THE CODE OF CRIMINAL PROCEDURE, 1973

ACT NO. 2 OF 1974

[25th January, 1974.]

An Act to consolidate and amend the law relating to CriminalProcedure.BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:-

1.Short title extent and commencement.

(1) This Act may be called the Code of Criminal

Procedure,1973.

(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that the provisions of this Code,other than those relating to Chapters VIII, X and XI thereof, shall not apply-

(a) to the State of Nagaland,

(b) to the tribal areas,but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be,with such supplemental,incident or consequential modifications, as may be specified in the notification.

Explanation.-In this section,"tribal areas" means the territories which immediately before the 21st day of January, 1972,were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than

those within the local limits of the municipality of Shillong.

(3) It shall come into force on the 1st day of April, 1974.

2. Definitions. In this Code, unless the context otherwise requires,-

(a) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;

(b) "charge" includes any head of charge when the charge contains more heads than one;

(c) "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;

(d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown,has committed an offence, but does not include a police report.

Explanation.-A report made by a police officer in a case which discloses, after investigation,the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;

(e) "High Court" means,-

(i) in relation to any State, the High Court for that State ;

(ii)in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii)in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(f) "India" means the territories to which this Code extends;

(g) "inquiry" means every inquiry, other than a trial,conducted under this Code by a Magistrate or Court;

(h) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;

(i) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath ;

(j) "local jurisdiction", in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Code 1\*[and such local area may comprise the whole of the State, or any part of the State, as the State Government may, by notification, specify];

(k) "metropolitan area" means the area declared, or deemed to be declared, under section 8, to be a metropolitan area ;

(l) "non-cognizable offence" means an offence for which,and "non- cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

(m) "notification" means a notification published in the Official Gazette ;

(n) "offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871;

(o) "officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police officer so present ;

(p) "place" includes a house, building, tent, vehicle and vessel;

(q) "pleader", when used with reference to any proceeding in any Court, means a person authorised by or under any law for the time being in force, to practise in such Court, and includes any other person appointed with the permission of the Court to act in such proceeding ;

(r) "police report"means a report forwarded by a police officer to Magistrate under sub-section (2) of section 173;

(s) "police station" means any post or place declared generally or specially by the State Government,to be a police station, and includes any local area specified by the State Government in this behalf ;

(t) "prescribed" means prescribed by rules made under this Code;

(u) "Public Prosecutor" means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor ;

(v) "sub-division" means a sub-division of a district;

(w) "summons-case" means a case relating to an offence, and not being a warrant-case ;

(x) "warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(y) words and expressions used herein and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in that Code.

3. Construction of references.

(1) In this Code,- (a) any reference, without any qualifying words, to a Magistrate, shall be construed, unless the context otherwise requires,-

(i) in relation to an area outside a metropolitan area, as a reference to a Judicial Magistrate ;

(ii)in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;

(b) any reference to a Magistrate of the second class shall, in relation to an area outside a metropolitan area, be construed as a reference to a Judicial Magistrate of the second class, and, in relation to a metropolitan area, as a reference to a Metropolitan Magistrate ;

(c) any reference to a Magistrate of the first class shall,-

(i)in relation to a metropolitan area, be construed as a reference to a Metropolitan Magistrate exercising jurisdiction in that area,

(ii)in relation to any other area, be construed as a reference to a Judicial Magistrate of the first class exercising jurisdiction in that area ;

(d) any reference to the Chief Judicial Magistrate shall,in relation to a metropolitan area, be construed as a reference to the Chief Metropolitan Magistrate exercising jurisdiction in that area.

(2) In this Code, unless the context otherwise requires, any reference to the Court of a Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Court of

the Metropolitan Magistrate for that area.

(3) Unless the context otherwise requires, any reference in any enactment passed before the commencement of this Code,-

(a) to a Magistrate of the first class, shall be construed as a reference to a Judicial Magistrate of the first class;

(b) to a Magistrate of the second class or of the third class, shall be construed as a reference to a Judicial Magistrate of the second class ;

(c) to a Presidency Magistrate or Chief Presidency Magistrate, shall be construed as a reference, respectively,to a Metropolitan Magistrate or the Chief Metropolitan Magistrate ;

(d) to any area which is included in a metropolitan area,as a reference to such metropolitan area, and any reference to a Magistrate of the first class or of the second class in relation to such area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in such area.

(4) Where, under any law, other than this Code, the functions exercisable by a Magistrate relate to matters-

(a) which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, they shall, subject to the provisions of this Code, be exercisable by a Judicial

Magistrate ; or

(b) which are administrative or executive in nature, such as, the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.

4. Trial of offences under the Indian Penal Code and other laws.

(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated,inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into,trying or otherwise dealing with such offences.

5. Saving. Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

6. Classes Criminal Courts. Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:-

(i) Courts of Session ;

(ii) Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;

(iii) Judicial Magistrates of the second class ; and

(iv) Executive Magistrates.

7. Territorial divisions. (1) Every State shall be a sessions division or shall consist of sessions divisions; and every sessions division shall, for the purposes of this Code, be a district or consist of districts :

Provided that every metropolitan area shall, for the said purposes, be a separate sessions division and district.

(2) The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.

(3) The State Government may, after consultation with the High Court, divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.

(4) The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Code, shall be deemed to have been formed under this section.

8. Metropolitan areas. (1) The State Government may, by notification, declare that, as from such date as may be specified in the notification, any area in the State comprising a city or town whose population exceeds one million shall be a metropolitan area for the purposes of this Code.

(2) As from the commencement of this Code, each of the Presidency towns of Bombay, Calcutta and Madras and the city of Ahmedabad shall be deemed to be declared under sub-section (1) to be a metropolitan area.

(3) The State Government may, by notification, extend, reduce or alter the limits of a metropolitan area but the reduction or alteration shall not be so made as to reduce the population of such area to less than one million.

(4) Where, after an area has been declared, or deemed to have been declared to be, a metropolitan area, the population of such area falls below one million, such area shall, on and from such date as the State

Government may, by notification, specify in this behalf, cease to be a metropolitan area; but notwithstanding such cesser, any inquiry,trial or appeal pending immediately before such cesser before any Court or Magistrate in such area shall continue to be dealt with under this Code, as if such cesser had not taken place.

(5)Where the State Government reduces or alters, under subsection (3), the limits of any metropolitan area, such reduction or alteration shall not affect any inquiry, trial or appeal pending immediately before such reduction or alteration before any Court or Magistrate,and every such inquiry, trial or appeal shall continue to be dealt with under this Code as if such reduction or alteration had not taken place.

Explanation.-In this section, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

9.Court of Session.(1) The State Government shall establish a Court of Session for every sessions division.

(2) Every Court of Session shall be presided over by a Judge, to be appointed by the High Court.

(3)The High Court may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in a Court of Session.

(4)The Sessions Judge of one sessions division may be appointed by the High Court to be also an Additional Sessions Judge of another division and in such case he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.

(5)Where the office of the Sessions Judge is vacant, the High Court may make arrangements for the disposal of any urgent application which is, or may be, made or pending before such Court of Session by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by a Chief Judicial Magistrate, in the sessions division; and every such Judge or Magistrate shall have jurisdiction to deal with any such application.

(6)The Court of Session shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may,with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.

Explanation.-For the purposes of this Code, "appointment"does not include the first appointment,posting or promotion of a person by the Government to any Service, or post in connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by Government.

10. Subordination of Assistant Sessions Judges.(1) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction.

(2) The Sessions Judge may, from time to time, make rules consistent with this Code, as to the distribution of business among such Assistant Sessions Judges.

(3) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and every such Judge or Magistrate shall be deemed to have jurisdiction to deal with any such application.

11. Courts of Judicial Magistrates.

(1) In every district (not being a metropolitan area), there shall be established as many Courts of Judicial Magistrates of the first class and of the second class,and at such places, as the State Government may, after consultation with the High Court, by notification, specify:

Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of

Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

12.Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.

(1) In every district (not being a metropolitan area), the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate.

(2)The High Court may appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate, and such Magistrate shall have all or any of the powers of a Chief Judicial Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

(3)(a) The High Court may designate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

(b)Subject to the general control of the Chief Judicial Magistrate, every Sub-divisional Judicial Magistrate shall also have and exercise such powers of supervision and control over the work of the Judicial Magistrates (other than Additional Chief Judicial Magistrates) in the sub-division as the High Court may, by general or special order, specify in this behalf.

13. Special Judicial Magistrates.

(1) The High Court may, if requested by the Central or State Government so to do,confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate [of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area, not being a metropolitan area] :

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2)Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

(3) The High Court may empower a Special Judicial Magistrate to exercise the powers of a Metropolitan Magistrate in relation to any metropolitan area outside his local jurisdiction.

14. Local jurisdiction of Judicial Magistrates.

(1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this Code :

Provided that the Court of a Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.

(2)Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

(3) Where the local jurisdiction of a Magistrate, appointed under section 11 or section 13 or section 18, extends to an area beyond 'the district, or the metropolitan area, as the case may be, in which he ordinarily holds Court, any reference in this Code to the Court of Session, Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session, Chief Judicial Magistrate, or Chief Metropolitan Magistrate, as the case may be, exercising jurisdiction in relation to the said district or metropolitan area.

15. Subordination of Judicial Magistrates.

(1) Every Chief Judicial Magistrate shall be subordinate to the Sessions Judge ; and every other Judicial Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

(2)The Chief Judicial Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Judicial Magistrates subordinate to him.

16. Courts of Metropolitan Magistrates.

(1) In every metropolitan area, there shall be established as many Courts of Metropolitan Magistrates, and at such places, as the State Government may, after consultation with the High Court, by notification, specify.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the metropolitan area.

17. Chief Metropolitan Magistrates and Additional Chief Metropolitan Magistrates.

(1) The High Court shall, in relation to every metropolitan area within its local jurisdiction, appoint a Metropolitan Magistrate to be the Chief Metropolitan Magistrate for such metropolitan area.

(2)The High Court may appoint any Metropolitan Magistrate to be an Additional Chief Metropolitan Magistrate, and such Magistrate shall have all or any of the powers of a Chief Metropolitan Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

18. Special Metropolitan Magistrates. (1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Metropolitan Magistrate, in inspect to particular cases or to particular classes of cases in any metropolitan area within its local

jurisdiction :

Provided that no such power shall be conferred on a person unless lie possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2)Such Magistrates shall be called Special Metropolitan Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

(3) The High Court or the State Government, as the case may be, may empower any Special Metropolitan Magistrate to exercise, in any local area outside the metropolitan area, the powers, of a Judicial Magistrate of the first class.

19.Subordination of Metropolitan Magistrates.

(1) The Chief Metropolitan Magistrate and every Additional Chief Metropolitan Magistrate shall be subordinate to the Sessions Judge; and every other Metropolitan Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Metropolitan Magistrate.

(2)The High Court may, for the purposes of this Code, define the extent of the subordination, if any, of the Additional Chief Metropolitan Magistrates to the Chief Metropolitan Magistrate.

(3)The Chief Metropolitan Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution

of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

20.Executive Magistrates.

(1) In every district and in every metropolitan area, the State Government may appoint as many persons as

it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have such of the powers of a District Magistrate under this Code or under any other law for the time being in force as may be directed by the State Government.

(3) Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the executive administration of the district, such officer shall, pending the orders of he State Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

(4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires; and the Magistrate so placed in charge of a sub-division shall be called the Sub-divisional Magistrate.

(5) Nothing in this section shall preclude the State Government from conferring, under any law for the time being in force, on a Commissioner of Police, all or any of the powers of an Executive Magistrate in relation to a metropolitan area.

21. Special Executive Magistrates. The State Government may appoint, for such term as it may think fit, Executive Magistrates, to be known as Special Executive Magistrates for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrates, as it may deem fit.

22. Local jurisdiction of Executive Magistrates.

(1) Subject to the control of the State Government,

the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Code.

(2)Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

23. Subordination of Executive Magistrates.

(1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate)exercising powers in a subdivision shall also be subordinate to the Sub-divisional Magistrate,subject, however, to the general control of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as

to the allocation of business to an additional District Magistrate.

24. Public Prosecutors.

(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any

prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be.

(2)The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case or class of cases in any district or local area.

(3)For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4)The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5)No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District

Magistrate under sub-section (4).

(6)Notwithstanding anything contained in sub-section (5),where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting usch Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

(7)A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section(1)or sub-section(2)or sub-section(3) or sub-section(6),only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint,for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor.

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as a pleader, or has rendered (whether before or after the commencement of this Code)service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.

25. Assistant Public Prosecutors.

(1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.

(1A) The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases in the Courts of Magistrates.]

(2) Save as otherwise provided in sub-section (3), no police officer shall be eligible to be appointed as an Assistant Public Prosecutor.

(3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case; Provided that a police officer shall not be so appointed-

(a) if he has taken any part in the investigation into the offence with respect to which the accused being prosecuted; or

(b) if he is below the rank of Inspector.

CHAPTER III

POWER OF COURTS

26. Courts by which offences are triable. Subject to the other provisions of this Code,-

(a) any offence under the Indian Penal Code (45 of 1860), may be tried by-

(i) the High Court, or

(ii) the Court of Session, or

(iii) any other Court by which such offence is shown in the First Schedule to be triable;

(b) any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court and when no Court is so mentioned, may be tried by-

(i) the High Court, or

(ii) any other Court by which such offence is shown in

the First Schedule to be triable.

27. Jurisdiction in the case of juveniles. Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a

Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

28. Sentences which High Courts and Sessions Judges may pass.

(1) A High Court may pass any sentence authorised by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law ; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(3) An Assistant Sessions Judge may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years.

29. Sentences which Magistrates may pass. (1) The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

(2) The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding five thousand rupees, or of both.

(3) The Court of a Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees, or of both.

(4) The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

30. Sentences of imprisonment in default of fine. (1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:

Provided that the term-

(a) is not in excess of the powers of the Magistrate under section 29;

(b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in

default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 29.

31. Sentences in cases of conviction of several offences at one trial.

(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code (45 of 1860), sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after

the expiration of the other in such order as the Court may direct,unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is

competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that-

(a) in no case shall such person be sentenced to

imprisonment for longer period than fourteen years;

(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this

section shall be deemed to be a single sentence.

32. Mode of conferring powers. (1) In conferring powers under this Code, the High Court or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

33. Powers of officers appointed. Whenever any person holding an office in the service of Government who has been invested by the High Court or the State Government with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area under the same State Government, he shall, unless the High Court or the State Government,as the case may be, otherwise directs, or has otherwise directed,exercise the same powers in the local area in which he is so appointed.

34. Withdrawal of powers. (1) The High Court or the State Government, as the case may be, may withdraw all or any of the powers conferred by it under this Code on any person or by any officer subordinate to it.

(2) Any powers conferred by the Chief Judicial Magistrate or by the District Magistrate may be withdrawn by the respective Magistrate by whom such powers were conferred.

35. Powers of Judges and Magistrates exercisable by their successors-in-office.

(1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

(2) When there is any doubt as to who is the successor-in-office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the

purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Additional or Assistant Sessions Judge.

(3) When there is any doubt as to who is the successor-in-office of any Magistrate, the Chief Judicial Magistrate, or the District Magistrate, as the case may be, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor-inoffice

of such Magistrate.

CHAPTER IV

36. Powers of superior officers of police. Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

37. Public when to assist Magistrates and police. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid-

(a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or

(b) in the prevention or suppression of a breach of the peace; or

(c) in the prevention of any injury attempted to be

committed to any railway, canal, telegraph or public

property.

38. Aid to person, other than police officer, executing,warrant. When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, ifthe person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

39. Public to give information of certain offences. (1) Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code, (45 of 1860), namely:-

(i) sections 121 to 126, both inclusive, and section 130 (that is to say, offences against the State specified in Chapter VI of the said Code);

(ii) sections 143, 144, 145, 147 and 148 (that is to say,offences against the public tranquillity specified in Chapter VIII of the said Code) ;

(iii) sections 161 to 165A, both inclusive (that is to say,offences relating to illegal gratification);

(iv) sections 272 to 278, both inclusive (that is to say,offences relating to adulteration of food and drugs, etc.);

(v) sections 302, 303 and 304 (that is to say, offences affecting life);

(va) section 364A (that is to say, offence relating to

kidnapping for ransom, etc.);

(vi) section 382 (that is to say, offence of theft after preparation made for causing death, hurt or restraint in order to the committing of the theft);

(vii) sections 392 to 399, both inclusive, and section 402(that is to say, offences of robbery and dacoity);

(viii) section 409 (that is to say, offence relating to criminal breach of trust by public servant, etc.);

(ix) sections 431 to 439, both inclusive (that is to say,offences of mischief against property);

(x) sections 449 and 450 (that is to say, office of housetrespass);

(xi) sections 456 to 460, both inclusive (that is to say, offences of lurking house-trespass); and

(xii) sections 489A to 489E, both inclusive (that is to say,offences relating to currency notes and bank notes)shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention.

(2) For the purposes of this section, the term "offence" includes any act committed at any place out of India which would constitute an offence if committed in India.

40.Duty of officers employed in connection with the affairs of a villageto make

certain report.

40. Duty of officers employed in connection with the affairs of a village to make certain report. (1) Every officer employed in connection with the affairs of a village and every person residing in

a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting-

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village;

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender ;

(c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, section 144, section 145,section 147, or section 148 of the Indian Penal Code (45 of 1860);

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person ;

(e) the commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, 231 to 238 (both inclusive), 302, 304, 382, 392 to 399 (both inclusive), 402, 435, 436, 449, 450, 457 to 460 (both inclusive), 489A, 489B, 489C and 489D ;

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the State Government, has directed him to communicate information.

(2) In this section,-

(i) "village" includes village-lands;

(ii) the expression "proclaimed offender" includes any

person proclaimed as an offender by any Court or authority in any territory in India to which this Code does not extend, in respect of any act which if committed in the territories to which this Code extends, would be an offence punishable under any of the following sections of the Indian Penal Code (45 of

1860), namely, 302, 304, 382, 392 to 399 (both inclusive),402, 435, 436, 449, 450 and 457 to 460 (both inclusive) ;

(iii) the words "officer employed in connection with the affairs of the village" means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.

CHAPTER V

ARREST OF PERSONS

41. When police may arrest without warrant. (1) Any police officer may without an order from a Magistrate and without a warrant,arrest any person-

(a) who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or

(b) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or

(c)who has been proclaimed as an offender either under this Code or by order of the State Government; or

(d) in whose possession anything is found which may

reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(e) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ; or

(f) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law

relating to extradition, or otherwise, liable to be

apprehended or detained in custody in India; or

(h) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 356; or

(i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made

and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any person, belonging to one or more of the categories of persons specified in section 109 or section 110.

42. Arrest on refusal to give name and residence. (1) When any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand

of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties. he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

43. Arrest by private person and procedure on such arrest.

(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer,or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 41, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a noncognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 42 ; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

44. Arrest by Magistrate.

(1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

45. Protection of members of the Armed Forces from arrest.

(1)Notwithstanding anything contained in sections 41 to 44 (both inclusive), no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.

(2) The State Government may, by notification, direct that the provisions of sub-section (1) shall apply to such class or category of the members of the Force charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

46. Arrest how made.

(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2)If such person forcibly resists the endeavour to arrest him,or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3)Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

47. Search of place entered by person sought to be arrested.

(1) If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2)If ingress to such place cannot be obtained under subsection(1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of

escape, for a police officer to enter such place and search therein,and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after

notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a female (not being the person to be arrested) who,according to custom, does not appear in public, such person or police officer shall, before entering such apartment, give notice to such female that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

(3)Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

48. Pursuit of offenders into other jurisdictions. A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.

49. No unnecessary restraint. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

50. Person arrested to be informed of grounds of arrest and of right to bail.

(1) Every police officer or other person arresting any

person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2)Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

51. Search of arrested person.

(1) Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the Person arrested cannot furnish bail, and whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,the officer making the arrest or, when the arrest is made by a

private person, the police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.

