

Transnational Crimes

West Bengal Judicial Academy
July 20-21, 2024

Saturday, July 20, 2024

9:00 a.m. Opening Remarks

Hon'ble Justice Joymalya Bagchi, High Court of Calcutta

9:15 a.m. Welcome & Overview

Mr. Manish Sharma, Faculty Member, MP State Judicial Academy, Madhya Pradesh

Part One: Money Laundering

9:30 a.m. Understanding the Legal Framework

This session focuses on learning about money laundering and its steps through various techniques like pictures and visualizations. We will discuss money laundering legislation including the Prevention of Money Laundering Act, 2002, and touch upon relevant provisions of the Fugitive Offender's Act, 2018. We will also address the role of special courts, jurisdiction, and predicate offences.

Mr. Manish Sharma, Faculty Member, MP State Judicial Academy, Madhya Pradesh

Ms. Namita Dwivedi, Assistant Director, MP State Judicial Academy, Madhya Pradesh

11:00 a.m. Tea Break

11:15 a.m. Overcoming the Bottlenecks Confronted During Trial of Money Laundering Matters

In this session, participants will learn about the many regulations that pertain to money laundering and bail and remand. The session will also address related legal issues involving foreign assets and situations where the accused holds dual citizenship. The Prevention of Money Laundering Act of 2002 includes unique provisions related to presumption and burden of proof. The significance of these provisions and their impact on trial proceedings also will be discussed.

Mr. Manish Sharma, Faculty Member, MP State Judicial Academy, Madhya Pradesh

12:45 p.m.

Lunch

1:45 p.m.

Forfeiture of Property

This session will give a brief overview of the processes utilized to combat money laundering and seize illicitly obtained assets. We will discuss the importance of interim orders of attachment of property and how they influence the custody of the property found to be the proceeds of a crime, both in the interim and the final custody. Citations of applicable case laws and instances of the functions performed by key stakeholders shall be highlighted.

Ms. Namita Dwivedi, Assistant Director, MP State Judicial Academy, Madhya Pradesh

Part Two: Transnational Narcotics Cases

2:15 p.m.

Unveiling the Veil: Transnational Drug Trafficking Presenters

This session will provide an overview of transnational drug trafficking in India, including its geographic scope, the types of narcotics most widely trafficked, and different trafficking modalities. It will also introduce relevant domestic legislation and international conventions joined by India.

Mrs. Kerpa M. Lyngdoh Nongbri, Director, Meghalaya State Judicial Academy, Meghalaya

Mr. Febroneous Silkam Sangma, In Charge District and Sessions Judge, South Garo Hills District

2:35 p.m.

Tea Break

2:50 p.m.

Presumption in Narcotics Cases

NDPS, the Narcotic Drugs and Psychotropic Substances Act, provides a detailed framework for the prosecution of drug offenses. One of its more complex features is the rule regarding presumptions that shifts the burden of proof onto the accused. We will discuss the constitutionality of this unusual reverse burden and how the rule operates when applied to narcotics cases including the degree of proof required during different stages of the trial.

Mrs. Kerpa M. Lyngdoh Nongbri, Director, Meghalaya State Judicial Academy, Meghalaya

Mr. Febroneous Silkam Sangma, In Charge District and Sessions Judge, South Garo Hills District

3:40 p.m.

Search and Seizure in Narcotics Cases

The NDPS Act is a stringent statute that lays down presumptions against an accused and severe punishments on conviction. However, the Act, at the same time, provides significant procedural safeguards u/s 50 regarding search and seizure. We will explore the mechanics and nuances of these safeguards through a discussion of fact patterns that present a range of search and seizure scenarios, the implications of the interpretation of the word “etc.” mentioned in the Baldev Singh judgment and whether section 50 should be given a restrictive or a liberal interpretation.

Mrs. Kerpa M. Lyngdoh Nongbri, Director, Meghalaya State Judicial Academy, Meghalaya

Mr. Febroneous Silkam Sangma, In Charge District and Sessions Judge, South Garo Hills District

4:30 p.m.

