enabling all manner of disputes to be resolved within a structured and orderly framework. It is this lack of managerial skills in the court administration, which has attributed to the current increase in pendency rates of both civil and criminal matters. Here the role of District Judge and Chief Judicial Magistrate becomes utmost important for mechanizing effective court management system. In their domain resides the daunting task of administrating court affairs, which will aid in dispensing swift justice.

As a District Judge/Chief Judicial Magistrate, many responsibilities devolve on you in the process of delivering justice. One such incidental but prominent duty is to see that the court is administered effectively and efficiently and in compliance with the statutes. "Court management" is inclusive of entire set of actions that a court takes to monitor and control the progress of cases, from initiation of a case to trial. It is the tool to pursue the institutional mission of resolving disputes with due process and in due time.

India, the biggest democracy has one of the largest judicial systems in the world with 15 cases being filed per thousand population every year. Global and national experience show that the number of new cases filed into a judicial system increases with literacy and economic wealth. Therefore, as India's literacy rate and per capita income increases the number of new cases filed per thousand population is likely to increase rapidly in the next few decades. As a consequence, the subordinate judiciary should equip itself with managerial skills to cope not just with the current backlogs but also for potential escalation in number of cases in the near future.

Addressing these challenges will require substantial upgrading of court management system. One such aspect is adapting to information and communication technology. Today, data on cases filed in the subordinate courts is still gathered and maintained in manual data systems in majority of courts in India. An overhaul of this system is requisite for effective administration. Though this process would be gradual. For instance, in the federal system of the United States, the transition from a paper-based to the fully electronic case information management system, including electronic filing and noticing, occurred progressively over a period of roughly 25 years. Certainly, the change is time consuming but inevitable in the process of pursuing justice.

**RESPONSIBILITIES OF DISTRICT JUDGES/ CHIEF JUDICIAL MAGISTRATES**

The District Judges/ CJM ordinarily play a pivotal role in the development of court policy. Every District Judge/CJM must cultivate the art of court management.

They have collective responsibilities for these functions.

- **Leadership:** As a District Judge or Chief Judicial Magistrate, you are uniquely situated to lead the court in determining the administrative policies for better working of the courts.
- **Court management:** You have the responsibility to make sure that laws, regulations, and court policies are followed, that the needs of court employees are properly addressed, and that administrative tasks are carried out. Behavior of the judge in the court is the most important aspect in court management. You have 5 segments of people in the court to behave with.
  1. Lawyers: Judges must show respect, courtesy and patience to the lawyers, at the same time maintain the control of the proceedings and also has an obligation to ensure that proceedings are conducted in a civil manner.
  2. Witness: The foremost aspect that every trial judge should remember is that the statement of a witness is the lifeline of a case. Their protection is primary for friction free trial. Thus, every trial judge has an obligation to treat them with dignity and respect. Sections 150, 151 and 152 of the Evidence Act, 1872 should be strictly followed in the process of examination of witness. Whenever, the presiding judge notices abuse of witness in courts, they should come down with heavy hands and convey the message that witness box will not be allowed for committing offences under section 500 IPC. Otherwise the dignity and solemnity of the court will be impaired.
  3. Court Staffs: Court management cannot succeed without the support of the court staff and its registry. Thus, Presiding Judge must always maintain the decorum of the court and never create tension in the minds of court staffs. Tension inflicted on the staff would not only cause them to commit repeated mistakes but the records will become unmanageable. There is a great adage. "It is nice to be important, but it is more important to be nice." This must be your coat of arms when you are in the court or in the court office.
  4. Subordinate Officers: Always treat your counterparts and the subordinate officers with due respect. The court management is a comprehensive procedure. Therefore, even the smallest aspect has significant impact on the effective administration of justice.
  5. Litigants: Judges should not employ hostile or demeaning words in opinions or in written or oral communications with litigants.
- **Case management:** The District Judges/ CJM's are provided with the authority over the allocation of cases to other courts. You should utilize this position to monitor caseloads and trends and to identify problems that are contributing to the delay in the trial. Further, you must recognize that case management is relevant also for those courts that are not currently experiencing delays or backlogs.
- **Prioritization of old cases:** "Five plus Zero" initiative must be adopted to ensure that cases pending for more than 5 years are taken up on priority basis and such cases are brought

down to zero level.