(2) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

52. Power to size offensive weapons. The officer or other person making any arrest under this Code may take fr om the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

53. Examination of accused by medical practitioner at the request of police officer. (1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of a police officer not below the rank of sub-inspector,and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably for that purpose.

(2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of, a female registered medical practitioner.

Explanation.-In this section and in section 54, "registered medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 ( 102 of 1956) and whose name has been entered in a State Medical Register.

54. Examination of arrested person by medical practitioner at the requestof the arrested person.

When a person who is arrested,whether on a charge or otherwise alleges, at the time when he is produced before a Magistrate or at any time during the period of his detention in custody that the examination of his body will afford evidence which will disprove the commission by him of any offence or which will establish the commission by any other person of any offence against his body, the Magistrate shall, if equested by the arrested person so to do direct the examination of the body of such person by a registered medical practitioner unless the Magistrate considers that the request is made for the purpose of vexation or delay or for defeating the ends of justice.

55. Procedure when police officer deputes subordinate to arrest with out warrant. (1) When any officer in charge of a police station or any police officer making an investigation under Chapter XII requires any officer subordinate to him to arrest without a warrant

(otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

(2) Nothing in sub-section(1)shall affect the ower of a police officer to arrest a person under section 41.

56. Person arrested to be taken before Magistrate of officer in charge of police station. A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.

57. Person arrested not to be detained more than twenty-four hours.

No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, i n the absence of a special order of a Magistrate under section 167, exceed twentyfour hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

58. Police to report apprehensions.

Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

59. Discharge of person apprehended.

No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

60. Power, on escape, to pursue and retake.

(1) If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.

(2)The provisions of section 47 shall apply to arrests under subsection(1) although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.-Summons

61. Form of summons.

Every summons issued by a Court under this Code shall be in writing, in duplicate, signed by the presiding officer of such Court or by such other officer as the High Court may,from time to time, by rule direct, and shall bear the seal of the Court,

62. Summons how served.

(1) Every summons shall be served by a police Officer, or subject to such rules as the State Government may make in this behalf, by an officer of the Court issuing it or other public servant.

(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

(3) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

63. Service of summons on corporate bodies and societies.

Service of a summons on a corporation may be effected by serving it on the secretary, local manager or other principal officer of the corporation, or by letter sent by registered post, addressed to the chief officer of the corporation in India, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Explanation.-In this section "corporation" means an incorporated company or other body corporate and includes a society registered under the Societies Registration Act, 1860 (21 of 1860).

64. Service when persons summoned cannot be found.

Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family residing with him, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Explanation.-A servant is not a member of the family within the meaning of this section.

65. Procedure when service cannot be effected as before provided.

If service cannot by the exercise of due diligence be effected as provided in section 62, section 63 or section 64, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

66. Service on Government servant.

Where the person summoned is in the active service of the Government the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the

manner provided by section 62, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

67. Service of summons outside local limits.

When a Court desires that a summons issued by it shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction the person summoned resides, or is, to be there served.

68. Proof of service in such cases and when serving officer not present.

(1) When a summons issued by a Court is served outside its local jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in the manner provided by section 62 or section 64) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be

deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

69. Service of summons on witness by post.

(1) Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

(2) When an acknowledgment purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received, the Court issuing the summons may declare that the summons has been duly served.

B.-Warrant of arrest

70. Form of warrant of arrest and duration.

1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer of such Court and shall bear the seal of the Court.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

71. Power to direct security to be taken.

(1) Any Court issuing a warrant for the arrest of any person may be in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court,the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state-

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound;

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

72. Warrants to whom directed.

(1) A warrant of arrest shall ordinarily be directed to one or more police officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them.

73. Warrant may be directed any person.

(1) The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a nonbailable,offence and is evading arrest.

(2) Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 71.

74. Warrant directed to police officer.

A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon, the warrant by the officer to whom it is directed or endorsed.

75. Notification of substance of warrant.

The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

76. Person arrested to be brought before Court without delay.

The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 71 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person:

Provided that such delay shall not, in any case, exceed twentyfour hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

77. Where warrant may be executed.

A warrant of arrest may be executed at any place in India.

78.Warrant forwarded for execution outside jurisdiction.

(1)When a warrant is to be executed outside the local jurisdiction of the Court issuing it, such Court may, instead of directing the warrant to a police officer within its jurisdiction, forward it by post or otherwise to any Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction it is to be executed ; and the Executive Magistrate or District Superintendent or Commissioner shall endorse his name thereon, and if practicable, cause it to be executed in the manner hereinbefore provided.

(2)The Court issuing a warrant under sub-section(1) shall forward, along with the warrant, the substance of the information against the person to be arrested together with such documents, if any, as may be sufficient to enable the Court acting under section 81

to decide whether bail should or should not be granted to the person.

79. Warrant directed to police officer for execution outside jurisdiction.

(1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same,he shall ordinarily take it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in

charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same,and the local police shall, if so required, assist such officer in

executing such warrant.

(3) Whenever there is reason to believe that the delay

occasioned by obtaining the endorsement of the Magistrate or police officer within whose local jurisdiction the warrant is to be executed will prevent such execution, the police officer to whom it is directed may execute the same without such endorsement in any place beyond the local jurisdiction of the Court which issued it.

80. Procedure on arrest of person against whom warrant issued.

When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within thirty kilometres of the place of arrest or is

nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 71, be taken before such Magistrate or District Superintendent or Commissioner.

81. Procedure by Magistrate before whom such person arrested is brought.

(1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant,direct his removal in custody to such Court :

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 71 on the warrant and such person is ready and willing to give the security required by such directions the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond, to the Court which issued the warrant :

Provided further that if the offence is a non-bailable one, it

shall be lawful for the Chief Judicial Magistrate (subject to the

provisions of section 437), or the Sessions Judge, of the district in

which the arrest is made on consideration of the information and the

documents referred to in sub-section (2) of section 78, to release

such person on bail.

(2) Nothing in this section shall be deemed to prevent a police

officer from taking security under section 71,

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C. Proclamation and attachment.

82.

Proclamation for person absconding.

82. Proclamation for person absconding. (1) If any Court has

reason to believe (whether after taking evidence or not) that any

person against whom a warrant has been issued by it has absconded or

is concealing himself so that such warrant cannot be executed, such

Court may publish a written proclamation requiring him to appear at a

specified place and at a specified time not less than thirty days from

the date of publishing such proclamation.

(2) The proclamation shall be published as follows: -

(i) (a) it shall be publicly read in some conspicuous place

of the town or village in which such person ordinarily

resides;

(b) it shall be affixed to some conspicuous part of the

house or homestead in which such person ordinarily resides or

to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part

of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of

the proclamation to be published in a daily newspaper

circulating in the place in which such person ordinarily

resides.

(3) A statement in writing by the Court issuing the proclamation

to the effect that the proclamation was duly published on a specified

day, in the manner specified in clause (i) of sub-section (2), shall

be conclusive evidence that the requirements of this section have been

complied with, and that the proclamation was published on such day.

83.

Attachment of Property of person absconding.

83. Attachment of Property of person absconding. (1) The Court

issuing a proclamation under section 82 may, for reasons to be

recorded in writing, at any time after the issue of the proclamation,

order the attachment of any property, movable or immovable, or both,

belonging to the proclaimed person:

Provided that where at the time of the issue of the proclamation

the Court is satisfied, by affidavit or otherwise, that the person in

relation to whom the proclamation is to, be issued,-

(a) is about to dispose of the whole or any part of his

property, or

(b) is about to remove, the whole or any part of his

property from the local jurisdiction of the Court,

it may order the attachment simultaneously with the issue of the

proclamation.

(2) Such order shall authorise the attachment of any property

belonging to such person within the district in which it is made; and

it shall

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authorise the attachment of any property belonging to such person

without such district when endorsed by the District Magistrate within

whose district such property is situate.

(3)If the property ordered to be attached is a debt or other

movable property, the attachment under this section shall be made-

(a) by seizure ; or

(b) by the appointment of a receiver ; or

(c) by an order in writing prohibiting the delivery of such

property to the proclaimed person or to any one on his behalf

; or

(d) by all or any two of such methods, as the Court thinks

fit.

(4) If the property ordered to be attached is immovable, the

attachment under this section shall, in the case of land paying

revenue to the State Government, be made through the Collector of the

district which the land is situate, and in all other cases-

(a) by taking possession ; or

(b) by the appointment of a receiver ; or

(c) by an order in writing prohibiting the payment of rent on

delivery of property to the proclaimed person or to any one

on his behalf ; or

(d) by all or any two of such methods, as the Court thinks

fit.

(5) If the property ordered to be attached consists of livestock

or is of a perishable nature, the Court may, if it thinks it

expedient, order immediate sale thereof, and in such case the proceeds

of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed

under this section shall be the same as those of a receiver appointed

under the Code of Civil Procedure, 1908 (5 of 1908).

84.

Claims and objections to attachment.

84. Claims and objections to attachment. (1) If any claim is

preferred to, or objection made to the attachment of, any property

attached under section 83, within six months from the date of such

attachment, by any person other than the proclaimed person, on the

ground that the claimant or objector has an interest in such property,

and that such interest is not liable to attachment under section 83,

the claim or objection shall be inquired into, and may be allowed or

disallowed in whole or in part:

Provided that any claim preferred or objection made within the

period allowed by this-sub-section may, in the event of the death of

the claimant or objector, be continued by his legal representative.

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(2) Claims or objections under sub-section (1) may be preferred

or made in the Court by which the order of attachment is issued, or,

if the claim or objection is in respect of property attached under an

order endorsed under sub-section (2) of section 83, in the Court of

the Chief Judicial Magistrate of the district in which the attachment

is made.

(3) Every such claim or objection shall be inquired into by the

Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief

Judicial Magistrate, he may make it over for disposal to any

Magistrate subordinate to him.

(4) Any person whose claim or objection has been disallowed in

whole or in part by an order under sub-section (1) may, within a

period of one year from the date of such order, institute a suit to

establish the right which he claims in respect of the property in

dispute ; but subject to the result of such suit, if any, the order

shall be conclusive.

85.

Release, sale and restoration of attached property.

85. Release, sale and restoration of attached property. (1) If

the proclaimed person appears within the time specified in the

proclamation, the Court shall make an order releasing the property

from the attachment.

(2) If the proclaimed person does not appear within the time

specified in the proclamation, the property under the attachment shall

be at the disposal of the State Government; but it shall not be sold

until the expiration of six months from the date of the attachment and

until any claim preferred or objection made under section 84 has been

disposed under that section, unless it is subject to speedy and

natural decay, or the Court considers that the sale would be for the

benefit of the owner ; in either of which cases the Court may cause

it to be sold whenever it thinks fit.

(3) If, within two years from the date of the attachment, any

person whose property is or has been at the disposal of the State

Government, under sub-section (2), appears voluntarily or is

apprehended and brought before the Court by whose order the property

was attached, or the Court to which such Court is subordinate, and

proves to the satisfaction of such Court that he did not abscond or

conceal himself for the purpose of avoiding execution of the warrant,

and that he had not such notice of the proclamation as to enable him

to attend within the time specified therein, such property, or, if

the same has been sold, the net proceeds of the sale, or, if part only

thereof has been sold, the net proceeds of the sale and the

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residue of the property, shall, after satisfying therefrom all costs

incurred in consequence of the attachment, be delivered to him.

86.

Appeal from order rejecting application for restoration of attachedproperty.

86.Appeal from order rejecting application for restoration of

attached property. Any person referred to in sub-section (3) of

section 85, who is aggrieved by any refusal to deliver property or the

proceeds of the sale thereof may appeal to the Court to which appeals

ordinarily lie from the sentences of the first-mentioned Court.

D.-Other rules regarding processes

87.

Issue of warrant in lieu of, or in addition to, summons.

87.Issue of warrant in lieu of, or in addition to, summons. A

Court may, in any case in which it is empowered by this Code to issue

a summons for the appearance of any person, issue, after recording its

reasons in writing, a warrant for his arrest-

(a) if, either before the issue of such summons, or after

the issue of the same but before the time fixed for his

appearance, the Court sees reason to believe that he has

absconded or will not obey the summons ; or

(b) if at such time he fails to appear and the summons is

proved to have been duly served in time to admit of his

appearing in accordance therewith and no reasonable excuse is

offered for such failure.

88.

Power to take bond for appearance.

88.Power to take bond for appearance. When any person for whose

appearance or arrest the officer presiding in any Court is empowered

to issue a summons or warrant, is present in such Court, such officer

may require such person to execute a bond, with or without sureties,

for his appearance in such Court, or any other Court to which the case

may be transferred for trial.

89.

Arrest on breach of bond for appearance.

89.Arrest on breach of bond for appearance. When any person who

is bound by any bond taken under this Code to appear before a Court,

does not appear, the officer presiding in such Court may issue a

warrant directing that such person be arrested and produced before

him.

90.

Provisions of this Chapter generally applicable to summonses andwarrants

of arrest.

90.Provisions of this Chapter generally applicable to summonses

and warrants of arrest. The provisions contained in this Chapter

relating to a summons and warrant, and their issue, service and

execution, shall, so far as may be, apply to every summons and every

warrant of arrest issued under this Code.

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CHAP

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

CHAPTER VII

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A.-Summons to produce

91.

Summons to produce document or other thing.

91. Summons to produce document or other thing. (1) Whenever any

Court or any officer in charge of a police station considers that the

production of any document or other thing is necessary or desirable

for the purposes of any investigation, inquiry, trial or other

proceeding under this Code by or before such Court or officer, such

Court may issue a summons, or such officer a written order, to the

person in whose possession or power such document or thing is believed

to be, requiring him to attend and produce it, or to produce it, at

the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a

document or other thing shall be deemed to have complied with the

requisition if he causes such document or thing to be produced instead

of attending personally to produce the same.

(3) Nothing in this section shall be deemed-

(a) to affect sections 123 and 124 of the Indian Evidence

Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act,

1891 (13 of 1891) or

(b) to apply to a letter, postcard, telegram or other

document or any parcel or thing in the custody of the postal

or telegraph authority.

92.

Procedure as to letters and telegrams.

92. Procedure as to letters and telegrams. (1) If any document,

parcel or thing In the custody of a postal or telegraph authority is,

in the opinion of the District Magistrate, Chief Judicial Magistrate,

Court of Session or High Court wanted for the purpose of any

investigation, inquiry, trial or other proceeding under this Code,

such Magistrate or Court may require the postal or telegraph

authority, as the case may be, to deliver the document, parcel or

thing to such person as the Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of

any other Magistrate, whether Executive or Judicial, or of any

Commissioner of Police or District Superintendent of Police, wanted

for any such purpose, he may require the postal or telegraph

authority, as the case may be, to cause search to be made for and to

detail such document, parcel or thing pending the order of a District

Magistrate, Chief Judicial Magistrate or Court under sub-section (1).

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93.

When search warrant may be issued.

93. When search warrant may be issued. (1)(a) Where any Court has

reason to believe that a person to whom a summons or order under

section 91 or a requisition under sub-section (1) of section 92 has

been, or might be, addressed, will not or would not produce the

document or thing as required by such summons or requisition, or

(b) where such document or thing is not known to the Court to

be the possession of any person, or

(c) where the Court considers that the purposes of any

inquiry, trial or other proceeding under this Code will be

served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant

is directed, may search or inspect in accordance therewith and the

provisions hereinafter contained.

(2)The Court may, if it thinks fit, specify in the warrant the

particular place or part thereof to which only the search or

inspection shall extend; and the person charged with the execution of

such warrant shall then search or inspect only the place or part so

specified.

(3)Nothing contained in this section shall authorise any

Magistrate other than a District Magistrate or Chief Judicial

Magistrate to grant a warrant to search for a document, parcel or

other thing in the custody of the postal or telegraph authority.

94.

Search of place suspected to contain stolen property,

forgeddocuments, etc.

94. Search of place suspected to contain stolen property, forged

documents, etc. (1) If a District Magistrate, Sub-divisional

Magistrate or Magistrate of the first class, upon information and

after such inquiry as he thinks necessary, has reason to believe that

any place is used for the deposit or sale of stolen property, or for

the deposit, sale or production of any objectionable article to which

this section applies, or that only such objectionable article is

deposited in any place, he may by warrant authorise any police officer

above the rank of a constable-

(a) to enter, with such assistance as may be required, such

place,

(b) to search the same in the manner specified in the

warrant,

(c) to take possession of any property or article therein

found which he reasonably suspects to be stolen property or

objectionable article to which this section applies,

(d) to convey such property or article before a

Magistrate, or to guard the same on the spot until the

offender is taken before

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a Magistrate, or otherwise to dispose of it in some place of

safety,

(e) to take into custody and carry before a Magistrate

every person found in such place who appears to have been

privy to the deposit, sale or production of any such property

or article knowing or having reasonable cause to suspect it

to be stolen property or, as the case may be, objectionable

article to which this section applies.

(2) The objectionable articles to which this section applies

are-

(a) counterfeit coin;

(b) pieces of metal made in contravention of the Metal

Tokens Act, 1889 (1 of 1889), or brought into India in

contravention of any notification for the time being in force

under section 11 of the Customs Act, 1962 (52 of 1962);

(c) counterfeit currency note; counterfeit stamps;

(d) forged documents;

(e) false seals ;

(f) obscene objects referred to in section 292 of the

Indian Penal Code (45 of 1860);

(g) instruments or materials used for the production of any

of the articles mentioned in clauses (a) to (f).

95.

Power to declare certain publications forfeited and to issue searchwarrants

for the same.

95. Power to declare certain publications forfeited and to issue

search warrants for the same. Where-

(a) any newspaper, or book, or

(b) any document,

wherever printed, appears to the State Government to contain any

matter the publication of which is punishable under section 124A or

section 153A or section 153B or section 292 or section 293 or section

295A of the Indian Penal Code(45 of 1860), the State Government may,by

notification, stating the grounds of its opinion, declare every copy

of the issue of the newspaper containing such matter, and every copy

of such book or other document to be forfeited to Government, and

thereupon any police officer may seize the same wherever found in

India and any Magistrate may by warrant authorise any police officer

not below the rank of sub-inspector to enter upon and search for the

same in any premises where any copy of such issue or any such book or

other document may be or may be reasonably suspected to be.

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(2) In this section and in section 96,-

(a) "newspaper" and "book" have the same meaning as in the

Press and Registration of Books Act, 1867 (25 of 1867);

(b) "document" includes any painting, drawing or

photograph, or other visible representation.

(3) No order passed or action taken under this section shall be

called in question in any Court otherwise than in accordance with the

provisions of section 96.

96.

Application to High Court to set aside declaration of forfeiture.

96. Application to High Court to set aside declaration of

forfeiture.(1)Any person having any interest in any newspaper, book or

other document, in respect of which a declaration of forfeiture has

been made under section 95, may, within two months from the date of

publication in the Official Gazette of such declaration, apply to the

High Court to set aside such declaration on the ground that the issue

of the newspaper, or the book or other document, in respect of which

the declaration was made, did not contain any such matter as is

referred to in sub-section (1) of section 95.