Day 1 wrap-up

Mr. Manish Sharma, Faculty Member, MP State Judicial Academy, Madhya Pradesh

4:40 p.m.

Day Concludes

Sunday, July 21, 2024

9:00 a.m.

Thoughts, Questions?

Mr. Manish Sharma, Faculty Member, MP State Judicial Academy, Madhya Pradesh

Part Three: Trafficking in Persons

9:10 a.m.

Preventing Secondary victimization of the victims of human trafficking

The session aims to provide Indian Judges a comprehensive understanding of the measures that they can take to ensure that the victims of human trafficking do not face re-victimization during their interface with the legal set of the country. The session will cover discussion on understanding the crime of human trafficking, the modus operandi of the commission of the crime, its dimensions and its impact. Indian judges will learn to strike a balance between protecting the rights and the identities of victim one hand and ensuring fair justice in open court to the accused on the other. The key components would include brain storming, a detailed presentation on the guidelines laid down by

the Constitutional Courts of the country along with quiz and discussion on applying those guidelines in the practical situation.

Ms. Kajal Jhamb, Principal District and Session Judge, Khagaria, Bihar

9:55 a.m.

Rehabilitation of the victim of human trafficking

The main object of this session is to make judges aware about the legislative framework available for bringing the victims of Human Trafficking to main stream. For the given purpose, relevant legal provisions along with different scenarios pertaining to compensation will be highlighted. Indian Judges will be made aware about the fact that compensation can be awarded to the victim even if the accused is traceless or case is not proved against him or he is discharged. Special focus will be given to the guidelines laid down by the Apex Court with regard to compensation. At the end of the session with the think-pair- share activity a case fact will be given to the judges to enable them to understand the concept of compensation in a practical way.

Ms. Divya Vashistha, Deputy Director, Bihar Judicial Academy, Patna

10:45 a.m.

Tea Break

Part Four: Cybercrime

11:00 a.m.

Unraveling the Web: Exploring Types and Categories of Cybercrime

This session aims to equip Indian judges with a comprehensive understanding of the various types and categories of cybercrime. Through a structured approach, participants will learn to define general types of cybercrime, identify relevant legal provisions, and correlate each cybercrime with its definition under the Indian IT Act, 2000, and other applicable laws. The session will cover procedural nuances such as jurisdiction, bail, investigation, and compounding of offences. Key components include brainstorming, detailed presentations on different cybercrime categories, and a quiz to apply learned knowledge to real-world scenarios.

Mr. Govind Ram Meena, Deputy Director, Rajasthan State Judicial Academy, Rajasthan

12:10 p.m.

Lunch

1:10 p.m.

Digital Evidence Lifeline: From Pixels to Podium

This session focuses on the lifecycle of digital evidence from identification to presentation in court. Participants will understand the identification, collection, acquisition, and preservation of digital evidence, including transnational challenges. They will analyse expert reports and learn how to present digital evidence in compliance with legal standards. The session will address the identification of digital artefacts, the digital forensics lifecycle, and the importance of maintaining the integrity of the evidence.

*Ms. Harshali Chowdhary, Additional District & Sessions Judges-cum-Faculty Member,
Punjab & Haryana*

Mr. Govind Ram Meena, Deputy Director, Rajasthan State Judicial Academy, Rajasthan

2:20 p.m.

Tea Break

2:35 p.m.

Decoding Digital Evidence in Court

This session aims to deepen judges' understanding of the legal criteria for the relevancy and admissibility of digital evidence. Participants will critically assess the appreciation of digital evidence in cases and evaluate its genuineness. The session begins with a brainstorming activity on challenges faced with digital records, followed by an in-depth presentation on the legal framework for digital evidence in India. The session will explore key sections and provisions under the Indian Evidence Act and the IT Act, discuss the procedural aspects of admissibility, and examine relevant case laws.

*Ms. Harshali Chowdhary, Additional District & Sessions Judges-cum-Faculty Member,
Punjab & Haryana*

4:15 p.m.

Closing Remarks

4:30 p.m.

Conclusion of the Program