- **Supervision of Court Managers:** Judges are ultimately responsible for effective court management. However, the complexity of the modern court requires the delegation of administrative functions and responsibilities to the Court managers subject to the supervision and direction of the Presiding Judge. Thus you must have effective control of working of these Court Managers.
- **Inspection of Subordinate Courts:** The District judge and CJM's should conduct frequent inspection of subordinate courts for better accountability and efficiency.
- **Budgets:** The judicial officers must be proficient in the art of planning and preparation of budgets so that the budget meets the requirements for the next year and is neither excessive nor short.
- **Annual Confidential Reports:** The Annual Confidential Reports of members of Subordinate Judiciary must be maintained properly and on regular basis.
- **Periodic meetings between Police and District Judge:** Such meetings must be encouraged for smooth running of judicial system.

## TECHNIQUES OF CASE MANAGEMENT

No doubt today almost every court is overburdened and there is an acute shortage of judicial officers and litigants have to wait years for justice. In all these adverse conditions though it is very difficult to impart justice rapidly but by adopting the techniques of court management, we can provide swift justice to the people.

The effective use of case management techniques and practices improves the efficiency in the use of justice system resources, hence reducing the costs of justice operation. By reducing the time required for resolving disputes, the appropriate use of case management may also help build public confidence in the effectiveness of the courts and the accountability of judges.

The court's control over cases entails the implementation of two different principles viz. **(1)** early court intervention and **(2)** continuous court control of case progress.

### 1. Early Court Intervention

Early court intervention requires that judges familiarize themselves and impose management controls immediately after the case is assigned to them. Case screening is the important technique that can be used to monitor the early stages of litigation and reduce or eliminate unnecessary time, which contributes to case processing delays.

Case screening is the review of case information for management purposes by judges and/or court staff. It is generally the most meaningful form of early intervention because it provides a basis for the court to assess the management requirements of a case at the beginning of the process. Issues to be addressed during case screening include, but are not limited to are status of service; case priority including public policy issues and impending death; alternative dispute resolution/diversion referral; jurisdiction etc. Court support staffs should monitor the above aspects under the effective control of the judges at every periodic interval.

It is also useful to screen filings before entering them into the case management system to identify filings that do not meet court rule or statutory requirements, or filings that contain clear errors or have procedural issues that should be brought to the attention of the judge. Like unsigned pleadings, illegible documents, incorrect filing or motion fees, improper parties, incorrect venue, or filings not within time frames.

## **2. Continuous Court Control Of Case Progress**

Continuous court control of case progress is a method by which judges can continue to exercise such controls and monitor case progress and activity throughout the life of the case. Though the court supervision of the case progress is an administrative process, it indirectly has an impact on the adjudication of substantive legal rights. Therefore case flow management is the absolute heart of court management.

The case flow management will aid in creating a judicial system that is predictable to all users of the system. This will result in counsel being prepared, less need for adjournments, and enhanced ability to effectively allocate staff and judicial resources. Various minor aspects can reduce substantial delay in the process of trial. Like settling issues by summary trial, encouraging parties to resort to ADR mechanism, extensive use of Order X of Code of Civil Procedure, 1908 in civil matters to narrow down issues etc.

For effective case flow management the following aspects must be considered.

- **Monitoring unnecessary delay**

To instill public confidence in the fairness and use of court systems, courts must eliminate delay. An effective case flow management system does not initiate or cause delay. As a result the Presiding Judge must exploit the various procedures enunciated in both criminal and civil code to avoid the delay.