(2) Every such application shall, where the High Court consists

of three or more Judges, be heard and determined by a Special Bench of

the High Court composed of three Judges and where the High Court

consists of less than three Judges, such Special Bench shall be

composed of all the Judges of that High Court.

(3) On the hearing of any such application with reference to any

newspaper, any copy of such newspaper may be given in evidence in aid

of the proof of the nature or tendency of the words, signs or visible

representations contained in such newspaper, in respect of which the

declaration of forfeiture was made.

(4) The High Court shall, if it is not satisfied that the issue

of the newspaper, or the book or other document, in respect of which

the application has been made, contained any such matter as is

referred to in sub-section (1) of section 95, set aside the

declaration of forfeiture.

(5) Where there is a difference of opinion among the Judges

forming the Special Bench, the decision shall be in accordance with

the opinion of the majority of those Judges.

97.

Search for persons wrongfully confined.

97.Search for persons wrongfully confined. If any District

Magistrate, Sub-divisional Magistrate or Magistrate of the first class

has reason to believe that any person is confined under such

circumstances that the confinement amounts to an offence, he

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may issue a search-warrant, and the person to whom such warrant is

directed may search for the person so confined; and such search shall

be made in accordance therewith, and the person, if found, shall be

immediately taken before a Magistrate, who shall make such order as in

the circumstances of the case seems proper.

98.

Power to compel restoration of abducted females.

98.Power to compel restoration of abducted females. Upon

complaint made on oath of the abduction or unlawful detention of a

woman, or a female child under the age of eighteen years, for any

unlawful purpose, a District Magistrate, Sub-divisional Magistrate or

Magistrate of the first class may make an order for the immediate

restoration of such woman to her liberty, or of such female child to

her husband, parent, guardian or other person having the lawful charge

of such child, and may compel compliance with such order, using such

force as may be necessary.

C.-General provisions relating to searches

99.

Direction, etc., of search warrants.

99.Direction,etc., of search warrants. The provisions of sections

38, 70, 72, 74, 77, 78 and 79 shall, so far as may be, apply to all

search-warrants issued under section 93, section 94, section 95 or

section 97.

100.

Persons in charge of closed place to allow search.

100.Persons in charge of closed place to allow search. (1)

Whenever any place liable to search or inspection under this Chapter

is closed, any person residing in, or being in charge of, such place,

shall, on demand of the officer or other person executing the warrant,

and on production of the warrant, allow him free ingress thereto, and

afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the

officer or other person executing the warrant may proceed in the

manner provided by sub-section (2) of section 47.

(3) Where any person in or about such place is reasonably

suspected of concealing about his person any article for which search

should be made, such person may be searched and if such person is a

woman, the search shall be made by another woman with strict regard

to decency.

(4) Before making a search under this Chapter, the officer or

other person about to make it shall call upon two or more

independent and respectable inhabitants of the locality in which the

place to be searched is situate or of any other locality if no such

inhabitant of the said locality is available or is willing to be a

witness to the search, to attend and

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witness the search and may issue an order in writing to them or any of

them so to do.

(5) The search shall be made in their presence, and a list of

all things seized in the course of such search and of the places in

which they are respectively found shall be prepared by such officer or

other person and signed by such witnesses; but no person witnessing a

search under this section shall be required to attend the Court as a

witness of the search unless specially summoned by it.

(6) The occupant of the place searched, or some person in his

behalf, shall, in every instance, be permitted to attend during the

search. and a copy of the list prepared under this section, signed by

the said witnesses, shall be delivered to such occupant or person.

(7) When any person is searched under sub-section (3), a list of

all things taken possession of shall be prepared, and a copy thereof

shall be delivered to such person.

(8) Any person who, without reasonable cause, refuses or

neglects to attend and witness a search under this section, when

called upon to do so by an order in writing delivered or tendered to

him, shall be deemed to have committed an offence under section 187 of

the Indian Penal Code (45 of 1860).

101.

Disposal of things found in search beyond jurisdiction.

101.Disposal of things found in search beyond jurisdiction. When,

in the execution of a search-warrant at any place beyond the local

jurisdiction of the Court which issued the same, any of the things for

which search is made, are found, such things, together with the list

of the same prepared under the provisions hereinafter contained, shall

be immediately taken before the Court issuing the warrant, unless such

place is nearer to the Magistrate having jurisdiction therein than to

such Court, in which case the list and things shall be immediately

taken before such Magistrate ; and, unless there be good cause to the

contrary, such Magistrate shall make an order authorising them to be

taken to such Court.

D.-Miscellaneous

102.

Power of police officer to seize certain property.

102.Power of police officer to seize certain property. (1) Any

police officer, may seize any property which may be alleged or

suspected to have been stolen, or which may be found under

circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge

of a police station, shall forthwith report the seizure to that

officer.

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1\*[(3) Every police officer acting under sub-section (1) shall

forthwith report the seizure to the Magistrate having jurisdiction and

where the property seized is such that it cannot be conveniently

transported to the Court, he may give custody thereof to any person on

his executing a bond undertaking to produce the property before the

Court as and when required and to give effect to the further orders

of the Court as to the disposal of the same.]

103.

Magistrate may direct search in his presence.

103.Magistrate may direct search in his presence. Any Magistrate

may direct a search to be made in his presence of any place for the

search of which he is competent to issue a search warrant.

104.

Power to impound document, etc., produced.

104. Power to impound document, etc., produced.

Any Court may, if it thinks fit, impound any document or

thing produced before it under this Code.

105.

Reciprocal arrangements regarding processes.

105.Reciprocal arrangements regarding processes. (1) Where a

Court in the territories to which this Code extends (hereafter in this

section referred to as the said territories) desires that-

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and

produce a document or other thing, or to produce it, or

(d) a search-warrant,

2\*issued by it shall be served or executed at any place,-

(i) within the local jurisdiction of a Court in any

State or area in India outside the said territories,

it may send such summons or warrant in duplicate by

post or otherwise, to the presiding officer of that

Court to be served or executed; and where any summons

referred to in clause (a) or clause (c) has been so

served, the provisions of section 68 shall apply in

relation to such summons as if the presiding officer of

the Court to whom it is sent were a Magistrate in the

said territories;

(ii) in any country or place outside India in respect

of which arrangements have been made by the Central

Government with the Government of such country or place

for service or execution of summons or warrant in

relation to criminal matters (hereafter in this section

referred to as the contracting State), it may send such

summons or warrant in duplicate in such form, directed

to such Court, Judge or Magistrate, and sent to such

authority for transmission, as the Central Government

may, by notification, specify in this behalf.

(2) Where a Court in the said territories has received for service or

execution-

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

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1 Ins. by Act 45 of 1978, s. 10 (w.e.f. 18-12-1978).

2 Subs. by Act 32 of 1988, S. 2.

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(c) a summons to any person requiring him to attend and

produce a document or other thing or to produce it, or

(d) a search-warrant,

1\*issued by--

(I) a Court is any State or area in India outside the said

territories;

(II) a Court, Judge or Magistrate in a contracting State,

it shall cause the same to be served or executed as if it were a

summons or warrant received by it form another Court in the said

territories for service or execution within its local

jurisdiction ; and where-

(i) a warrant of arrest has been executed, the person

arrested shall, so far as possible, be dealt with in

accordance with procedure prescribed by sections 80 and 81,

(ii) a search-warrant has been executed, the things found in

the search shall, so far as possible, be dealt with in

accordance with the procedure prescribed by section 101:

1\*[Provided that in a case where a summons or search warrant

received from a contracting State has been executed, the documents or

things produced or things found in the search shall be forwarded to

the Court issuing the summons or search warrant through such authority

as the Central Government may, by notification, specify in this

behalf.

CHAP

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

CHAPTER VIII

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

106.

Security for keeping the peace on conviction.

106.Security for keeping the peace on conviction. (1) When a

Court of Session or Court of a Magistrate of the first class convicts

a person of any of the offences specified in sub-section (2) or of

abetting any such offence and is of opinion that it is necessary to

take security from such person for keeping the peace, the Court may,

at the time of passing sentence on such person, order him to execute a

bond, with or without sureties, for keeping the peace for such period,

not exceeding three years, as it thinks fit.

(2) The offences referred to in sub-section (1) are-

(a) any offence punishable under Chapter VIII of the Indian

Penal Code (45 of 1860), other than an offence punishable

under section 153A or section 153B or section 154 thereof ;

(b) any offence which consists of, or includes, assault or

using criminal force or committing mischief;

(c) any offence of criminal intimidation ;

(d) any other offence which caused, or was intended or

known to be likely to cause, a breach of the peace.

(3) If the conviction is set aside on appeal or otherwise, the

bond so executed shall become void.

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\*1 Subs. & Ins. by Act 32 of 1988, S. 2.

2 Ins. by Act 40 of 1993, S. 2 (w.e.f. 20.7.1994).

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CHAP

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS ANDPROCEDURE

FOR ATTACHMENT AND FORFEITURE OF PROPERTY

1\*[CHAPTER VIIA

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND

PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

105.

Definition.

105A.Definition. In this Chapter, unless the context otherwise

requires,-

(a) "contracting State" means any country or place outside

India in respect of which arrangements have been made by the

Central Government with the Government of such country

through a treaty or otherwise;

(b) "identifying" includes establishment of a proof that

the property was derived from, or used in the commission of

an offence;

(c) "proceeds of crime" means any property derived or,

obtained directly or indirectly, by any person as a result

of criminal activity (including crime involving currency

transfers) or the value of any such property;

(d) "property" means Property and sets of every description

whether corporeal or incorporeal, movable or immovable,

tangible or intangible and deeds and instruments evidencing

title to, or interest in, such property or assets derived or

used in the commission of an offence and includes property

obtained through proceeds of crime;

(e) "tracing" mean determining the nature, source, disposition,

movement, title or ownership of property.

105B

Assistance in securing transfer of persons.

105B.Assistance in securing transfer of persons. (1) Where a

Court in India, in relation to a criminal matter, desires that a

warrant for arrest of any person to attend or produce a document or

other thing issued by it shall be executed in any place in a

contracting State, it shall send such warrant in duplicate in such

form to such Court, Judge or Magistrate through such authority, as the

Central Government may, by notification, specify in this behalf and

that Court, Judge or Magistrate, as the case may be, shall cause the

same to be executed.

(2) Notwithstanding anything contained in this Code, if, in the

course of an investigation or any inquiry into an offence, an application

is made by the investigating officer or any officer superior in

rank to the investigating officer that the attendance of a person who

is in any place in a contracting State is required in collection with

such investigation or inquiry and the Court ,is satisfied that such

attendance is so required, it shall issue a summons or warrant, in

duplicate, against the said person to such Court, Judge or Magistrate,

in such form as the Central Government may, by notification, specify

in this behalf, to cause the same to be observed or executed.

(3) Where a Court in India, in relation to a criminal matter,

has received a warrant for arrest of any person requiring him to

attend or attend and produce a document or other thing in that Court

or before any other investigating agency, issued by a Court, Judge or

Magistrate in a contracting State, the same shall be executed as if

it is the warrant received by it from another Court in India for

execution within its local limits.

(4) Where a person transferred to a contracting State pursuant

to sub-section (3) is a prisoner in India, the Court in India or the

Central Government may impose such conditions as that Court or

Government deems fit.

1. Ins. by Act 40 of 1993, S. 2 (w.e.f. 20-7-1994).

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(5) Where the person transferred to India pursuant, to sub-section

(1) or sub-section (2) is a prisoner in a contracting State, the

Court in India shall ensure that the conditions subject to which the

prisoner is transferred to India are complied with and such prisoner

shall be kept in such custody subject to such conditions as the

Central Government may direct in writing.

105C

Assistance in relation to orders of attachment or forefeiture ofproperty.

105C.Assistance in relation to orders of attachment or forfeiture

of property. (1) Where a Court in India has reasonable grounds to

believe that any property obtained by any person is derived or

obtained, directly or indirectly, by such person from the commission

of an offence, it may make an order of attachment or forfeiture of

such property, as it may deem fit under the provisions of sections

105D to 105J (both inclusive).

(2)Where the Court has made an order for attachment or forfeiture

of any property under subsection (1), and such property is suspected

to be in a contracting State, the Court may issue a letter of request

to a Court or an authority in the contracting State for execution of

such order.

(3)Where a letter of request is received by the Central Government

from a Court or an authority in a contracting State requesting

attachment or forfeiture of the property. in India, derived or

obtained, directly or indirectly, by any person from the commission of

an offence committed in that contracting State, the Central Government

may forward such letter of request to the Court as it thinks fit,

for execution in accordance with the provisions of sections 105D to

105J (both inclusive) or, as the case may be, any other law for the

time being in force.

105D

Identifying unlawfully acquired property.

105D.Identifying unlawfully acquired property. (1) The Court

shall, under sub-section (1), or on receipt of a letter of request

under sub-section (3) of section 105C, direct any police officer not

below the rank of Sub-Inspector of Police to take all steps necessary

for tracing and identifying such property.

(2) The steps referred to in sub-section (1) may include any

inquiry investigation or survey in respect of any person, place,

property, assets, documents, books of account in any bank or public

financial institutions or any other relevant matters.

(3) Any inquiry investigation or survey referred to in subsection

(2) shall be carried out by an officer mentioned in subsection

(1) in accordance with such directions issued by the said

Court in this behalf.

105E

Seizure or attachment of property.

105E. Seizure or attachment of property. (1) Where any officer

conducting an inquiry or investigation under section 105D has a reason

to believe that any property in relation to which such inquiry or

investigation is being conducted is likely to be concealed,

transferred or dealt with in any manner which will result in disposal

of such property, he may make an order for seizing such property and

where it is not practicable to seize such property, he may make an

order of attachment directing that such property shall not be

transferred or otherwise dealt with, except with the prior permission

of the officer making such order, and a copy of such order shall be

served on the person concerned.

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(2) Any order made under sub-section (1) shall have no effect

unless the said order is confirmed by an order of the said Court

within a period of thirty days of its being made.

105F

Management of properties seized or forfeited under this Chapter.

105F. Management of properties seized or forfeited under this

Chapter. (1) The Court may appoint the District Magistrate of the area

where the property is situated, or any other officer that may be

nominated by the District Magistrate, to perform the functions of an

Administrator of such property.

(2)The Administrator appointed under sub-section (1) shall

receive and manage the property in relation to which the order has

been made under subsection (1) of section 105E or under section 105H

in such manner and subject to such conditions as may be specified by

the Central Government.

(3) The Administrator shall also take such measures, as the

Central Government may direct, to dispose of the property which is

forfeited to the Central Government.

105G

Notice of forfeiture of property.

105G.Notice of forfeiture of property. (1) If as a result of the

inquiry, investigation or survey under section 105D, the Court has

reason to believe that all or any of such properties are proceeds of

crime, it may serve a notice upon such person (hereinafter referred to

as the person affected) calling upon him within a period of thirty

days specified in the notice to indicate the source of income,

earnings or assets, ot of wceich or by means of which be has acquired

such property, the evident on which be relies and other relevant

information and particulars, and to show cause why all or any of such

properties, as the cam may be, should not be declared to be proceeds

of crime and forfeited to the Central Government,

(2)Where a notice under sub-section (1) to any person specifies

any property as being held on behalf of such person by any other

person, a copy of the notice shall also be served upon such other

105H

Forfeiture of property in certain cases.

105H.Forfeiture of property in certain cases. (1) The Court

may, after considering the explanation, if any to the show-cause

notice issued under section 105G and the material available before it

and after giving to the person affected (and in a case where the

person affected holds any property specified in the notice through any

other Person, to such other person also) a reasonable opportunity of

being heard by order record a finding whether all or any of the

properties in question are proceeds of crime:

Provided that if the person affected (and in a case where the

person affected holds any property specified in the notice through

any other person such other person also) does not appear before the

Court or represent his case before it within at period or thirty days

specified in the slow-cause notice, the Court may proceed to record a

finding under this sub-section ex parte on the basis of evidence

available before it.

(2) Where the Court is satisfied that some of the properties referred

to in the slow-cause notice are proceeds of crime but it is not

possible to identify specifically such properties, then, it shall

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be lawful for the Court to specify the properties which, to the best

of its judgment, are proceeds of crime and record a finding accordingly

under sub-section (1).

(3)Where the Court records a finding under this section to the

effect that any property is proceeds of crime, such property shall

stand forfeited to the Central Government free from all encumbrances.

(4)Where any shares in a company stand forfeited to the Central

Government under this section, then, the company shall, notwithstanding

anything contained in the Companies Act, 1956 (1 of 1956), or the

articles of association of the company, forthwith register the Central

Government as the transferee of such shares.

105I

Fine in lieu of forfeiture.

105I. Fine in lieu of forfeiture. (1) Where the Court makes a

declaration that any property stands forfeited to the Central

Government under section 105H and it is a case where the source of

only a part of such property has not been proved to the satisfaction

of the Court, it shall make an order giving an option to the person

affected to pay, in lieu of forfeiture, a fine equal to the market

value of such part.

(2) Before making an order imposing a fine under sub-section

(1), the person affected shall be given a reasonable opportunity of

being heard.

(3) Where the person affected pays the fine due under

sub-section (1), within such time as may be allowed in that behalf,

the Court may, by order, revoke the declaration of forfeiture under

section 105H and thereupon such property shall stand released.

105J

Certain transfers to be null and void.

105J.Certain transfers to be null and void. Where after the

making of in order under sub-section (1) of section 105E or the issue

of a notice under section 105G, any property referred to in the said

order or notice is transferred by any mode whatsoever such transfers

shall, for the purposes of the proceedings under this Chapter, be

ignored and if such property is subsequently forfeited to the Central

Government under section 105H, then, the transfer of such property

shall be deemed to be null and void.

105K

Procedure in respect of letter of request.

105K. Procedure in respect of letter of request. Every letter of

requests summons or warrant, received by the Central Government from,

and every letter of request, summons or warrant, be transmitted to a

contracting State under this Chapter shall be transmitted to a

contracting State or, as the case may be, sent to the concerned Court

in India in such form and in such manner as the Central Government may

be notification specify in this behalf.

105L

Application of this Chapter.

105L.Application of this Chapter. The Central Government may, by

notification in the of Gazette, direct that the application of this

Chapter in relation a contracting State with which reciprocal

arrangements have been shall be subject to such conditions, exceptions

or qualifications as are specified in the said notification.]

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(4) An order under this section may also be made by an Appellate

Court or by a Court when exercising its powers of revision.

107.

Security for keeping the peace in other cases.

107.Security for keeping the peace in other cases. (1) When an

Executive Magistrate receives information that any person is likely to

commit a breach of the peace or disturb the public tranquillity or to

do any wrongful act that may probably occasion a breach of the peace

or disturb the public tranquillity and is of opinion that there is

sufficient ground for proceeding, he may, in the manner hereinafter

provided, require such person to show cause why he should not be

ordered to execute a bond, 1\*[with or without sureties,] for keeping

the peace for such period, not exceeding one year, as the Magistrate

thinks fit.

(2) Proceedings under this section may be taken before any

Executive Magistrate when either the place where the breach of the

peace or disturbance is apprehended is within his local jurisdiction

or there is within such jurisdiction a person who is likely to commit

a breach of the peace or disturb the public tranquillity or to do any

wrongful act as aforesaid beyond such jurisdiction.

108.

Security for good behaviour from persons disseminating seditiousmatters.