### *Filing of plaint/written statement:*

Order 8 Rule 10 provides that where a defendant fails to present written statement within the time permitted or fixed by the court, the court can pronounce judgment against him. This can be used against the person who seeks continuous adjournments. Likewise, Order 7 Rule 18 and Order 8 Rule 8A prohibits the reception of documents at a later stage unless the court grants leave. This discretionary power vested in the court must be exercised diligently for avoiding protraction of the litigations.

### *Summoning Procedure:*

Simultaneously, the criminal courts should take care that summons to the witnesses are issued in time and efforts should also be made that the material witnesses get served through investigating officer, if witnesses fail to turn up despite service, court should not hesitate to use coercive methods. Similarly, in civil matter, if any party fails to take steps to summon the witness then

court should not grant adjournments unless sufficient cause is shown or cost is imposed for the default. Long time taken by prosecution, then in such a situation, the summons should be sent through the investigating officer with specific warning that if prosecution fails to bring the witness on the next occasion then no further opportunity will be given to the prosecution.

#### *Recording of Evidence:*

Another main cause for delay in disposal of the case is that the parties and prosecution takes years to complete their evidence. Though under the law there is a provision that once the case is fixed for evidence, the evidence will be recorded on day-to-day basis but the provision has lost its sanctity due to dearth of judicial officers. In civil matters the list of witness is generally small but their testimony is generally long. Hence court should not grant more opportunity to any party beyond the number of its witnesses. Court can also impose cost when any party fails to examine or cross-examine the summoned witness.

#### *Drop unnecessary Witnesses*

Whenever it is possible, courts should also try to persuade the parties to drop the name of formal witnesses whose examination and non-examination cannot affect the decision of the case. This will save the precious judicial time to a large extent.

#### *Compounding of offence*

It has been observed that in Magisterial Courts a substantial portion of litigation is of compoundable offences and in such cases there is a strong probability of compromise between the parties. Thus, Courts should encourage the parties at the first opportunity to settle their dispute amicably. Similarly in civil matter also there is always better chances of compromise between the parties. Thus, in such cases courts should make special efforts to encourage the parties to settle their disputes amicably. This practice will not only give full satisfaction to the affected parties but it will also reduce the burden on the appellate courts because in such cases the order is not challenged in the higher courts.

Therefore any delay in the summons process, pretrial procedures, trial scheduling and trial management must strictly be reprimanded.

- **Restrict the uncalled-for adjournments**

Traditionally, our court systems have let the parties to a case control the pace of the litigation process. The assumption is that the parties can thereby take the time they need to adequately prepare and present their respective arguments. However, this position must be changed. Since Court control of adjournments is important for three reasons. Firstly, adjournments contribute to delay; secondly, an adjournment policy influences attorney and litigant perceptions of court commitment to case flow management; and thirdly, a lenient adjournment policy undermines a predictable system of event date certainty. Granting of adjournments is a discretionary power, which must be exercised with utmost diligence.

Nevertheless, a court's adjournment policy should not be excessively rigid or governed by arbitrary rules, but it should create the expectation that events will occur when scheduled unless there are compelling reasons to postpone. Judges must also record the reasons for adjournments.

- **Certainty of trial dates:**

Court control of adjournments is closely related to achieving event date credibility; one cannot be successfully implemented without the other. Therefore, credible scheduling must be based on a restrictive adjournment policy. It is only through such a policy that the court can convey its expectation of readiness to counsel.

The judges should regularize the number of cases to be listed on the board according to their disposal rate. Merely listing of cases with full knowledge that only a small number of cases can be tried, will send wrong signal to the counsels to probe for more adjournments. Certainty of date for trial should be maintained as far as possible.

- **Average life cycle of case:**

The litmus test to check whether the court has an effective case flow management or not is to look at the case age at the disposition stage. There is an equally urgent need to shorten the average life cycle of all cases. Not only time spent within each court, but also total time in the judicial system as a whole.