108.Security for good behaviour from persons disseminating

seditious matters. (1) When [an Executive Magistrate]2\* receives information

that there is within his local jurisdiction any person who,

within or without such jurisdiction,-

(i) either orally or in writing or in any other manner,

intentionally disseminates or attempts to disseminate or

abets the dissemination of,-

(a)any matter the publication of which is punishable

under section 124A or section 153A or section 153B or

section 295A of the Indian Penal Code (45 of 1860), or

(b)any matter concerning a Judge acting or purporting to

act in the discharge of his official duties which amount

to criminal intimidation or defamation under the India

Penal Code (45 of 1860),

(ii) makes, produces, publishes or keeps for sale, imports,

export conveys, sells, lets to hire, distributes, publicly

exhibits or in any other manner puts into circulation any

obscene matter such as is referred to in section 292 of the

Indian Penal Code ( 45 of 1860),

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1 Ins. by Act 45 of 1978, S. 11 ( w.e.f. 18.12. 1978).

2 Subs by Act by 63 of 1980, S. 2 (w.e.f. 23.9.1980).

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and the Magistrate is of opinion that there is sufficient ground for

proceeding, the Magistrate may, in the manner hereinafter provided,

require such person to show cause why he should not be ordered to

execute a bond, with or without sureties, for his good behaviour for

such period, not exceeding one year, as the Magistrate thinks fit.

(2) No proceedings shall be taken under this section against the

editor, proprietor, printer or publisher of any publication registered

under, and edited, printed and published in conformity with, the rules

laid down in the Press and Registration of Books Act,1867 (25 of 1867),

with reference to any matter contained in such publication except by the

order or under tile authority of the State Government or some officer

empowered by the State Government in this behalf.

109.

Security for good behaviour from suspected persons.

109.Security for good behaviour from suspected persons. When [an

Executive Magistrate]1\* receives information that there is within his

local jurisdiction a person taking precaution to conceal his presence

and that there is reason to believe that he is doing so with a view to

committing a cognizable offence, the Magistrate may in the manner

hereinafter provided, require such person to show cause why he should

not be ordered to execute a bond, with or without sureties, for his

good behaviour for such. period, not exceeding one year, as the

Magistrate thinks fit.

110.

Security for good behaviour from habitual offenders.

110.Security for good behaviour from habitual offenders. When [an

Executive Magistrate.]1\* receives information that there is within his

local jurisdiction a person who-

(a) is by habit a robber, house-breaker, thief, or forger,

or,

(b) is by habit a receiver of stolen property knowing the

same to have been stolen, or

(c) habitually protects or harbours thieves, or aids in the

concealment or disposal of stolen property, or

(d) habitually commits, or attempts to commit, or abets the

commission of, the offence of kidnapping, abduction,

extortion, cheating or mischief, or any offence punishable

under Chapter XII of the Indian Penal Code (45 of 1860), or

under section 489A, section 489B, section 489C or section 489D

of that Code, or

(e) habitually commits, or attempts to commit, or abets the

commission of, offences, involving a breach of the peace, or

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1 Subs. by Act 63 of 1980, S. 2 (w.e.f. 23.9.1980).

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(f) habitually commits, or attempts to commit, or abets the

commission of-

(i) any offence under one or more of the following.

Acts, namely : -

(a) the Drugs and Cosmetics Act, 1940 (23 of 1940);

1\*[(b) the Foreign Exchange Regulation Act, 1973] (46 of

1973);

(c) the Employees' Provident Funds 2\*[and Family

Pension Fund] Act, 1952; -- of 1952.

(d)the Prevention of Food Adulteration Act, 1954 (37

of 1954);

(e)the Essential Commodities Act, 1955 (10 of 1955);

(f)the Untouchability (Offences) Act, 1955 (22 of

1955);

(g)the Customs Act, 1962 or (52 of 1962);

(ii) any offence punishable under any other law

providing for the prevention of hoarding or profiteering

or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous as to render his being at

large without security hazardous to the community,

such Magistrate may, in the manner hereinafter provided, require such

person to show cause why he should not be ordered to execute a bond,

with sureties, for his good behaviour for such period, not exceeding

three years, as the Magistrate thinks fit.

111.

Order to be made.

111.Order to be made. When a Magistrate acting under section 107,

section 108, section 109 or section 110, deems it necessary to require

any person to show cause under such section, he shall make an order in

writing, setting forth the substance of the information received, the

amount of the bond to be executed, the term for which it is to be in

force, and the number, character and class of sureties (if any)

required.

112.

Procedure in respect of person present in Court.

112.Procedure in respect of person present in Court. If the

person in respect of whom such order is made is present in Court, it

shall be read over to him, or, if he so desires, the substance

thereof shall be explained to him.

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1Subs. by Act 56 of 1974, s. 3 and Sch. IT, for cl. (b) (w.e.f.

10-1-1975),

2 Ins. by s. 3 and Sch. II, ibid, (w.e.f. 10-1-1975).

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113.

Summons or warrant in case of person not so present.

113. Summons or warrant in case of person not so present. If such

person is not present in Court, the Magistrate shall issue in a

summons requiring him to appear, or, when such person is in custody, a

warrant directing the officer in whose custody he is to bring him

before the Court :

Provided that whenever it appears to such Magistrate, upon the

report of a police officer or upon other information (the substance of

which report or information shall be recorded by the Magistrate), that

there is reason to fear the commission of a breach of the peace, and

that such breach of the peace cannot be prevented otherwise than by

the immediate arrest of such person, the Magistrate may at any time

issue a warrant for his arrest.

114.

Copy of order to accompany summons or warrant.

114. Copy of order to accompany summons or warrant. Every summons

or warrant issued under section 113 shall be accompanied by a copy

of the order made under section 111, and such copy shall be delivered

by the officer serving or executing such summons or warrant to the

person served with, or arrested under, the same.

115.

Power to dispense with personal attendance.

115.Power to dispense with personal attendance. The Magistrate

may, if he sees sufficient cause, dispense with the personal

attendance of any person called upon to show cause why he should not

be ordered to execute a bond for keeping the peace or for good

behaviour and may permit him to appear by a pleader.

116.

Inquiry as to truth of information.

116.Inquiry as to truth of information. (1) When an order under

section Ill has been read or explained under section 112 to a person

present in Court, or when any person appears or is brought before a

Magistrate in compliance with, or in execution of, a summons or

warrant, issued under section 113, the Magistrate shall proceed to

inquire into the truth of the information upon which action has been

taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable,

in the manner hereinafter prescribed for conducting trial and

recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the

inquiry under sub-section (1), the Magistrate, if he considers that

immediate measures are necessary for the prevention of a breach of the

peace or disturbance of the public tranquillity or the commission of

any offence or for the public safety, may, for reasons to be recorded

in writing, direct the person in respect of whom the order under

section 111 has been made

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to execute a bond, with or without sureties, for keeping the peace or

maintaining good behaviour until the conclusion of the inquiry, and

may detain him in custody until such bond is executed or, in default

of execution, until the inquiry is concluded:

Provided that-

(a) no person against whom proceedings are not being taken

under section 108, section 109, or section 110 shall be

directed to execute a bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount

thereof or as to the provision of sureties or the number

thereof or the pecuniary extent of their liability, shall not

be more onerous than those specified in the order under

section 111.

(4) For the purposes of this section the fact that a person is

an habitual offender or is so desperate and dangerous as to render his

being at large without security hazardous to the community may be

proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in

the matter under inquiry, they may be dealt with in the same or

separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a

period of six months from the date of its commencement, and if such

inquiry is not so completed, the proceedings under this Chapter shall,

on the expiry of the said period, stand terminated unless, for

special reasons to be recorded in writing, the Magistrate otherwise

directs :

Provided that where any person has been kept in detention pending

such inquiry, the proceeding against that person, unless terminated

earlier, shall stand terminated on the expiry of a period of six

months of such detention.

(7) Where any direction is made under sub-section (6) permitting

the continuance of proceedings, the Sessions Judge may, on an

application made to him by the aggrieved party, vacate such direction

if he is satisfied that it was not based on any special reason or

was perverse.

117.

Order to give security.

117.Order to give security. If, upon such inquiry, it is proved

that it is necessary for keeping the peace or maintaining good

behaviour, as the case may be, that the person in respect of whom the

inquiry is made should execute a bond with or without sureties, the

with Magistrate shall make an order accordingly:

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Provided that-

(a) no person shall be ordered to give security of a nature

different from, or of an amount larger than, or for a period

longer than, that specified in the order made under section

111 ;

(b) the amount of every bond shall be fixed with due regard

to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made

is a minor, the bond shall be executed only by his sureties.

118.

Discharge of person informed against.

118.Discharge of person informed against. If, on an inquiry

under section 116, it is not proved that it is necessary for keeping

the peace or maintaining good behaviour, as the case may be, that the

person in respect of whom the inquiry is made, should execute a bond,

the Magistrate shall make an entry on the record to that effect, and

if such person is in custody only for the purposes of the inquiry,

shall release him, or, if such person is not in custody, shall

discharge him.

119.

Commencement of period for which security is required.

119.Commencement of period for which security is required. (1) If

any person, in respect of whom an order requiring security is made

under section 106 or section 117, is, at the time such order is made,

sentenced to, or undergoing a sentence of, imprisonment, the period

for which such security is required shall commence on the expiration

of such sentence.

(2) In other cases such period shall commence on the date of

such order unless the Magistrate, for sufficient reason, fixes a later

date.

120.

Contents of bond.

120.Contents of bond. The bond to be executed by any such person

shall bind him to keep the peace or to be of good behaviour, as the

case may be, and in the latter case the commission or attempt to

commit, or the abetment of, any offence punishable with imprisonment,

wherever it may be committed, is a breach of the bond.

121.

Power to reject sureties.

121.Power to reject sureties. (1) A Magistrate may refuse to

accept any surety offered, or may reject any surety previously

accepted by him or his predecessor under this Chapter on the ground

that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such

surety, he shall either himself hold an inquiry on oath into the

fitness of the surety, or cause such inquiry to be held and a report

to be made thereon by a Magistrate subordinate to him.

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(2) Such Magistrate shall, before holding the inquiry, give

reasonable notice to the surety and to the person by whom the surety

was offered and shall, in making the inquiry, record the substance of

the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the

evidence so adduced either before him or before a Magistrate deputed

under sub section (1), and the report of such Magistrate (if any),

that the surety is an unfit person for the purposes of the bond, he

shall make an order refusing to accept or rejecting, as the case may

be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who

has previously been accepted, the Magistrate shall issue his summons

or warrant, as he thinks fit, and cause the person for whom the surety

is bound to appear or to be brought before him.

122.

Imprisonment in default of security.

122.Imprisonment in default of security. (1) (a) If any person

ordered to give security under section 106 or section 117 does not

give such security on or before the date on which the period for Which

such security is to be given commences, the shall, except in the case

next hereinafter mentioned, be committed to prison, or, if he is

already in prison, be detained in prison until such period expires or

until within such period -he gives the security to the Court or

Magistrate who made the order requiring it.

(b) If any person after having executed a bond without sureties

for keeping the peace in pursuance of an order of a Magistrate

under section 117, is proved, to the satisfaction of such

Magistrate or his successor-in-office, to have committed breach of

the bond, such Magistrate or successor- in--office may, after

recording the grounds of such proof, order that the person be arrested

and detained in prison until the expiry of the period of the bond and

such order shall be without prejudice to any other punishment or

forfeiture to which the said person may be liable in accordance with

law.

(2) When such person has been ordered by a Magistrate to give

security for a period exceeding one year, such Magistrate shall, if

such person does not give such security as aforesaid, issue a warrant

directing him to be detained in prison pending the orders of the

Sessions Judge and the proceedings shall be laid, as soon as

conveniently may be, before such Court.

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(3) Such Court, after examining such proceedings and requiring

from the Magistrate any further information or evidence which it

thinks necessary, and after giving the concerned person a reasonable

opportunity of being heard, may pass such order on the case as it

thinks fit :

Provided that the period (if any) for which any person is

imprisoned for failure to give security shall not exceed three years.

(4) If security has been required in the course of the same

proceeding 'from two or more persons in respect of any one of whom the

proceedings are referred to the Sessions Judge under sub-section (2),

such reference shall also include the case of any other of such

persons who has been ordered to give security, and the provisions of

sub-sections (2) and (3) shall, in that event, apply to the case of

such other person also, except that the period (if any) for which he

may be imprisoned, shall not exceed the period for which he was

ordered to give security.

(5) A Sessions Judge may in his discretion transfer any

proceedings laid before him under sub-section (2) or sub-section (4)

to an Additional Sessions Judge or Assistant Sessions Judge and upon

such transfer, such Additional Sessions Judge or Assistant Sessions

Judge may exercise the powers of a Sessions Judge under this section

in respect of such proceedings.

(6) If the security is tendered to the officer in charge of the

jail, he shall forthwith refer the matter to the Court or Magistrate

who made the order, and shall await the orders of such Court or

Magistrate.

(7) Imprisonment for failure to give security for keeping the

peace shall be simple.

(8) Imprisonment for failure to give security for good behaviour

shall, where the proceedings have been taken under section 108, be

simple, and, where the proceedings have been taken under section 109

or section 110, be rigorous or simple as the Court or Magistrate in

each case directs.

123.

Power to release persons imprisoned for failing to give security.

123.Power to release persons imprisoned for failing to give

security. (1) Whenever 1\*[the District Magistrate in the case of an

order passed by an Executive Magistrate under section 117, or the

Chief Judicial Magistrate in any other case] is of opinion that any

person imprisoned for failing to give security under this Chapter may

be released without ,hazard to the community or to any other person,

he may order such person to be discharged.

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1 Subs. by Act 45 of 1978, s. 12, for "the Chief Judicial

Magistrate" (w.e.f. 18-12-1978).

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(2) Whenever any person has been imprisoned for failing to give

security under this Chapter, the High Court or Court of Session, or,

where the order was made by any other Court, the 1\*[District

Magistrate, in the case of an order passed by an Executive Magistrate

under section 117, or the Chief Judicial Magistrate in any other

case], may make an order reducing the amount of the security or the

number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of

such person either without conditions or upon any conditions which

such person accepts :

Provided that any condition imposed shall cease to be operative

when the period for which such person was ordered to give security has

expired.

(4) The State Government may prescribe the conditions upon which

a conditional discharge may be made.

(5) If any condition upon which any person has been discharged

is, in the opinion of the 1\*[District Magistrate, in the case of an

order passed by an Executive Magistrate under section 117, or the

Chief Judicial Magistrate in any other case] by whom the order of

discharge was made or of his successor, not fulfilled, he may cancel

the same.

(6) When a conditional order of discharge has been cancelled

under sub-section (5), such person may be arrested by any police

officer without warrant, and shall thereupon be produced before the

1\*[District Magistrate, in the case of an order passed by an Executive

Magistrate under section 117, or the Chief Judicial Magistrate in any

other case].

(7)such person gives security in accordance with the terms of the

original order for the unexpired, portion of the term for which he was

in the first instance committed or ordered to be detained (such

portion being deemed to be a period equal to the period between the

date of the breach of the conditions of discharge and the date on

which, except for such conditional discharge, he would have been

entitled to release), the 1[District Magistrate, in the case of an

order passed by an Executive Magistrate under section 117, or the

Chief Judicial Magistrate in any other case] may remand such person to

prison to undergo such unexpired portion.

(8) A person remanded to prison under sub-section (7) shall,

Subject to the provisions of section 122, be released at any time on

giving security in accordance with the terms of the original order for

the unexpired

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1 Subs. by Act 45 of 1978, s. 12, for "Chief Judicial Magistrate"

(w.e.f. 18-12-1978).

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portion aforesaid to the Court or Magistrate by whom such order was

made, or to its or his successor.

(9) The High Court or Court of Session may at any time, for

sufficient reasons to be recorded in writing, cancel any bond for

keeping the peace or for good behaviour executed under this Chapter by

any order made by and the 1[District Magistrate, in the case of an

order passed by an Executive Magistrate under section 117, or the

Chief Judicial Magistrate in any other case] may make such

cancellation where such bond was executed under his order or under the

order of: any other Court in his district.

(10) Any surety for the peaceable conduct or good behaviour of

another person ordered to execute a bond under this Chapter may at any

time apply to the Court making such order to cancel the bond and on

such application being made, the Court shall issue a summons or

warrant, as it thinks fit, requiring the person for whom such surety

is bound to appear or to be brought before it.

124.

Security for unexpired period of bond.

124.Security for unexpired period of bond. (1) When a person for

whose appearance a summons or warrant has been issued under the

proviso to sub-section (3) of section 121 or under sub-section (10) of

section 123, appears or is brought before the Magistrate or Court, the

Magistrate or Court shall cancel the bond executed by such person and

shall order such person to give, for the unexpired portion of the term

of such bond, fresh security of the same description as the original

security.

(2) Every such order shall, for the purposes of section 120 to

123 (both inclusive), be deemed to be an order made under section 106

or section 117, as the case may be.

CHAP

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

CHAPTER IX

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

125.

Order for maintenance of wives, children and parents.

125.Order for maintenance of wives, children and parents. (1) If

any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether

married or not, unable to maintain itself, or

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1 Subs. by Act 45 of 1978, s. 12, for "Chief Judicial Magistrate"

(w.e.f, 18-12-1978).

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(c) his legitimate or illegitimate child (not being a

married daughter) who has attained majority, where such child

is, by reason of any physical or mental abnormality or injury

unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or

refusal, order such person to make a monthly allowance for the

maintenance of his wife or such child, father or mother, at such

monthly rate not exceeding five hundred rupees in the whole, as such

Magistrate thinks fit, and to pay the same to such person as the

Magistrate may from time to time direct :

Provided that the Magistrate may order the father of a minor

female child referred to in clause (b) to make such allowance, until

she attains her majority, if the Magistrate is satisfied that the

husband of such minor female child, if married, is not possessed of

sufficient means.

Explanation.-For the purposes of this Chapter,-

(a) "minor" means a person who, under the provisions of the

Indian Majority Act, 1875 (9 of 1875); is deemed not to have

attained his majority;

(b) "wife" includes a woman who has been divorced by, or

has obtained a divorce from, her husband and has not

remarried.

(2) Such allowance shall be payable from the date of the order,

or, if so ordered, from the date of the application for maintenance.

(3) If any person so ordered fails without sufficient cause to

comply with the order, any such Magistrate may, for every breach of

the order, issue a warrant for levying the amount due in the manner

provided for levying fines, and may sentence such person, for the

whole or any part of each month's allowances remaining unpaid after

the execution of the warrant, to imprisonment for a term which may

extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any

amount due under this section unless application be made to the Court

to levy such amount within a period of one year from the date on which

it became due :

Provided further that if such person offers to maintain his wife

on condition of her living with him, and she refuses to live with him,

such

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Magistrate may consider any grounds of refusal stated by her, and may

make an order under this section notwithstanding such offer, if he is

satisfied that there is just ground for so doing.

Explanation.-If a husband has contracted marriage with another

woman or keeps a mistress, it shall be considered to be just ground

for his wife's refusal to live with him.

(4) No Wife shall be entitled to receive an allowance from her

husband under this section if she is living in adultery, or if,

without any sufficient reason, she refuses to live with her husband,

or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been

made under this section is living in adultery, or that without

sufficient reason she refuses to live with her husband, or that they

are living separately by mutual consent, the Magistrate shall cancel

the order.

126.

Procedure.

126.Procedure. (1) Proceedings under section 125 may be taken

against any person in any district-

(a) where he is, or

(b) where he or his wife, resides, or

(c) where he last resided with his wife, or as the case may

be, with the mother of the illegitimate child.

(2) All evidence in such proceedings shall be taken in the

presence of the person against whom an order for payment of

maintenance is proceed to be made, or, when his personal attendance

is dispensed with, in the presence of his pleader, and shall be

recorded in the manner prescribed for summons-cases:

Provided that if the Magistrate is satisfied that the person

against whom an order for payment of maintenance is proposed to be

made is wilfully avoiding service, or wilfully neglecting to attend

the Court, the Magistrate may proceed to hear and determine the case

ex parte and any order so made may be set aside for good cause shown

on an application made within three months from the date thereof

subject to such terms including terms at to payment of costs to the

opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 125

shall have power to make such order as to costs as may be just.

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127.

Alteration in allowance.

127.Alteration in allowance. (1) On proof of a change in the

circumstances of any person, receiving, under section 125 a monthly

allowance, or ordered under the same section to pay a monthly allowance

to his wife, child, father or mother, as case may be, the Magistrate may

make such alteration in the allowance he thinks fit :

Provided that if he increases the allowance, the monthly rate of

five hundred rupees in the whole shall not be exceeded.

(2) Where it appears to the Magistrate that, in consequence of

any decision of a competent Civil Court, any order made under section

125 should be cancelled or varied, he shall cancel the order or, as

the case may be, vary the same accordingly.

(3) Where any order has been made under section 125 in favour of

a woman who has been divorced by, or has obtained a divorce from, her

husband, the Magistrate shall, if he is satisfied that-

(a) the woman has, after the date of such divorce,

remarried, cancel such order as from the date of her

remarriage;

(b) the woman has been divorced by her husband and that she

has received, whether before or after the date of the said

order, the whole of the sum which, under any customary or

personal law applicable to the parties, was payable on such

divorce, cancel such order,-

(i) in the case where, such sum was paid before such

order, from the date on Which such order was made,

(ii) in any other case, from the date of expiry of the

period, if any, for which maintenance has been actually

paid by the husband by the woman;

(c) the woman has obtained a divorce from her husband and

that she had voluntarily surrendered her rights to

maintenance after her divorce, cancel the order from the date

thereof.

(4) At the time of making any decree for the recovery of any

maintenance or dowry by any person, to whom a monthly allowance has

been ordered to be paid under section 125, the Civil Court shall

take into account the sum which has been paid to, or recovered by,

such person as monthly allowance in pursuance of the said order.

128.

Enforcement of order of maintenance.

128.Enforcement of order of maintenance. A copy of the order of

maintenance shall be given without payment to the person in whose

favour it is made, or to his guardian, if any or to the person to whom

the allowance is to be paid ; and such

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order may be enforced by any Magistrate in any place where the person

against whom it is made may be, on such Magistrate being satisfied as

to the identity of the parties and the non-payment of the allowance

due.

CHAP

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY,

CHAPTER X

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY,

A.-Unlawful assemblies

129.

Dispersal of assembly by use of civil force.

129.Dispersal of assembly by use of civil force. (1) Any

executive Magistrate or officer in charge of a police station or, in

the absence of such officer in charge, any police officer, not below

the rank of a sub-inspector, may command any unlawful assembly, or any

assembly of five or more persons likely to cause a disturbance of the

public peace, to disperse ; and it shall thereupon be the duty of the

members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not

disperse, or if, without being so commanded, it conducts itself in

such a manner as to show a determination not to disperse, any

Executive Magistrate or police officer referred to in sub-section (1),

may proceed to disperse such assembly by force, and may require the

assistance of any male person, not being an officer or member of the

armed forces and acting as such, for the purpose of dispersing such

assembly, and, if necessary, arresting and confining the persons who

form part of it, in order to disperse such assembly or that they may

be punished according to law.

130.

Use of armed forces to disperse assembly.

130.Use of armed forces to disperse assembly. (1) If any such

assembly cannot be otherwise dispersed, and if it is necessary for the

public security that it should be dispersed, the Executive Magistrate

of the highest rank who is present may cause it to be dispersed by the

armed forces.

(2) Such Magistrate may require any officer in command of any

group of persons belonging to the armed forces to disperse the

assembly with the help of the armed forces under his command, and to

arrest and confine such persons forming part of it as the Magistrate

may direct, or as it may be necessary to arrest and confine in order

to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such

requisition in such manner as he thinks fit, but in so doing he shall

use as little force,

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and do as little injury to person and property, as may be consistent

with dispersing the assembly and arresting and detaining such persons.

131.

Power of certain armed force officers to disperse assembly.

131.Power of certain armed force officers to disperse assembly.

When the public security is manifestly endangered by any such

assembly and no Executive Magistrate can be communicated with, any

commissioned or gazetted officer of the armed forces may disperse such

assembly with the help of the armed forces under his command, and

may arrest and confine any persons forming part of it, in order to

disperse such assembly or that they may be punished according to

law; but if, while he is acting under this section, it becomes

practicable for him to communicate with an Executive Magistrate, he

shall do so, and shall thenceforward obey the instructions of the

Magistrate, as to whether he shall or shall not continue such action.

132.

Protection against prosecution for acts done under preceding sections.

132.Protection against prosecution for acts done under preceding

sections. (1) No prosecution against any person for any act purporting

to be done under section 129, section 130 or section 131 shall be

instituted in any Criminal Court except-

(a) with the sanction of the Central Government where such

person is an officer or member of the armed forces ;

(b) with the sanction of the State Government in any other

case.

(2) (a) No Executive Magistrate or police officer acting under any of

the said sections in good faith ;

(b) no person doing any act in good faith in compliance

with a requisition under section 129 or section 130 ;

(c) no officer of the armed forces acting under section 131

in good faith ;

(d) no member of the armed forces doing any act in

obedience to any order which he was bound to obey;

shall be deemed to have thereby committed an offence.

(3) In this section and in the preceding sections of this

Chapter,-

(a) the expression "armed forces" means the military, naval

and air forces, operating as land forces and includes any

other Armed Forces of the Union so operating;

(b) "officer", in relation to the armed forces, means a

person commissioned, gazetted or in pay as an officer of the

armed forces and includes a junior commissioned officer, a

warrant

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officer, a petty officer, a non-commissioned officer and a

non-gazetted officer;

(c) "member", in relation to the armed forces, means a

person in the armed forces other than an officer.

B.-Public nuisances

133.

Conditional order for removal of nuisance.

133.Conditional order for removal of nuisance. (1) Whenever a

District Magistrate or a Sub-divisional Magistrate or any other

Executive Magistrate specially empowered in this of behalf by the

State Government, on receiving the report of a police officer or other

information and on taking such evidence (if any) as he thinks fit,

considers-

(a) that any unlawful obstruction or nuisance should be

removed from any public place or from any way, river or

channel which is or may be lawfully used by the public ; or

(b) that the conduct of any trade or occupation, or the

keeping of any goods or merchandise, is injurious to the

health or physical comfort of the community, and that in

consequence such trade or occupation should be prohibited or

regulated or such goods or merchandise should be removed or

the keeping thereof regulated ; or

(c) that the construction of any building, or, the disposal

of any substance, as is likely to occasion configuration or

explosion, should be prevented or stopped ; or

(d) that any building, tent or structure, or any tree is in

such a condition that it is likely to fall and thereby cause

injury to persons living or carrying on business in the

neighbourhood or passing by, and that in consequence the

removal, repair or support of such building, tent or

structure, or the removal or support of such tree, is

necessary ; or

(e) that any tank, well or excavation adjacent to any such

way or public place should be fenced in such manner as to

prevent danger arising to the public ; or

(f) that any dangerous animal should be destroyed, confined

or otherwise disposed of,

such Magistrate may make a conditional order requiring the person

causing such obstruction or nuisance, or carrying on such trade or

occupa-

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tion, or keeping any such goods or merchandise, or owning, possessing

or controlling such building, tent, structure, substance, tank, well

or excavation, or owning or possessing such animal or tree, within a

time to be fixed in the order(

i) to remove such obstruction or nuisance ; or

(ii) to desist from carrying on, or to remove or regulate in

such manner as may be directed, such trade or occupation, or

to remove such goods or merchandise, or to regulate the

keeping thereof in such manner as may be directed; or

(iii) to prevent or stop the construction of such building,

or to alter the disposal of such substance ; or

(iv) to remove, repair or support such building, tent or

structure, or to remove or support such trees ; or

(v) to fence such tank, well or excavation ; or

(vi) to destroy, confine or dispose of such dangerous animal

in the manner provided in the said order;

or, if he objects so to do, to appear before himself or some other

Executive Magistrate subordinate to him at a time and place to be

fixed by the Order, and show cause, in the manner hereinafter

provided, why the order should not be made absolute.

(2) No order duly made by a Magistrate under this section shall

be called in question in any Civil Court.

Explanation-A "public place" includes also property belonging to

the State, camping grounds and grounds left unoccupied for sanitary or

recreative purposes.

134.

Service or notification of order.

134.Service or notification of order. (1) The order shall, if

practicable, be served on the person against whom it is made, in the

manner herein provided for service of a summons.

(2) If such order cannot, be so served, it shall be notified by

proclamation, published in such manner as the State Government may, by

rules, direct, and a copy thereof shall be struck up at such place or

places as may be fittest for conveying the Information to such person,

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135.

Person to whom addressed to obey or show cause.

135.Person to whom addressed to obey or show cause. The person

against whom such order is made shall-

(a) perform, within the time and in the manner specified in

the order, the act directed thereby ; or

(b) appear in accordance with such order and show cause

against the same.

136.

Consequences of his failing to do so.

136.Consequences of his failing to do so. If such person does not

perform such act or appear and show cause, he shall be liable to the

penalty prescribed in that behalf in section 188 of the Indian Penal

Code, and the order shall be made absolute.

137.

Procedure where existence of public right is denied.

137.Procedure where existence of public right is denied. (1) Where

an order is made under section 133 for the purpose of preventing

obstruction, nuisance or danger to the public in the use of any way,

river, channel or place, the Magistrate shall, on the appearance

before him of the person against whom the order was made, question him

as to whether he denies the existence of any public right in respect

of the way, river, channel or place, and if he does so, the Magistrate

shall, before proceeding under section 138, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any

reliable evidence in support of such denial, he shall stay the

proceedings until the matter of the existence of such right has been

decided by a competent Court ; and, if he finds that there is no such

evidence, he shall proceed as laid down in section 138.

(3) A person who has, on being questioned by the Magistrate

under sub-section (1), failed to deny the existence of a public right

of the nature therein referred to, or who, having made such denial,

has failed to adduce reliable evidence in support thereof, shall not

in the subsequent proceedings be permitted to make any such denial.

138.

Procedure where he appears to show cause.

138.Procedure where he appears to show cause. (1) If the person

against whom an order under section 133 is made appears and shows

cause against the order, the Magistrate shall take evidence in the

matter as in a summons-case.

(2) If the Magistrate is satisfied that the order, either as

originally made or subject to such modification as he considers

necessary, is reasonable and proper, the order shall be made absolute

without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further

proceedings shall be taken in the case.

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139.

Power of Magistrate to direct local investigation and examination ofan expert.

139.Power of Magistrate to direct local investigation and

examination of an expert. The Magistrate may, for the purposes of an

inquiry under section 137 or section 138-

(a) direct a local investigation to be made by such person

as he thinks fit ; or

(b) summon and examine an expert.

140.

Power of Magistrate to furnish written instructions, etc.

140.Power of Magistrate to furnish written instructions, etc. (1)

Where the Magistrate directs a local investigation by any person

under section 139, the Magistrate may-

(a) furnish such person with such written instructions as

may seem necessary for his guidance ;

(b) declare by whom the whole or any part of the necessary

expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the

case.

(3) Where the Magistrate summons and examines an expert under

section 139, the Magistrate may direct by whom the costs of such

summoning and examination shall be paid.

141.

Procedure on order being made absolute and consequences

ofdisobedience.

141.Procedure on order being made absolute and consequences of

disobedience. (1) When an order has been made absolute under section

136 or section 138, the Magistrate shall give notice of the same to

the person against whom the order was made, and shall further require

him to perform the act directed by the order within a time to be fixed

in the notice, and inform him that, in case of disobedience, he will

be liable to the penalty provided by section 188 of the Indian Penal

Code (45 of 1860).

(2) If such act is not performed within the time fixed, the

Magistrate may cause it to be performed, and may recover the costs of

performing it, either by the sale of any building, goods or other

property removed by his order, or by the distress and sale of any

other movable property of such person within or without such

Magistrate's local jurisdiction and if such other property is without

such jurisdiction, the order shall authorise its attachment and sale

when endorsed by the Magistrate within whose local jurisdiction the

property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith

under this section.

142.

Injunction pending inquiry.

142.Injunction pending inquiry. (1) If a Magistrate making an

order under section 133 considers that immediate measures should be

taken to prevent imminent danger or injury of a serious kind to the

public, he may issue such an injunction to

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the person against whom the order was made, as is required to obviate

or prevent such danger or injury pending the determination of the

matter.

(2)In default of such person forthwith obeying such injunction,

the Magistrate may himself use, or cause to be used, such means as he

thinks fit to obviate such danger or to prevent such injury.

(3)No suit shall lie in respect of anything done in good faith by

a Magistrate under this section.

143.

Magistrate may prohibit repetition or connuance of public nuisance,.

143.Magistrate may prohibit repetition or connuance of public

nuisance,. A District Magistrate or Sub-divisional Magistrate, or any

other Executive Magistrate empowered by the State Government or the

District Magistrate in this behalf, may order any person not to repeat

or continue a public nuisance, as defined in the Indian Penal Code

(45 of 1860), or any special or local law.

C.-Urgent cases of nuisance or apprehended danger

144.

Power to issue order in urgent cases of nuisance of apprehendeddanger.

144.Power to issue order in urgent cases of nuisance of

apprehended danger. (1) In cases where, in the opinion of a District

Magistrate, a Sub-divisional Magistrate or any other Executive

Magistrate specially empowered by the State Government in this behalf,

there is sufficient ground for proceeding under this section and

immediate prevention or speedy remedy is desirable, such Magistrate

may, by a written order stating the material facts of the case and

served in the manner provided by section 134, direct any person to

abstain from a certain act or to take certain order with respect to

certain property in his possession or under his management, if such

Magistrate considers that such direction is likely to prevent, or

tends to prevent, obstruction, annoyance or injury to any person

lawfully employed, or danger to human life, health or safety, or a

disturbance of the public tranquility, or a riot, of an affray.

(2)An order under this section may, in cases of emergency or in

cases where the circumstances do not admit of the serving in due time

of a notice upon the person against whom the order is directed, be

passed ex parte.

(3)An order under this section may be directed to a particular

individual, or to persons residing in a particular place or area, or

to the public generally when frequenting or visiting a particular

place or area.

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(4)No order under this section shall remain in force for more

than two months from the making thereof:

Provided that, if the State Government considers it necessary so

to do for preventing danger to human life, health or safety or for

preventing a riot or any affray, it may, by notification, direct that

an order made by a Magistrate under this section shall remain in force

for such further period not exceeding six months from the date on

which the order made by the Magistrate would have, but for such order,

expired, as it may specify in the said notification.

(5)Any Magistrate may, either on his own motion or on the

application of any person aggrieved, rescind or alter any order made

under this section, by himself or any Magistrate subordinate to him or

by his predecessor-in-office.

(6)The State Government may, either on its own motion or on the

application of any person aggrieved, rescind or alter any order made

by it under the proviso to sub-section (4).

(7)Where an application under sub-section (5) or sub-section (6)

is received, the Magistrate, or the State Government, as the case may

be, shall afford to the applicant an early opportunity of appearing

before him or it, either in person or by pleader and showing cause

against the order ; and if the Magistrate or the State Government, as

the case may be, rejects the application wholly or in part, he or it

shall record in writing the reasons for so doing.

D.-Disputes as to immovable property

145.

Procedure where dispute concerning land or water is likely to causebreach of

peace.

145. Procedure where dispute concerning land or water is likely

to cause breach of peace. (1) Whenever an Executive Magistrate is

satisfied from a report of a police officer or upon other information

that a dispute likely to cause a breach of the peace exists concerning

any land or water or the boundaries thereof, within his local

jurisdiction, he shall make an order in writing, stating the grounds

of his being so satisfied, and requiring the parties concerned in such

dispute to attend his Court in person or by pleader, on a specified

date and time, and to put in written statements of their respective

claims as respects the fact of actual possession of the subject of

dispute.

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(2)For the purposes of this section, the expression "land or

water" includes buildings, markets, fisheries, crops or other produce

of land, and the rents or profits of any such property.

(3)A copy of the order shall be served in the manner provided by

this Code for the service of a summons upon such person or persons as

the Magistrate may direct, and at least one copy shall be published by

being affixed to some conspicuous place at or near the subject of

dispute,

(4)The Magistrate shall then, without, reference to the merits or

the claims of any of the parties to a right to possess the subject of

dispute, peruse the statements so put in, hear the parties, receive

all such evidence as may be produced by them, take such further

evidence, if any, as he thinks necessary, and, if possible, decide

whether any and which of the parties was, at the date of the order

made by him under sub-section (1), in possession of the subject of

dispute:

Provided that if it appears to the Magistrate that any party has

been forcibly and wrongfully dispossessed within two months next

before the date on which the report of a police officer or other

information was received by the Magistrate, or after that date and

before the date of his order under sub-section (1), he may treat the

party so dispossessed as if that party had been in possession on the

date of his order under sub-section (1).

(5)Nothing in this section 'shall preclude any party so required

to attend, or any other person interested, from showing that no such

dispute as aforesaid exists or has existed ; and in such case the

Magistrate shall cancel his said order, and all further proceedings

thereon shall be stayed, but, subject to such cancellation, the order

of the Magistrate under subsection (1) shall be final.

(6)(a) If the Magistrate decides that one of the parties was, or

should under the proviso to sub-section (4) be treated as being, in

such possession of the said subject, he shall issue an order declaring

such party to be entitled to possession thereof until evicted

therefrom in due course of law, and forbidding all disturbance of such

possession until such eviction; and when he proceeds under the proviso

to sub-section (4), may restore to possession the party forcibly and

wrongfully dispossessed.

(b)The order made under this sub-section shall be served and

published in the manner laid down in sub-section (3).

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(7)When any party to any such proceeding dies, the Magistrate may

cause the legal representative of the deceased party to be made a

party to the proceeding and shall thereupon continue the inquiry, and

if any question arises as to who the legal representative of a

deceased party for the purposes of such proceeding is, all persons

claiming to be representatives of the deceased party shall be made

parties thereto.

(8)If the Magistrate is of opinion that any crop or other produce

of the property, the subject of dispute in a proceeding under this

section pending before him, is subject to speedy and natural decay, he

may make an order for the proper custody or sale of. such property,

and, upon the completion of the inquiry, shall make such order for the

disposal of such property, or the sale-proceeds thereof, as he thinks

fit.

(9)The Magistrate may, if he thinks fit, at any stage of the

proceedings under this section, on the application of either party,

issue a summons to any witness directing him to attend or to produce

any document or thing.

(10)Nothing in this section shall be deemed to be in derogation

of the powers of the Magistrate to proceed under section 107.

146.

Power to attach subject of dispute and to appoint receiver.

146. Power to attach subject of dispute and to appoint receiver.

(1) If the Magistrate at any time after making the order under subsection

(1) of section 145 considers the case to be one of emergency,

or if he decides that none of the parties was then in such possession

as is referred to in section 145, or if he is unable to satisfy

himself as to which of them was then in such possession of the subject

of dispute, he may attach the subject of dispute until a competent

Court has determined the rights of the parties thereto with regard to

the person entitled to the possession thereof :

Provided that such Magistrate may withdraw the attachment at any

time if he is satisfied that there is no longer any likelihood of

breach of the peace with regard to the subject of dispute.