## **EFFECTIVE COURT MANAGEMENT – ITS HUMAN SIDE**

As the term “management” itself suggests, it means judicious deployment of resources including human resources for optimum output. For achieving maximum output in minimum available time and with minimum resources at command, we need to have a motivated, disciplined and dedicated team. The team should share the collective objective of the judicial system i.e smooth discharge of the business of the court and prompt disposal of cases, within the available infrastructure and limited resources.

Handling deftly, disruptive persons, aggressive lawyers, reluctant witnesses, sluggish staff, would go a long way in effective disposal of cases. A judicial officer must have an understanding of different ways, customs and social background of people. It not only helps managing judicial business in a better manner but also reduces mental stress.

Since the overall functioning of a court depends heavily on the interplay between judges and administrative staff, it is important to set up a system capable of building a shared responsibility between the head of the court and the court administrator for the overall management of the office.

## **INFORMATION and COMMUNICATION TECHNOLOGY (ICT)**

At present, a number of technologies can support different areas of court operation. On the one hand, such technologies have been used for the automation of administrative tasks like case tracking, case management system, office automation. On the other hand, ICT has been designed to offer to lawyers and citizens access to statutes, regulations and case laws, to increase transparency of court decisions, and access to key legal information.

This advancement must be used for all practical purposes like recording of statement of accused from prisons through video conferencing. This will avoid the unnecessary delay that is generally caused in bringing the accused to the court.

## **RECENT CRIMINAL LAW (AMENDMENT) ACT 2013**

The Criminal Law (Amendment) Act 2013 has been recently passed by Parliament on 19<sup>th</sup> March amending IPC, CrPC and the Indian Evidence Act to counter crimes against women. Certain acts of violence like Acid attacks, voyeurism, stalking have been made punishable. Further, rigorous imprisonment of minimum 20 years for gang rape has been prescribed.

The amended law places additional duties on magistrates to ensure fair and speedy disposal of crimes against women especially in heinous offences like rape. It may be appropriate to highlight some of these amended provisions.

- Newly amended Section 164(5A) expects the Judicial Magistrate to record the statement of the person accused in offences punishable under Section 354, 376 and 509 as soon as the commission of the offence is brought to the notice of the police.
- In Section 273 CrPC, a new proviso allows the Court to take appropriate measures to ensure that a woman below the age of 18 years is not confronted by the accused during cross-examination.
- Section 309 (1) now (year 2013) mandates completion of inquiry or trial for rape within a period of 2 months from date of filing of chargesheet as compared to earlier proviso (inserted in 2009) which contemplated relevant date from commencement of examination of witnesses.

### **Women and Children – Role of Courts**

The role of Courts in cases dealing with women and children assume great importance in view of changing mindset. The women and children are heading the victims' tally in recent crime related incidents. Though there are many reasons for the declining values, we can identify some of them, viz., lack of awareness, patriarchy, male chauvinism, subjugation, certain deep rooted traditions and custom, lack of effective enforcement etc.

Sensing the alarming trend, the Supreme Court had said that 'we are failing to treat women with dignity, equality and respect'. Last month, a special Bench of the Supreme Court (of which myself was also one of the Members) allowed a curative petition filed against a judgment in ***Bhaskar Lal Sharma & Ors. vs. Monica*** (2009) 10 SCC 605 which held that kicking daughter-in-law is not cruelty under Section 498A and had set aside that judgment ordering for a *de novo* hearing.

There are various laws on the protection of women like Protection of Women from Domestic Violence Act 2005, Dowry Prohibition Act 1961, Indecent Representation of Women (Prohibition) Act 1986, Immoral Traffic (Prevention) Act 1986 and the Pre-Natal Diagnostic Techniques (Regulation & Prevention) Act 1994.

Our Constitution contains many Articles on the welfare of women. Article 15(3) deals with special protection for women, Article 16 ensures equal opportunity of public employment irrespective of the sex of the person, Article 39 deals with securing adequate means of livelihood equally for men and women, equal pay for equal work among men and women, Article 42 deals with securing humane conditions of work and maternity relief and Article 51-A(3), a Fundamental duty, insists on renouncing practices derogatory of women.

Section 294 of the IPC deals with obscenity, Section 304-B deals with Dowry Death and Section 498-A deals with cruelty.

When it comes to children, trafficking in children has become an increasingly lucrative

business for the reason that punishment is very rare. The promise of marriage or employment is often used to lure the young children into sexual trade. Most of the children, who are victims of deception, are frequently physically, emotionally and sexually abused in the places of their employment.

There are many legislations like Children (Pledging of Labour) Act 1933, Employment of Children Act 1938, Young Persons (Harmful Publications) Act, 1956, Child Welfare Act 1978, Juvenile Justice (Care & Protection of Children) Act 2000, Right of Children to Free and Compulsory Education Act 2009 etc.

No children shall be deprived of his fundamental rights guaranteed under the Constitution of India and bring to child traffic and abuse.

All of you have to ensure that the provisions of these legislations are complied with in their letter and spirit fulfilling the Objects of the Act.

A judge needs to show understanding and consideration whenever women and children appear either as a party, or as witness, or as victim so as to inculcate confidence in his/her during the court proceedings. Any comment, gesture or other action on the part of any one in or around the courtroom that would be detrimental to the confidence of them should be curbed with a heavy hand by the presiding judge. Adhering to following acts by the presiding judges may make the courtroom setting more conducive to women and children:-

- They should be treated with courtesy and dignity while appearing in the Court. Any gender bias must be carefully guarded against in the courtroom and this protection should be extended to any female present or appearing in the court either as a member of the staff or as party or witness or member of legal profession.
- The examination and cross-examination must be conducted by the court itself or under the direct supervision of the presiding judge.
- Preference may be given to female lawyers in the matter of assigning legal aid work or amicus curiae briefs so that they have more empathy and understanding towards the case.
- Crime against women and children ought to be dealt with on priority basis because delay in delivery of justice will defeat the very purpose.

1) Section 26 of the Code of Criminal Procedure, 1973 has been amended by prescribing that the offences under Section 376, 376A to D of IPC, are to be tried, as far as practicable, by a court presided by a women.

2) Section 173 (1A) has been amended to state that the investigation of a case of rape of a child may be completed within 3 months from the date on which the information was recorded by the officer in charge of a police station.

3) Section 327(2) which prescribed in camera trial in cases of offences under Section 376, 376A to 376D has been amended by providing that 'in camera' trial shall be conducted as far as possible by a woman judge or magistrate.

Section 327(2) in the Code of Criminal Procedure, 1973 provides that "(2) Notwithstanding anything

contained in sub-section (1), the inquiry into and trial of rape or an offence under Sections 376, 376A, 376B, 376C or 376D 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.”

4) Section 327(3) which bars printing/publishing any matter in relation to such ‘in camera’ proceedings except with the previous permission of the court has been relaxed by mandating that the ban may be lifted subject to maintaining confidentiality of names and addresses of the parties.

5) Section 137 of the Indian Evidence Act, 1874 provides for the Examination-in-Chief, Cross Examination and Re-Examination of witnesses appearing from the opposite side basically to extract the truth behind the statement made by the witness.

Where a lady witness appears before the Court, it shall be the duty of the Judicial Officer to keep watch on the counsel conducting the cross-examination that he/she should not ask any question to the witness which apprehends her modesty.

The questionnaire round with the victim of rape/sexual assault, shall not be conducted in the open court as it directly challenges the modesty of a woman. Such procedures shall be conducted only by a lady advocate, in the chamber of the judge in presence of the parents or guardian of the victim.

6) Section 309 gives the power to the court to adjourn the proceeding for a future date.

Section 309 proviso to sub-clause (1) (added by 2008 amendment act) provides that when the enquiry or trial relates to an offence under Section 376A to 376D of the IPC, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of commencement of the examination of witnesses.

Section 309 proviso to sub-clause (2) (added by 2008 amendment Act) provide that no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party.