(2)When the Magistrate attaches the subject of dispute, he may,

if no receiver in relation to such subject of dispute has been

appointed by any Civil Court, make such arrangements as he considers

proper for looking after the property or if he thinks fit, appoint a

receiver thereof, who shall have, subject to the control of the

Magistrate, all the powers of a receiver appointed under the Code of

Civil Procedure, 1908 (5 of 1908);

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Provided that in the event of a receiver being subsequently

appointed in relation to the subject of dispute by any Civil Court,

the Magistrate-

(a) shall order the receiver appointed by him to hand over

the possession of the subject of dispute to the receiver

appointed by the Civil Court and shall thereafter discharge

the receiver appointed by him;

(b) may make such other incidental or consequential orders

as may be just.

147.

Dispute concerning right of use of land or water.

147. Dispute concerning right of use of land or water.

(1) Whenever an Executive Magistrate is satisfied from the report of a

police officer or upon other information, that a dispute likely to

cause a breach of the peace exists regarding any alleged right of user

of any land or water within his local jurisdiction, whether such right

be claimed as an easement or otherwise, he shall make an order in

writing, stating the grounds of his being so satisfied and requiring

the parties concerned in such dispute to attend his Court in person or

by pleader on a specified date and time and to put in written

statements of their respective claims.

Explanation.-The expression "land or water" has the meaning given

to it in sub-section (2) of section 145.

(2) The Magistrate shall then peruse the statements so put in,

hear the parties, receive all such, evidence as may be produced by

them respectively, consider the effect of such evidence, take such

further evidence, if any, as he thinks necessary and, if possible,

decide whether such right exists ; and the provisions of section 145

shall, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he

may make an order prohibiting any interference with the exercise of

such right, including, in a proper case, an order for the removal of

any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is

exercisable at all times of the year, unless such right has been

exercised within three months next before the receipt under subsection

(1) of the report of a police officer or other information

leading to the institution of the inquiry, or where the right is

exercisable only at particular seasons or on particular occasions,

unless the right has been exercised during the last of such a seasons

or on the last of such occasions before such receipt.

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(4) When in any proceedings commenced under sub-section (1) of

section 145 the Magistrate finds that the dispute is as regards an

alleged right of user of land or water, he may, after recording his

reasons, continue with the proceedings as if they had been commenced

under subsection (1) ;

and when in any proceedings commenced under sub-section (1) the

Magistrate finds that the dispute should be dealt with under section

145, he may, after recording his reasons, continue with the

proceedings as if they had been commenced under sub-section (1) of

section 145.

148.

Local inquiry.

148.Local inquiry. (1) Whenever a local inquiry is necessary for

the purposes of section 145, section 146 or section 147, a District

Magistrate or Sub-divisional Magistrate may depute any Magistrate

subordinate to him to make the inquiry, and may furnish him with such

written instructions as may seem necessary for his guidance, and may

declare by whom the whole or any part of the necessary expenses of the

inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence

in the case.

(3) When any costs have been incurred by any party to a

proceeding under section 145, section 146, or section 147, the

Magistrate passing a decision may direct by whom such costs shall be

paid, whether by such party or by any other party to the proceeding,

and whether in whole or in part or proportion and such costs may

include any expenses incurred in respect of witnesses and of pleaders'

fees, which the Court may consider reasonable.

CHAP

PREVENTIVE ACTION OF THE POLICE

CHAPTER XI

PREVENTIVE ACTION OF THE POLICE

149.

Police to prevent cognizable offences.

149.Police to prevent cognizable offences. Every police officer

may interpose for the purpose of preventing, and shall, to the best of

his ability, prevent, the commission of any cognizable offence.

150.

Information of design to commit cognizable offences.

150.Information of design to commit cognizable offences. Every

police officer receiving information of a design to commit any

cognizable offence shall communicate such information to the police

officer to whom he is subordinate, and to any other officer whose duty

it is to prevent or take cognizance of the commission of any such

offence.

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151.

Arrest to prevent the commission of cognizable offences.

151.Arrest to prevent the commission of cognizable offences. (1)

A police officer knowing of a design to commit any cognizable offence

may arrest, without orders from a Magistrate and without a warrant,

the person so designing, if it appears to such officer that the

commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-section (1) shall be detained

in custody for a period exceeding twenty-four hours from the time of

his arrest unless his further detention is required or authorised

under any other provisions of this Code or of any other law for the

time being in force.

152.

Prevention of injury to public property.

152.Prevention of injury to public property. A police officer may

of his own authority interpose to prevent any injury attempted to be

committed in his view to any public property, movable or immovable, or

the removal or injury of any public land mark or buoy or other mark

used for navigation.

153.

Inspection of weights and measures.

153.Inspection of weights and measures. (1) Any officer in charge

of a police station may, without a warrant, enter any place within the

limits of such station for the purpose of inspecting or searching for

any weights or measures or instruments for weighing, used or kept

therein, whenever he has reason to believe that there are in such

place any weights, measures or instruments for weighing which are

false.

(2) If he finds in such place any weights, measures or

instruments for weighing which are false, he may seize the same, and

shall forthwith give information of such seizure to a Magistrate

having jurisdiction.

CHAP

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

154.

Information in cognizable cases.

154.Information in cognizable cases. (1) Every information

relating to the commission of a cognizable offence, if given orally to

an officer in charge of a police station, shall be reduced to writing

by him or under his direction, and be read Over to the informant; and

every such information, whether given in writing or reduced to writing

as aforesaid, shall be signed by the person giving it, and the

substance thereof shall be entered in a book to be kept by such

officer in such form as the State Government may prescribe in this

behalf.

(2) A copy of the information as recorded under sub-section (1)

shall be given forthwith, free of cost, to the informant.

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(3) Any person aggrieved by a refusal on the part of an officer

in charge of a police station to record the information referred to

in subsection (1) may send the substance of such information, in

writing and by post, to the Superintendent of Police concerned who, if

satisfied that such information discloses the commission of a

cognizable offence, shall either investigate the case himself or

direct an investigation to be made by any police officer subordinate

to him, in the manner provided by this Code, and such officer shall

have all the powers of an officer in charge of the police station in

relation to that offence.

155.

Information as to non-cognizable cases and investigation of suchcases.

155.Information as to non-cognizable cases and investigation of

such cases. (1) When information is given to an officer in charge of a

police station of the commission within the limits of such station of

a non-cognizable offence, he shall enter or cause to be entered the

substance of the information in a book to be kept by such officer in

such form as the State Government may prescribe in this behalf, and

refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case

without the order of a Magistrate having power to try such case or

commit the case for trial.

(3) Any police officer receiving such order may exercise the

same powers in respect of the investigation (except the power to

arrest without warrant) as an officer in charge of a police station

may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at

least one is cognizable, the case shall be deemed to be a cognizable

case, notwithstanding that the other offences are non-cognizable.

156.

Police officer's power to investigate cognizable case.

156.Police officer's power to investigate cognizable case. (1)

Any officer in charge of a police station may, without the order of a

Magistrate, investigate any cognizable case which a Court having

jurisdiction over the local area within the limits of such station

would have power to inquire into or try under the provisions of

Chapter XIII.

(2) No proceeding of a police officer in any such case shall at

any stage be called in question on the ground that the case was one

which such officer was not empowered under this section to

investigate.

(3)Any Magistrate empowered under section 190 may order such an

investigation as above-mentioned.

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157.

Procedure for investigation preliminary inquiry.

157.Procedure for investigation preliminary inquiry. (1) If, from

information received or otherwise, an officer in charge of a police

station has reason to suspect the commission of an offence which he is

empowered under section 156 to investigate, he shall forthwith send a

report of the same to a Magistrate empowered to take cognizance of such

offence upon a police report and shall proceed in person, or shall depute

one of his subordinate officers not being below such rank as the State

Government may, by general or special order, prescribe in this behalf,

to proceed, to the spot, to investigate the facts and circumstances of

the case, and, if necessary, to take measures for the discovery and

arrest of the offender;

Provided that-

(a) when information as to the commission of any such

offence is given against any person by name and the case is

not of a serious nature, the officer in charge of a police

station need not proceed in person or depute a subordinate

officer to make an investigation on the spot ;

(b) if it appears to the officer in charge of a police

station that there is no sufficient ground for entering on an

investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the

proviso to sub-section (1), the officer in charge of the police

station shall state in his report his reasons for not fully complying

with the requirements of that sub-section, and, in the case mentioned

in clause (b) of the said proviso, the officer shall also forthwith

notify to the informant, if any, in such manner as may be prescribed

by the State Government, the fact that he will not investigate the

case or cause it to be investigated.

158.

Report how submitted.

158.Report how submitted. (1) Every report sent to a Magistrate

under section 157 shall, if the State Government so directs, be

submitted through such superior officer of police as the State

Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the

officer in charge of the police station as he thinks fit, and shall,

after recording such instructions on such report, transmit the same

without delay to the Magistrate.

159.

Power to hold investigation or

159.Power to hold investigation or Such Magistrate, on receiving

such report, may direct an investigation, or, if he thinks fit, at

once proceed, or depute any Magistrate

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Subordinate to him to proceed, to hold a preliminary inquiry into, or

otherwise to dispose of, the case in the manner provided in this Code.

160.

Police officer's power to require attendance of witnesses.

160. Police officer's power to require attendance of witnesses.

(1) Any police officer, making an investigation under this Chapter

may, by order in writing, require the attendance before himself of any

person being within the limits of his own or any adjoining station

who, from the information given or otherwise, appears to be acquainted

with the facts and circumstances of the case ; and such person shall

attend as so required:

Provided that no male person under the age of fifteen years or

woman shall be required to attend at any place other than the place in

which such male person or woman resides.

(2)The State Government may, by rules made in this behalf,

provide for the payment by the police officer of the reasonable

expenses of every person, attending under sub-section (1) at any place

other than his residence.

161.

Examination of witnesses by police.

161. Examination of witnesses by police. (1) Any police officer

making an investigation under this Chapter, or any police officer not

below such rank as the State Government may, by general or special

order, prescribe in this behalf, acting on the requisition of such

officer, may examine orally any person supposed to be acquainted with

the facts and circumstances of the case.

(2)Such person shall be bound to answer truly all questions

relating to such case put to him by such officer, other than questions

the answers to which would have a tendency to expose him to a criminal

charge or to a penalty or forfeiture.

(3)The police officer may reduce into writing any statement made

to him in the course of an examination under this section; and if he

does so, he shall make a separate and true record of the statement of

each such person whose statement he records.

162.

Statements to police not to be signed: Use of statements in evidence.

162. Statements to police not to be signed: Use of statements in

evidence. (1) No statement made by any person to a police officer in

the course of an investigation under this Chapter, shall, if reduced

to writing, be signed by the person making it ; nor shall any such

statement or any record thereof, whether in a police diary or

otherwise, or any part of such statement or record, be used for any

purpose, save as hereinafter

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provided, at any inquiry or trial in respect of any offence under

investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in

such inquiry or trial whose statement has been reduced into writing as

aforesaid, any part of his statement, if duly proved, may be used by

the accused, and with the permission of the Court, by the prosecution,

to contradict such witness in the manner provided by section 145 of

the Indian Evidence Act, 1872 (1 of 1872); and when any part of such

statement is so used, any part thereof may also be used in the reexamination

of such witness, but for the purpose only of explaining

any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any

statement falling within the provisions of clause (1) of section 32 of

the Indian Evidence Act, 1872 (1 of 1872), or to affect the provisions

of section 27 of that Act.

Explanation.-An omission to state a fact or circumstance in the

statement referred to in sub-section (1) may amount to contradiction

if the same appears to be significant and otherwise relevant having

regard to the context in which such omission occurs and whether any

omission amounts to a contradiction in the particular context shall be

a question of fact.

163.

No inducement to be offered.

163.No inducement to be offered. (1) No police officer or other

person in authority shall offer or make, or cause to be offered or

made, any such inducement, threat or promise as is mentioned in

section 24 of the Indian Evidence Act, 1872 (1 of 1872).

(2) But no police officer or other person shall prevent, by any

caution or otherwise, any person from making in the course of any

investigation under this Chapter any statement which he may be

disposed to make of his own free will :

Provided that nothing in this sub-section shall affect the

provisions of sub-section (4) of section 164.

164.

Recording of confessions and statements.

164.Recording of confessions and statements. (1) Any Metropolitan

Magistrate or Judicial Magistrate may, whether or not he has

jurisdiction in the case, record any confession or statement made to

him in the course of an investigation under this Chapter or under any

other law for the time being in force, or at any time afterwards

before the commencement of the inquiry or trial:

Provided that no confession shall be recorded by a police officer

on whom any power of a Magistrate has been conferred under any law for

the time being in force.

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(2)The Magistrate shall, before recording any such confession,

explain to the person making it that he is not bound to make a

confession and that, if he does so, it may be used as evidence against

him ; and the Magistrate shall not record any such confession unless,

upon questioning the person making it, he has reason to believe that

it is being made voluntarily.

(3)If at any time before the confession is recorded, the person

appearing before the Magistrate states that he is not willing to make

the confession, the Magistrate shall not authorise the detention of

such person in police custody.

(4)Any such confession shall be recorded in the manner provided

in section 281 for recording the examination of an accused person and

shall be signed by the person making the confession ; and the

Magistrate shall make a memorandum at the foot of such record to the

following effect: -

"I have explained to (name) that he is not bound to make a

confession and that, if he does so, any confession he may

make may be used as evidence against him and I believe that

this confession was voluntarily made. It was taken in my

presence and hearing, and was read over to the person making

it and admitted by him to be correct, and it contains a full

and true account of the statement made by him.

(Signed) A. B.

Magistrate".

(5) Any statement (other than a confession) made under subsection

(1) shall be recorded in such manner hereinafter provided for

the recording of evidence as is, in the opinion of the Magistrate,

best fitted to the circumstances of the case ; and the Magistrate

shall have power to administer oath to the person whose statement is

so recorded.

(6) The Magistrate recording a confession or statement under

this section shall forward it to the Magistrate by whom the case is to

be inquired into or tried.

165.

Search by police officer.

165.Search by police officer.(1) Whenever an officer in charge of

a police station or a police officer making an investigation has

reasonable grounds for believing that anything necessary for the

purposes of an investigation into any offence which he is authorised

to investigate may be found in any place with the limits of the police

station of which he is in charge, or to which he

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is attached, and that such thing cannot in his opinion be otherwise

obtained without undue delay, such officer may, after recording in

writing the grounds of his belief and specifying in such writing, so

far as possible, the thing for which search is to be made, search, or

cause search to be made, for such thing in any place within the limits

of such station.

(2) A police officer proceeding under sub-section (1), shall, if

practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there

is no other person competent to make the search present at the time,

he may, after recording in writing his reasons for so doing, require

any officer subordinate to him to make the search, and he shall

deliver to such subordinate officer an order in writing, specifying

the place to be searched, and so far as possible, the thing for which

search is to be made; and such subordinate officer may thereupon

search for such thing in such place.

(4) The provisions of this Code as to search-warrants and the

general provisions as to searches contained in section 100 shall, so

far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or subsection

(3) shall forthwith be sent to the nearest Magistrate

empowered to take cognizance of the offence, and the owner or occupier

of the place searched shall, on application, be furnished, free of

cost, with a copy of the same by the Magistrate.

166.

When officer in charge of police station may require an other to issuesearch

warrant.

166.When officer in charge of police station may require an other

to issue search warrant.(1) An officer in charge of a police station or

a police officer not being below the rank of sub-inspector making an

investigation may require an officer in charge of another police

station, whether in the same or a different district, to cause a

search to be made in any place, in any case in which, the former

officer might cause such search to be made, within the limits of his

own station.

(2) Such officer, on being so required, shall proceed according

to the provisions of section 165, and shall forward the thing found,

if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay

occasioned by requiring an officer in charge of another police station

to cause a search to be made under sub-section (1) might result in

evidence of the commission of an offence being concealed or destroyed,

it shall be lawful for an officer in charge of a police station or a

police officer making any investigation under this Chapter to search,

or cause to be searched, any place in the limits of another police

station in accordance with the provi887

sions of section 165, as if such place were within the limits of his

own police station.

(4) Any officer conducting a search under sub-section (3) shall

forthwith send notice of the search to the officer in charge of the

police station within the limits of which such place is situate, and

shall also send with such notice a copy of the list (if any) prepared

under section 100, and shall also send to the nearest Magistrate

empowered to take cognizance of the offence, copies of the records

referred to in sub-sections (1) and (3) of section 165.

(5) The owner or occupier of the place searched shall, on

application, be furnished free of cost with a copy of any record sent

to the Magistrate under sub-section (4).

166A

Letter of request competent authority for investigation in a countryor place

outside India.

2\*166A. Letter of request competent authority for investigation in

a country or place outside India. (1) Notwithstanding anything

contained in this Code, if, in the course of an investigation into

an offence, an application is made by the investigating officer or any

officer superior in rank to the investigating officer that evidence

may be available in a country or place outside India, any Criminal

Court may issue a letter of request to a Court or an authority in that

country or place competent to deal with such request to examine orally

any person supposed to be acquainted with the facts and circumstances

of the case and to record his statement made in the course of such

examination and also to require such person or any other person to

produce any document or thing which may be in his possession

pertaining to the case and to forward all the evidence so taken or

collected or the authenticated copies thereof or the thing so

collected to the Court issuing such letter.

(2) The letter of request shall be transmitted in such manner as

the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under

sub-section (1) shall be deemed to be the evidence collected during

the course of investigation under this Chapter.

166B

Letter of request from a country or place outside India to a Court oran

authority for investigation in India.

166B.Letter of request from a country or place outside India to a

Court or an authority for investigation in India. (1) Upon receipt of

a letter of request from a Court or an authority in a country or place

outside India competent to issue such letter in that country or place

for the examination of any person or production of any document or

thing in relation to an offence under investigation in that country or

place, the Central Government may, if it thinks fit,-

(i) forward the same to the Chief Metropolitan Magistrate

or Chief Judicial Magistrate or such Metropolitan Magistrate

or Judicial Magistrate as he may appoint in this behalf, who

shall thereupon summon the person before him and record his

statement or cause the document or thing to be produced; or

(ii) send the letter to any police officer for

investigation, who shall thereupon investigate into the

offence in the same manner,

as if the offence had been committed within India.

(2) All the evidence taken or collected under sub-section (1),

or authenticated copies thereof or the thing so collected, shall be

forwarded by the Magistrate or police officer, as the case may be, to

the Central Government for transmission to the Court or the authority

issuing the letter of request, in such manner as the Central Government

may deem fit.

167.

Procedure when investigation cannot be completed in twenty four hours.

167.Procedure when investigation cannot be completed in twenty

four hours. (1)Whenever any person is arrested and detained in custody

and it appears that the investigation cannot be completed within the

period of twenty-four hours fixed by section 57, and there are grounds

for believing that the accusation or information is well-founded, the

officer in charge of the police station or the police officer making

the investigation, if he is not below the rank of sub-inspector, shall

forthwith transmit to the nearest Judicial Magistrate a copy of the

entries in the diary hereinafter prescribed relating to the case, and

shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under

this section may, whether he has or has not jurisdiction to try the

case, from time to time, authorise the detention of the accused in

such custody as such Magistrate thinks fit, for a term not exceeding

fifteen days in the whole ; and if he has no jurisdiction to try the

case or commit it for trial, and considers further detention

unnecessary, he may order the accused to be forwarded to a Magistrate

having such jurisdiction:

Provided that-

1\*[(a) the Magistrate may authorise the detention of the

accused person, otherwise than in the custody of the police,

beyond the period of fifteen days ; if he is satisfied that

adequate grounds exist for doing so, but no Magistrate shall

authorise the detention of the accused person in custody

under this paragraph for a total period exceeding,-

(i) ninety days, where the investigation relates to an

offence punishable with death, imprisonment for life or

imprisonment for a term of not less than ten years;

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1 subs. by Act 45 of 1978, s, 13, for paragraph (a) (w,e,f,

18-12-1978).

2 Ins. by act 10 of 1990 , s.2 (w.e.f 19-2-1990)

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(ii) sixty days, where the investigation relates

to any other offence,

and, on the expiry of the said period of ninety days,

or sixty days, as the case may be, the accused person

shall be released on bail if he is prepared to and does

furnish bail, and every person released on bail under

this sub-section shall be deemed to be so released under

the provisions of Chapter XXXIII for the purposes of

that Chapter ;]

(b) no Magistrate shall authorise detention in any custody

under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially

empowered in this behalf by the High Court, shall authorise

detention in the custody of the police.

1 \*[Explanation I.-For the avoidance of doubts, it is hereby

declared that, notwithstanding the expiry of the period

specified in paragraph (a), the accused shall be detained in

custody so long as he does not furnish bail ;].

2\*[Explanation II.-If any question arises whether an accused

person was produced before the Magistrate as required under

paragraph (b), the production of the accused person may be

proved by his signature on the order authorising detention.]

1\*[(2A) Notwithstanding anything contained in sub-section (1)

or sub-section (2), the officer in charge of the police station or the

police officer making the investigation, if he is not below the rank

of a sub-inspector, may, where a Judicial Magistrate is not available,

transmit to the nearest Executive Magistrate, on whom the powers of a

Judicial Magistrate or Metropolitan Magistrate have been conferred, a

copy of the entry in the diary hereinafter prescribed relating to the

case, and shall, at the same time, forward the accused to such

Executive Magistrate, and thereupon such Executive Magistrate, may,

for reasons to be recorded in writing, authorise the detention of the

accused person in such custody as he may think fit for a term not

exceeding seven days in the aggregate; and, on the expiry of the

period of detention so authorised, the accused person shall be

released on bail except where an order for further detention of the

accused person has been made by a Magistrate competent to make such

order ; and, where an order for such further detention is made, the

period during which the accused person was detained in custody under

the orders made by an Executive Magistrate under this sub-section,

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1ins.by Act 45 of 1978, s. 13 (w.e.f. 18-12-1978).

2 Explanation numbered as Explanation II by s. 13, ibid. (w.e.f.

18-12-1978).

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shall be taken into account in computing the period specified in paragraph

(a) of the proviso to sub-section (2):

Provided that before the expiry of the period aforesaid, the

Executive Magistrate shall transmit to the nearest Judicial Magistrate

the records of the case together with a copy of the entries in the

diary relating to the case which was transmitted to him by the officer

in charge of the police station or the police officer making the

investigation, as the case may be.]

(3) A Magistrate authorising under this section detention in the

custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate

making such order shall forward a copy of his order, with his reasons

for making it, to the Chief Judicial Magistrate.

(5) If in any case triable by a Magistrate as a summons-case,

the investigation is not concluded within a period of six months from

the date on which the accused was arrested, the Magistrate shall make

an order stopping further investigation into the offence unless the

officer making the investigation satisfies the Magistrate that for

special reasons and in the interests of justice the continuation of

the investigation beyond the period of six months is necessary.

(6) Where any order stopping further investigation into an

offence has been made under sub-section (5), the Sessions Judge may,

if he is satisfied, on an application made to him or otherwise, that

further investigation into the offence ought to be made, vacate the

order made under sub-section (5) and direct further investigation to

be made into the offence subject to such directions with regard to

bail and other matters as he may specify.

168.

Report of investigation by subordinate police officer.

168. Report of investigation by subordinate police officer. When

any subordinate police officer has made any investigation under this

Chapter, he shall report the result of such investigation to the

officer in charge of the police station.

169.

Release of accused when evidence deficient.

169.Release of accused when evidence deficient. If, upon an

investigation under this Chapter, it appears to the officer in charge

of the police station that there is not sufficient evidence or

reasonable ground of suspicion to justify the forwarding of the

accused to a Magistrate, such officer shall, if such person is in

custody, release him on his executing a bond, with or without

sureties, as such officer may direct, to appear, if and when so

required, before a Magistrate empowered to take cognizance of the

offence on a police report, and to try the accused or commit him for

trial.

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170.

Cases to be sent to Magistrate, when evidence is sufficient.

170.Cases to be sent to Magistrate, when evidence is sufficient.

(1) If, upon an investigation under this Chapter, it appears to the

officer in charge of the police station that there is sufficient

evidence or reasonable ground as aforesaid, such officer shall forward

the accused under custody to a Magistrate empowered to take cognizance

of the offence upon a police report and to try the accused or commit

him for trial, or, if the offence is bailable and the accused is able

to give security, shall take security from him for his appearance

before such Magistrate on a day fixed and for his attendance from day

to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police station forward an

accused person to a Magistrate or takes security for his appearance

before such Magistrate under this section, he shall send to such

Magistrate any weapon or other article which it may be necessary to

produce before him, and shall require the complainant (if any) and so

many of the persons who appear to such officer to be acquainted with

the facts and circumstances of the cage as he may think necessary, to

execute a bond to appear before the Magistrate as thereby directed and

prosecute or give evidence (as the case may be) in the matter of the

charge against the accused.

(3) If the Court of the Chief Judicial Magistrate is mentioned in

the bond, such Court shall be held to include any Court to which such

Magistrate may refer the case for inquiry or trial, provided

reasonable notice of such reference is given to such complainant or

persons.

(4) The officer in whose presence the bond is executed shall

deliver a copy thereof to one of the persons who executed it, and

shall then send to the Magistrate the original with his report.

171.

Complainant and witnesses not to be required to accompany policeofficer

and not to be subjected to restraint.

171.Complainant and witnesses not to be required to accompany

police officer and not to be subjected to restraint. No complainant or

witness on his way to any Court shall be required to accompany a

police officer, or shall be subjected to unnecessary restraint or

inconvenience, or required to give any security for his appearance

other than his own bond:

Provided that, if any complainant or witness refuses to attend or

to execute a bond as directed in section 170, the officer in charge of

the police station may forward him in custody to the Magistrate, who

may detain him in custody until he executes such bond, or until the

hearing of the case is completed.-

172.

Diary of proceedings in investigation.

172.Diary of proceedings in investigation. (1) Every police

officer making an investigation under this Chapter shall day by day

enter his proceedings in the investigation in a diary, setting forth

the time at which the information reached him, the time at which he

began and closed his investigation, the place or places visited

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by him, and a statement of the circumstances ascertained through his

investigation.

(2) Any Criminal Court may send for the police diaries of a case

under inquiry or trial in such Court, and may use such diaries, not as

evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call

for such diaries, nor shall he or they be entitled to see them merely

because they are referred to by the Court ; but, if they are used by

the police officer who made them to refresh his memory, or if the

Court uses them for the purpose of contradicting such police officer,

the provisions of section 161 or section 145, as the case may be, of

the Indian Evidence Act, 1872 (1 of 1872), shall apply,

173.

Report of police officer on completion of investigation.

173. Report of police officer on completion of investigation. (1)

Every investigation under this Chapter shall be completed without

unnecessary delay.

(2)(i) As soon as it is completed, the officer in charge of the

police station shall forward to a Magistrate empowered to take

cognizance of the offence on a police report, a report in the form

prescribed by the State Government, stating-

(a) the names of the parties;

(b) the nature of the information;

(c)the names of the persons who appear to be acquainted with

the circumstances of the case;

(d)whether any offence appears to have been committed and,

if so,by whom ;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so,

weather with or without sureties;

(g) whether he has been forwarded in custody under section

170.

(ii) The officer shall also communicate, In such manner as may be

prescribed by the State Government, the action taken by him, to the

person, if any, by whom the information relating to the commission of

the offence was first given.

(3) Where a superior officer of police has been appointed under

section 158, the report shall, in any case in which the State

Government by general or special order so directs, be submitted

through that officer, and he may, pending the orders of the

Magistrate, direct the officer in charge of the police station to make

further investigation,

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(4) Whenever it appears from a report forwarded under this

section that the accused has been released on his bond, the Magistrate

shall make such order- for the discharge of such bond or otherwise as

he thinks fit.

(5) When such report is in respect of a case to which section

170 applies, the police officer shall forward to the Magistrate

alongwith the report-

(a) all documents or relevant extracts thereof on which the

prosecution proposes to rely other than those already sent to

the Magistrate during investigation;

(b) the statements-recorded under section 161 of all the

persons whom the prosecution proposes to examine as its

witnesses.

(6) If the police officer is of opinion that any part of any

such statement is not relevant to the subject-matter of the

proceedings or that its disclosure to the accused is not essential in

the interests of justice and is inexpedient in the public interest, he

shall indicate that part of the statement and append a note requesting

the Magistrate to exclude that part from the copies to be granted to

the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it

convenient so to do, he may furnish to the accused copies of all or

any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further

investigation in respect of an offence after a report under subsection

(2) has been forwarded to the Magistrate and, where upon such

investigation, the officer in charge of the police station obtains

further evidence, oral or documentary, he shall forward to the

Magistrate a further report or reports regarding such evidence in the

form prescribed ; and the provisions of sub-sections (2) to (6) shall,

as far as may be, apply in relation to such report or reports as they

apply in relation to a report forwarded under sub-section (2).

174.

Police to enquire and report on suicide, etc.

174.Police to enquire and report on suicide, etc. (1) When the

officer in charge of a police station or some other police officer

specially empowered by the State Government in that behalf receives

information that a person has committed suicide, or has been killed by

another or by an animal or by machinery or by an accident, or has died

under circumstances raising a reasonable suspicion that some other

person has committed an offence, he shall immediately give intimation

thereof to the nearest Executive Magistrate empowered to hold

inquests, and, unless otherwise directed by any rule prescribed by the

State Government, or by any general or special order of the District

or Sub-divisional Magistrate, shall proceed to the place where the

body

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of such deceased person is, and there, in the presence of two' or more

respectable inhabitants of the neighbourhood, shall make an investigation,

and draw up a report of the apparent cause of death, describing

such wounds, fractures, bruises, and other marks of injury as may be

found on the body, and stating in what manner, or by what weapon or

instrument (if any); such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other

persons, or by so many of them as concur therein, and shall be

forthwith forwarded to the District Magistrate or the Sub-divisional

Magistrate.

1\*(3) When-

(i) the case involves suicide by a woman within seven years

of her marriage;or

(ii) the case relates to the death of a woman within

seven years of her marriage in any circumstances raising a

reasonable suspicion that some other person committed an

offence in relation to such woman;or

(iii) the case relates to the death of a woman within seven

years of her marriage and any relative of the woman has made

a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it

expedient so to do, he shall.

subject to such rules as the State Government may prescribe in this

behalf, forward the body, with a view to its being examined, to the

nearest Civil Surgeon, or other qualified medical man appointed in

this behalf by the State Government, if the state of the weather and

the distance admit of its being so forwarded without risk of such

putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests,

namely, any District Magistrate or Sub-divisional Magistrate and any

other Executive Magistrate specially empowered in this behalf by the

State Government or the District Magistrate.

175.

Power to summon persons.

175.Power to summon persons. (1) A police officer proceeding

under section 174, may, by order in writing, summon two or more

persons as aforesaid for the purpose of the said investigation, and

any other person who appears to be acquainted with the facts of the

case and every person so summoned shall be bound to attend and to

answer truly all questions other than questions the answers to which

would have a tendency to expose him to a criminal charge or to a

penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which

section 170 applies, such persons shall not be required by the police

officer to attend a Magistrate's Court.

176.

Inquiry by Magistrate into cause of death.

176.Inquiry by Magistrate into cause of death. (1) 2\*[When any

person dies while in the custody of the police or when the case is of

the nature referred to in clause (i) or clause(ii) of sub-section (3)

of section 174] the nearest Magistrate- empowered to hold inquests

shall, and in any other case mentioned in sub-section (1) of section

174, any Magistrate so empowered may hold an inquiry into the cause of

death either instead of, or in addition to, the investigation held by

the police officer ; and if he does so, he shall have all the powers

in conducting it which he would have in holding an inquiry into an

offence.

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1 Subs. by Act 46 of 1983, S. 3

2 Subs. by s.4, ibid.

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(2) The Magistrate holding such an inquiry shall record the

evidence taken by him in connection therewith in any manner

hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an

examination of the dead body of any person who has been already

interred, in order to discover the cause of his death, the Magistrate

may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the

Magistrate shall, wherever practicable, inform the relatives of the

deceased whose names and addresses are known, and shall allow them to

remain present at the inquiry.

Explanation.-In this section, expression "relative" means

parents, children, brothers, sisters and spouse.

CHAP

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

CHAPTER XIII

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

177.

Ordinary place of inquiry and trial.

177.Ordinary place of inquiry and trial. Every offence shall

ordinarily be inquired into and tried by a Court within whose local

jurisdiction it was committed.

178.

Place of inquiry or trial.

178.Place of inquiry or trial. (a) When it is uncertain in which

of several local areas an offence was committed, or

(b) where an offence is committed, partly in one local area and

partly in another, or

(c) where an offence, is a continuing one, and continues to be

committed in more local areas than one, or

(d) where it consists of several acts done in different local

areas,it may be inquired into or tried by a Court having jurisdiction

over any of such local areas.

179.

Offence triable where act is done or consequence ensues.

179.Offence triable where act is done or consequence ensues. When

an act is an offence by reason of anything which has been done and of

a consequence which has ensued, the offence may be inquired into or

tried by a Court within whose local jurisdiction such thing has been

done or such consequence has ensued.

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180.

Place of trial where act is an offence by reason of relation to otheroffence.

180.Place of trial where act is an offence by reason of relation

to other offence. When an act is an offence by reason of its relation

to any other act which is also an offence or which would be an offence

if the doer were capable of committing an offence, the first-mentioned

offence may be inquired into or tried by a Court within whose local

jurisdiction either act was done.

181.

Place of trial in case of certain offences.

181.Place of trial in case of certain offences. (1) Any offence

of being a thug, or murder committed by a thug, of dacoity, of dacoity

with murder, of belonging to a gang of dacoits, or of escaping from

custody, may be inquired into or tried by a Court within whose local

jurisdiction the offence was committed or the accused person is found.

(2)Any offence of kidnapping or abduction of a person may be

inquired into or tried by a Court within whose local jurisdiction the

person was kidnapped or abducted or was conveyed or concealed or

detained.

(3)Any offence of theft, extortion or robbery may be inquired

into or tried by a Court within whose local jurisdiction the offence

was committed or the stolen property which is the subject of the

offence was possessed by any person committing it or by any person who

received or retained such property knowing or having reason to relieve

it to be stolen property.

(4)Any offence of criminal misappropriation or of criminal breach

of trust may be inquired into or tried by a Court within whose local

jurisdiction the offence was committed or any part of the property

which is the subject of the offence was received or retained, or was

required to be returned or accounted for, by the accused person.

(5)Any offence which includes the possession of stolen property

may be inquired into or tried by a Court within whose local

jurisdiction the offence was committed or the stolen property was

possessed by any person who received or retained it knowing or having

reason to believe it to be stolen property.

182.

Offences committed by letters, etc.

182.Offences committed by letters, etc. (1) Any offence which

includes cheating may, if the deception is practised by means of

letters or telecommunication messages, be inquired into or tried by

any Court within whose local jurisdiction such letters or messages

were sent or were received; and any offence of cheating and

dishonestly inducing delivery of property may be inquired into or

tried by a Court within whose local jurisdiction the property was

delivered by the person deceived or was received by the accused

person.

(2)Any offence punishable under section 494 or section 495 of the

Indian Penal Code (45 of 1860) may be inquired into or tried by a

Court within whose

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local jurisdiction the offence was committed or the offender last

resided with his or her spouse by the first marriage 1\*[or the wife by

the first marriage has taken up permanent residence after the

commission of the offence].

183.

Offence committed on journey or voyage.

183.Offence committed on journey or voyage. When an offence is

committed whilst the person by or against whom, or the thing in

respect of which, the offence is committed is in the course of

performing a journey or voyage, the offence may be inquired into or

tried by a Court through or into whose local jurisdiction that person

or thing passed in the course of that journey or voyage.

184.

Place of trial for offences triable together.

184.Place of trial for offences triable together. Where(

a)the offences committed by any person are such that he may

be charged with and tried at one trial for, each such offence

by virtue of the provisions of section 219, section 220 or

section 221,or

(b) the offence of offences committed by several persons are

such that they may be charged with and tried together by

virtue of the provisions of section 223,

the offences may be inquired into or tried by any Court competent to

inquire into or try any of the offences.

185.

Power to order cases to be tried in different sessions divisions.

185.Power to order cases to be tried in different sessions divisions.

Notwithstanding anything contained in the preceding provisions of

this Chapter, the State Government may direct that any cases or class

of cases committed for trial in any district may be tried in any

sessions division :

Provided that such direction is not repugnant to any direction

previously issued by the High Court or the Supreme Court under the

Constitution, or under this Code or any other law for the time being

in force.

186.

High Court to decide, in case of doubt, district where inquiry ortrial

shall take place.

186.High Court to decide, in case of doubt, district where

inquiry or trial shall take place. Where two or more Courts have taken

cognizance of the same offence and a question arises as to which of

them ought to inquire into or try that offence, the question shall be

decided-

(a) if the Courts are subordinate to the same High Court,

by that High Court;

(b) if the Courts are not subordinate to the same High

Court, by the High Court within the local limits of whose

appellate criminal jurisdiction the proceedings were first

commenced

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1 Ins. by Act 45 of 1978, s. 15 (w.e.f. 18-12-1980).

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and thereupon all other proceedings in respect of that offence shall

be discontinued.

187.

Power to issue summons or warrant for offence committed beyond

localjurisdiction.

187.Power to issue summons or warrant for offence committed

beyond local jurisdiction. (1) When a Magistrate of the first class

sees reason to believe that any person within his local jurisdiction

has committed outside such jurisdiction (whether within or outside

India) an offence which cannot, under the provisions of sections 177 to

185 (both inclusive), or any other law for the time being in force, be

inquired into or tried within such jurisdiction but is under some law

for the time being in force triable in India, such Magistrate may

inquire into the offence as if it had been committed within such local

jurisdiction and compel such person in the manner. hereinbefore

provided to appear before him, and send such person to the Magistrate

having jurisdiction to inquire into or try such offence, or, if such

offence is not punishable with death or imprisonment for life and such

person is ready and willing to give bail to the satisfaction of the

Magistrate acting under this section, take a bond With or without

sureties for his appearance before the Magistrate having such

jurisdiction.

(2) When there are more Magistrates than one having such

jurisdiction and the Magistrate acting under this section cannot

satisfy himself as to the Magistrate to or before whom such person

should be sent or bound to appear, the case shall be reported for the

orders of the High Court.

188.

Offence committed outside India.