Now, the provision inserted under Section 309 as proviso to sub-clause (1) & (2) are to be strictly followed in its spirit and letters so that the very intention of the legislature to pass such amendment cannot be defeated.

The proviso added to sub-clause (2) provides for a kind of discretion to the court as far as adjournment of a proceeding is concerned. But such power shall be exercised very carefully as to decide which circumstances are beyond the control of the party. The Court has to keep an eye on the party which is seeking adjournment, to ensure that the party is rightly praying for it and it is not for the purpose of benefiting the ill intentions of the accused.

7) The fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment.

8) Where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in the Court, is not ready to examine or cross-examine the witness, the court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness.

9) Guidelines laid down by the Supreme Court in:-

Delhi Domestic Working Women Forum vs. Union of India (1995) 1 SCC 14 needs to be followed:

“Directives to the police to maintain a list of lawyers capable of handling the cases of rape victims and to provide them help in rehabilitation.”

10) It shall be the duty of a “District Judge” of a district to prepare and maintain a ‘list of lady advocates’, to be circulated to every Sessions Court in the district, who are well reputed and acquainted with the cases and respective laws relating to women like domestic violence, dowry matters, dowry deaths, rape matters and matters relating to the modesty of a women.

With the help of such an extensive list prepared by the District Judges, lady counsels can be engaged on behalf of the women victims of crime and a proper honorarium can be paid from a fund created for this purpose or under Section 12 of the Legal Services Authorities Act, 1987 they can be engaged for providing legal aid to the victims at State cost.

11) Bail of women prisoners – Section 437 provides for:-

“when any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without any warrant by an officer in charge of a police station or appears or is brought before a court other than the High Court or Court of Session, he may be released on bail, but

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1. such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life.
2. such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non-bailable and cognizable offence.

Provided that the court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm.

Under an adversarial system like ours, the courts insist on the search for proof rather than the search for truth. Whether the legal system is primarily adversarial or inquisitorial, bail hearings should be inquisitorial, with the magistrate inquiring into all the facts and circumstances relevant to the decision. This should be done even if the accused is not legally represented. As the adversarial system does not impose a positive duty on the judge to discover the truth, but he should play a positive role as far as bail of women prisoner is concerned. A good trial judge needs to have a “third ear”, that is to hear and comprehend what is not said.

12) The Statement under Section 164(1) of a victim of rape or any kind of sexual assault, shall not be recorded in open courtroom. It may be recorded in the chamber or the residence of the Judge/Magistrate in presence of the parents or guardian of the victim. Such statement shall be recorded, as far as practicable, by a woman judge.

13) Section 164-A (as introduced by Act No. 25 of 2005; w.e.f. 23/06/2006) provides for

compulsory medical check-up of rape victims within 24 hours ensuring substantial evidence against accused is not lost.

These type of provisions have to be followed very promptly by the state authorities because if these provisions are not followed in their true spirit and letters then the basic objective behind introducing such provisions stands defeated. The benefit, which ought to be availed by the victim/prosecution, starts shifting towards the accused/offender/s.

14) 173(1)(h) (inserted by Cr.P.C. (amendment) Act, 2008) will also have to mention whether report of medical examination of the woman has been attached where the investigation relates to an offence under Section 376 and 376A to D of the IPC.

15) The 2008 Act adds a proviso in Section 157(1) which provides that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardians or near relatives or social worker of the locality.

16) In respect of Section 157(1) and Section 164A, it has been provided under Cr.P.C. as an obligation upon police to comply with the procedure laid down, it is the duty of judicial officer or the Court to ensure strict compliance of the obligation. The court should confirm from the victim that obligation on part of police was duly served or not. If not, then court should take appropriate steps to do the needed and write to the head of the concerned police department to take appropriate action against such police officer.

17) Proper counseling.- The District Judge and District Legal Services Authority shall endeavour to seek co-operation from women advocates, other public spirited advocates and different NGO's working in the field for women empowerment, to organize counseling camps for women victim/witness/accused inside the Court premises, at Mahila Thanas and other Police stations.

18) Whenever a woman appears before a court of session, the Judge shall be duty bound to address her on legal rights specially provided for women in Cr.P.C. during trial in the court.

19) The name of the victim or relatives or any other information like addresses, shall not be disclosed in the judgment of the Court. It ultimately publicises the victim's bad image in the society and hurts the modesty of the victim.

20) The Family Courts Act, 1984 provides for the power of the Family Court to lay down its own procedure with respect to discharge of its duty (provided under Section 9 of the Act) to endeavour for the settlement between the parties.

By virtue of Section 10 "power to lay down own procedure" a mechanism can be formulated so as to serve the larger interest of the women coming to the forum.

## **Surrogacy**

Surrogacy, as you know, is an arrangement in which a woman carries and delivers a child for another couple or person. In a traditional surrogacy, the child may be conceived via home artificial insemination using fresh or frozen sperm or impregnated via intrauterine insemination.

You, as District Judges and Chief Judicial Magistrates, come across cases relating to surrogacy and reading of the decisions of the Supreme Court certainly help in dealing with those issues in a better way.

### JUDICIAL ETHICS IN PRACTICE:

The integrity of the judicial officers plays a prominent role in the court management. Let me share with you some of the ethical values that I cherish and believe are extremely vital for all judicial officers.

- The first lesson is that judges should not lose the temper in court. It spoils the whole atmosphere.
- **Punctuality:** As a member of an ideal institution of our country, you have to set ideals to be followed by others. The first step towards ensuring the same is to be punctual in convening trials and hearings. Punctuality of judges is indispensable to maintaining dignity and decorum of courts.
- **Proper Conduct in both official and personal capacity:** The respect that society bestows on office of a judge and his judgments is determined by the manner in which a judge conducts himself in his public and private life. Hence, close association with individual members of the Bar especially those who practice in the same court, police officials and other government functionaries must be avoided.
- **Judgments:** Judgments must be clear and decisive and free from ambiguity, and should not generate further litigations and demand for clarifications.
- **Avoid unnecessary delays in pronouncing judgments:** There is also a serious grievance that judgments are not delivered in time and in many matters arguments have been made months before but judgments remain pending. The inconvenient truth is that the judiciary is equally responsible for delayed justice. Judges must pronounce judgments within reasonable time preferably within 30 days of final hearing.
- **Continuous Learning and Training:** You must appreciate that progress in law and judicial thought is a continuous process. Judges are expected to be well versed with not only laws and procedures but also latest legal developments. Therefore, you must find time to regularly read latest judgments of the Supreme Court and the Madras High Court, and also various law journals, which are now easily accessible online.

You must not see judicial service as service in the sense of employment. The judges are not employees. They exercise the sovereign judicial power of the state as prime dispensers of justice. Working in court of law is not purely mechanical but demands ability, alertness, resourcefulness, tact and imagination.

The recent decision by the Supreme Court in the Vodafone case pertaining to taxability over Capital Gains on an overseas transaction between 2 foreign companies (having non-resident status in India) as well as the Bayer case concerning sale of investment comprising of shares of an Indian Company has clearly brought home the need for the judiciary to be equipped with specialized knowledge to deal adequately with questions that are of international concern.

**Final remarks**

Successful implementation of programs or practices requires attention to virtually all aspects of the system.

To conclude, I would like to convey that a vibrant subordinate judiciary is the need of the hour. Inordinate delays, escalating cost of litigation and inequality in the system sometimes make the delivery of justice an unattainable goal. But we have to be optimistic and work together to not just uphold the rule of law, but ensure that litigants do not lose faith in the maze that our legal system has become. Young judges must brace themselves to do their part which may be onerous but fully satisfying.

In a country like ours, where people consider Judges only second to God, efforts must be made to strengthen that belief of the common man.

If an independent and efficient judicial system is to remain the basic structure of our Constitution, a competent subordinate judiciary is its indispensable link. I have full faith that you will fulfil this role dutifully and efficiently.

Thank You!

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