188. Offence committed outside India. When an offence is

committed outside India-

(a) by a citizen of India, whether on the high seas or

elsewhere; or

(b) by a person, not being such citizen, on any ship or

aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed

at any place within India at which he may be found :

Provided that, notwithstanding anything in any of the preceding

sections of this Chapter, no such offence shall be inquired into or

tried in India except with the previous sanction of the Central

Government.

189.

Receipt of evidence relating to offences committed outside India.

189.Receipt of evidence relating to offences committed outside

India. When any offence alleged to have been committed in a territory

outside India is being inquired into or tried under the provisions of

section 188, the Central Government may, if it thinks fit, direct that

copies of depositions made or exhibits produced before a judicial

officer in or for that territory or before a diplomatic or consular

representative of India in or for that territory shall be received as

evidence by the Court holdings such inquiry or trial in any case in

which such Court might issue a commission for taking evidence as to

the matters to which such depositions exhibits relate.

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CHAP

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS......

CHAPTER XIV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS......

190.

Cognizance of offences by Magistrates.

190.Cognizance of offences by Magistrates. (1) Subject to the

provisions of this Chapter, any Magistrate of the first class, and any

Magistrate of the second class specially empowered in this behalf

under sub-section (2), may take cognizance of any offence-

(a) upon receiving a complaint of facts which constitute

such offence ;

(b) upon a police report of such facts;

(c) upon information received from any person other than a

police officer, or upon his own knowledge, that such offence

has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of

the second class to take cognizance under sub-section (1) of such

offences as are within his competence to inquire into or try.

191.

Transfer on application of the accused.

191.Transfer on application of the accused. When a Magistrate

takes cognizance of an offence under clause(c) of sub-section (1)

of section 190, the accused shall, before any evidence is taken, be

informed that he is entitled to have the case inquired into or tried

by another Magistrate, and if the accused or any of the accused, if

there be more than one, objects to further proceedings before the

Magistrate taking cognizance, the case shall be transferred to such

other Magistrate as may be specified by the Chief Judicial Magistrate

in this behalf.

192.

Making over of cases to Magistrates.

192.Making over of cases to Magistrates. (1) Any Chief Judicial

Magistrate may, after taking cognizance of an offence, make over the

case for inquiry or trial to any competent Magistrate subordinate to

him.

(2) Any Magistrate of the first class empowered in this behalf

by the Chief Judicial Magistrate may, after taking cognizance of an

offence, make over the case for inquiry or trial to such other

competent Magistrate as the Chief Judicial Magistrate may, by general

or special order, specify, and thereupon such Magistrate may hold the

inquiry or trial.

193.

Cognizance of offences by Courts of Session.

193.Cognizance of offences by Courts of Session. Except as

otherwise expressly provided by this Code or by any other law for the

time being in force, no Court of Session shall take cognizance of any

offence as a Court of original jurisdiction unless the case has been

committed to it by a Magistrate under this Code.

194.

Additional and Assistant Sessions Judges to try cases made over tothem.

194. Additional and Assistant Sessions Judges to try cases made

over to them. An Additional Sessions Judge or Assistant Sessions

Judge shall try such cases as the Sessions Judge of the division may,

by general or

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special order, make over to him for trial or as the High Court may, by

special order, direct him to try.

195.

Prosecution for contempt of lawful authority of public servants, foroffences

against public justice and for offences relating to documentsgiven in evidence.

195. Prosecution for contempt of lawful authority of public

servants, for offences against public justice and for offences

relating to documents given in evidence.(1) No Court shall take

cognizance-

(a) (i) of any offence punishable under sections 172 to 188

(both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence,

or

(iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or

of some other public servant to whom he is administratively

subordinate;

(b) (i) of any offence punishable under any of the following

sections of the Indian Penal Code (45 of 1860), (namely,

sections 193 to 196 (both inclusive), 199, 200, 205 to 211

(both inclusive) and 228, when such offence is alleged to

have been committed in, or in relation to, any proceeding in

any Court, or

(ii) of any offence described in section 463, or punishable

under section 471, section 475 or section 476, of the said

Code, when such offence is alleged to have been committed in

respect of a document produced or given in evidence in a

proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to

commit, or the abetment of, any offence specified in subclause

(i) or sub-clause (ii),

except on the complaint in writing of that Court, or of some other

Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant under

clause(a) of sub-section (1) any authority to which he is

administratively subordinate may order the withdrawal of the complaint

and send a copy of such order to the Court ; and upon its receipt by

the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in

the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a

Civil, Revenue or Criminal Court, and includes a tribunal constituted

by or under a Central, Provincial or State Act if declared by that Act

to be a Court for the purposes of this section.

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(4) For the purposes of clause (b) of sub-section (1), a Court

shall be deemed to be subordinate to the Court to which appeals

ordinarily lie from the appealable decrees or sentences of such former

Court, or in the case of a Civil Court from whose decrees no appeal

ordinarily lies, to the principal Court having ordinary original civil

jurisdiction within whose local jurisdiction such Civil Court in

situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate

Court of inferior jurisdiction shall be the Court to which

such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue

Court, such Court shall be deemed to be subordinate to the

Civil or Revenue Court according to the nature of the case or

proceeding in connection with which the offence is alleged to

have been committed.

196.

Prosecution for offences against the State and for

criminalconspiracy to commit such offence.

196. Prosecution for offences against the State and for criminal

conspiracy to commit such offence.(1) No Court shall take cognizance

of-

(a) any offence punishable under Chapter VI or under

section 153A, of Indian Penal Code, or 2\*[Section 295 A or

sub section (1) of section 505] of the Indian Penal Code (45

of 1860) or

(b) a criminal conspiracy to commit such offence, or

(c) any such abetment, as is described in section 108A of

the Indian Penal Code (45 of 1860),

except with the previous sanction of the Central Government or of the

State Government.

2\*(1A) No Court shall take cognizance of-

(a) any offence punishable under section 153B or sub-section

(2) or sub-section (3) of section 505 of the Indian Penal

Code (45 of 1860), or

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the

State Government or of the District Magistrate.]

(2) No Court shall take cognizance of the offence of any criminal

conspiracy punishable under section 120B of the Indian Penal code

(45 of 1860), other than a criminal conspiracy to commit 1\*[an offence]

punishable with death, imprisonment for life or rigorous imprisonment

for a term of two years or upwards, unless the State Government or the

District Magistrate has consented in writing to the initiation of the

proceedings :

Provided that where the criminal conspiracy is one to which the

provisions of section 195 apply, no such consent shall be necessary.

(3) The Central Government or the State Government may, before

according sanction 2\*[under sub-section (1) or sub-section (1A) and the

District Magistrate may, before according sanction under sub-section

(1A) and the State Government or the District Magistrate may, before

giving consent under sub-section (2), order a preliminary

investigation by a police officer not being below the

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1 Subs.Act. 45 of 978, s. 16, for " a cognizable offence" (w.e.f.

18-12-1978)

2 subs. and ins by act 63 of 1980 s.3 (w.e.f.23-9-1980)

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rank of Inspector, in which case such police officer shall have the

powers referred to in sub-section (3) of section 155.

197.

Prosecution of Judges and public servants.

197. Prosecution of Judges and public servants. (1) When any

person who is or was a Judge or Magistrate or a public servant not

removable from his office save by or with the sanction of the

Government is accused of any offence alleged to have been committed by

him while acting or purporting to act in the discharge of his official

duty, no Court shall take cognizance of such offence except with the

previous sanction-

(a) in the case of a person who is employed or, as the case

may be,was at the time of commission of the alleged offence

employed, in connection with the affairs of the Union, of the

Central Government;

(b)in the case of a person who is employed or, as the case

may be, was at the time of commission of the alleged offence

employed, in connection with the affairs of a State, of the

State Government:

1 [Provided that where the alleged offence was committed by a

person referred to in clause (b) during the period while a

Proclamation issued under clause (1) of article 356 of the

Constitution was in force in a State, clause (b) will apply as if for

the expression "State Government" occurring therein, the expression

"Central Government" were substituted.

(2) No Court shall take cognizance of any offence alleged to have

been committed by any member of the Armed Forces of the Union while

acting or purporting to act in the discharge of his official duty,

except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the

provisions of sub-section (2) shall apply to such class or category of

the members of the Forces charged with the maintenance of public order

as may be specified therein, wherever they may be serving, and

thereupon the provisions of that sub-section will apply as if for the

expression "Central Government" occurring therein, the expression

"State Government" were substituted.

1\*(3A) Notwithstanding anything contained in sub-section (3), no

court shall take cognizance of any offence, alleged to have been

committed by any member of the Forces charged with the maintenance of

public order in a State while acting or purporting to act in the

discharge of his official duty during the period while a Proclamation

issued under clause (1) of article 356 of the Constitution was in

force therein, except with the previous sanction of the Central

Government.

(3B) Notwithstanding anything to the contrary contained in this

Code or any other law, it is hereby declared that any sanction accorded

by the State Government or any cognizance taken by a court upon such

sanction, during the period commencing on the 20th day of August, 1991

and ending with the date immediately preceding the date on which the

Code of Criminal Procedure (Amendment) Act, 1991, receives the assent

of the President, with respect to an offence alleged to have been

committed during the period while a Proclamation issued under clause

(1) of article 356 of the Constitution was in force in the State,

shall be invalid and it shall be competent for the Central Government

in such matter to accord sanction and for the court to take cognizance

thereon.]

(4) The Central Government or the State Government, as the case

may be, may determine the person by whom, the manner in which, and the

offence or offences for which, the prosecution of such Judge, Magistrate

or public servant is to be conducted, and may specify the Court

before which the trial is to be held.

198.

Prosecution for offences against marriage.

198. Prosecution for offences against marriage. (1) No Court

shall take cognizance of an offence punishable under Chapter XX of

the Indian Penal Code (45 of 1860) except upon a complaint made by

some person aggrieved by the offence:

Provided that-

(a) Where such person is under the age of eighteen years

or is an idiot or a lunatic, or is from sickness or infirmity

unable to.

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1 Added and Ins. by Act 43 of 1991, s. 2 (w.e.f. 1991).

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make a complaint, or is a woman who, according to the local

customs and manners, ought not to be compelled to appear in

public, some other person may, with the leave of the Court,

make a complaint on his or her behalf;

(b) where such person is the husband and he is serving in

any of the Armed Forces of the Union under conditions which

are certified by his Commanding Officer as precluding him

from obtaining leave of absence to enable him to make a

complaint in person, some other person authorised by the

husband in accordance with the provisions of sub-section (4)

may make a complaint on his behalf;

(c) where the person aggrieved by an offence punishable

under 1\*[section 494 or section 495] of the Indian Penal Code

(45 of 1860) is the wife, complaint may be made on her behalf

by her father, mother, brother, sister, son or daughter or by

her father's or mother's brother or sister 2\*[, or, with the

leave of the Court,by any other person related to her by

blood, marriage or adoption].

(2) For the purposes of sub-section (1), no person other than

the husband of the woman shall be deemed to be aggrieved by any

offence punishable under section 497 or section 498 of the said Code:

Provided that in the absence of the husband, some person who had

care of the woman on his behalf at the time when such offence was committed

may, with the leave of the Court, make a complaint on his

behalf.

(3) When in any case falling under clause (a) of the proviso to

subsection (1), the complaint is sought to be made on behalf of a

person under the age of eighteen years or of a lunatic by a person who

has not been appointed or declared by a competent authority to be the

guardian of the person of the minor or lunatic, and the Court is

satisfied that there is a guardian so appointed or declared, the Court

shall, before granting the application for leave, cause notice to be

given to such guardian and give him a reasonable opportunity of being

heard.

(4) The authorisation referred to in clause (b) of the proviso to

subsection (1), shall be in writing, shall be signed or otherwise

attested by the husband, shall contain a statement to the effect that

he has been informed of the allegations upon which the complaint is to

be founded, shall be countersigned by his Commanding Officer, and

shall be accompanied by a certificate signed by that Officer to the

effect that leave of

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1 Subs. by Act 45 of 1978, s. 17, for "section 494" (w.e.f.

18-12-1978).

2 Ins. by s. 17, ibid. (w.e.f. 18-12-1978).

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absence for the purpose of making a complaint in person cannot for the

time being be granted to the husband.

(5) Any document purporting to be such an authorisation and

complying with the provisions of sub-section (4), and any document

purporting to be a certificate required by that sub-section shall,

unless the contrary is proved, be presumed to be genuine and shall be

received in evidence.

(6) No Court shall take cognizance of an offence under section

376 of the Indian Penal Code, where such offence consists of sexual

intercourse the a man with his own wife, the wife being under

fifteen years of age, if more than one year has elapsed from the date

of the commission of the offence.

(7) The provisions of this section apply to the abetment of, or

attempt to commit, an offence as they apply to the offence.

198A

Prosecution of offences under section 498A of the Indian Penal Code.

1["198A. Prosecution of offences under section 498A of the

Indian Penal Code. No Court shall take cognizance of an Offence

Punishable section 498A of the Indian Penal Code except upon a police

report of facts which constitute such offence or Upon a complaint made

by the person aggrieved by the offence or by her father, mother,

brother, sister or by her father's or mother's brother or sister or,

with the leave of the Court, by any other person related to her by

blood, marriage or adoption.

199.

Prosecution for defamation.

199. Prosecution for defamation. (1) No Court shall take

cognizance of an offence punishable under Chapter XXI of the Indian

Penal Code (45 of 1860) except upon a complaint made by some person

aggrieved by the offence:

Provided that where such person is under the age of eighteen

years, or is an idiot or a lunatic, or is from sickness or infirmity

unable to make a complaint, or is a woman who, according to the local

customs and manners, ought not to be compelled to appear in public,

some other person may, with the leave of the Court make a complaint on

his or her behalf.

(2) Notwithstanding anything contained in this Code, when any

offence falling under Chapter XXI of the Indian Penal Code (45 of

1860) is alleged to have been committed against a person who at the

time of such commission, is the President of India, the Vice-President

of India, the Governor of a State, the Administrator of a Union

territory or a Minister of the Union or of a State or of a Union

territory, or any other public servant employed in connection with the

affairs of the Union or of a State in respect of his conduct in the

discharge of his public functions a Court of Session may take

cognizance of such offence, without the case being committed to it,

upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set

forth the facts which constitute the offence alleged, the nature of

such offence and such other particulars as are reasonably sufficient

to give notice to the caused of the offence alleged to have been

committed by him.

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1 Ins. by Act 46 of 1983, s.5.

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(4) No complaint Under sub-section (2) shall be made by the

Public Prosecutor except with the previous sanction-

(a) of the State Government, in the case of a person who is

or has been the Governor of that State or a Minister of that

Government ;

(b) of the State Government, in the case of any other

public servant employed in connection with the affairs of the

State;

(c) of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence

under sub-section (2) unless the complaint is made within six months

from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person

against whom the offence is alleged to have been committed, to make a

complaint in respect of that offence before a Magistrate having

jurisdiction or the power of such Magistrate to take cognizance of the

offence upon such complaint.

CHAP

COMPLAINTS TO MAGISTRATES

CHAPTER XV

COMPLAINTS TO MAGISTRATES

200

Examination of complainant.

200.Examination of complainant. A Magistrate taking cognizance of

an offence on complaint shall examine upon oath the complainant and

the witnesses present, if any,and the substance of such examination

shall be reduced to writing and shall be signed by the complainant and

the witnesses, and also by the Magistrate :

Provided that, when the complaint is made in writing, the

Magistrate need not examine the complainant and the witnesses-

(a) if a public servant acting or- purporting to act in the

discharge of his official duties or a Court has made the

complaint ; or

(b) if the Magistrate makes over the case for inquiry or

trial to another Magistrate under section 192 :

Provided further that if the Magistrate makes over the case to

another Magistrate under section 192 after examining the complainant

and the witnesses, the latter Magistrate need not re-examine them.

201.

Procedure by Magistrate not competent to take cognizance of the case.

201. Procedure by Magistrate not competent to take cognizance of

the case.If the complaint is made to a Magistrate who is not

competent to take cognizance of the offence, he shall,-

(a) if the complaint is in writing, return it for

presentation to the proper Court with an endorsement to that

effect;

(b) if the complaint is not in writing, direct the

complainant to the proper Court.

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202.

Postponement of issue of process.

202.Postponement of issue of process. (1) Any Magistrate, on

receipt of a complaint of an offence of which he is authorised to take

cognizance or which has been made over to him under section 192, may,

if he thinks fit, postpone the issue of process against the accused,

and either inquire into the case himself or direct an investigation to

be made by a police officer or by such other person as he thinks fit,

for the purpose of deciding whether or not there is sufficient ground

for proceeding:

Provided that no such direction for investigation shall be

made,--

(a) where it appears to the Magistrate that the offence

complained of is triable exclusively by the Court of Session

; or

(b) where the complaint has not been made by a Court,

unless the complainant and the witnesses present (if any)

have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if

he thinks fit, take evidence of witnesses on oath :

Provided that if it appears to the Magistrate that the offence

complained of is triable exclusively by the Court of Session, he shall

call upon the complainant to produce all his witnesses and examine

them on oath.

(3) If an investigation under sub-section (1) is made by a

person not being a police officer, he shall have for that

investigation all the powers conferred by this Code on an officer-incharge

of a police station except the power to arrest without warrant.

203.

Dismissal of complaint.

203.Dismissal of complaint. If, after considering the statements

on oath (if any) of the complainant and of the witnesses and the

result of the inquiry or investigation (if any) under section 202, the

Magistrate is of opinion that there is no sufficient ground for

proceeding, he shall dismiss the complaint, and in every such case he

shall briefly record his reasons for so doing,

CHAP

COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

CHAPTER XVI COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204.

Issue of process.

204.Issue of process. (1) If in the opinion of a Magistrate

taking cognizance of an offence there is sufficient ground for

proceeding, and the case appears to be-

(a) a summons-case, he shall issue his summons for the

attendance of the accused, or

(b) a warrant-case, he may issue a warrant, or, if he

thinks fit, a summons, for causing the accused to be brought

or to appear

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at a certain time before such Magistrate or (if he has no

jurisdiction himself) some other Magistrate having

jurisdiction.

(2) No summons or warrant shall be issued against the accused

under sub-section (1) until a list of the prosecution witnesses has

been filed.

(3) In a proceeding instituted upon a complaint made in writing

every summons or warrant issued under sub-section (1) shall be accompanied

by a copy of such complaint.

(4) When by any law for the time being in force any process-fees

or other fees are payable, no process shall be issued until the fees

are paid and, if such fees are not paid within a reasonable time, the

Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the

provisions of section 87.

205.

Magistrate may dispense with personal attendance of accused.

205.Magistrate may dispense with personal attendance of accused. (1)

Whenever a Magistrate issues a summons, he may, if he sees reason so

to do, dispense with the personal attendance of the accused and permit him

to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in

his discretion, at any stage of the proceedings, direct the personal

attendance of the accused, and, if necessary, enforce such attendance

in the manner hereinbefore provided.

206.

Special summons in cases of petty offence.

206.Special summons in cases of petty offence. (1) If, in the

opinion of a Magistrate taking cognizance of a petty offence, the case

may be summarily disposed of under section 260, the Magistrate shall,

except where he is, for reasons to be recorded in writing of a

contrary opinion, issue summons to the accused requiring him either to

appear in person or by pleader before the Magistrate on a specified

date, or if he desires to plead guilty to the charge without appearing

before the Magistrate, to transmit before the specified date, by post

or by messenger to the Magistrate, the said plea in writing and the

amount of fine specified in the summons or if he desires to appear by

pleader and to plead guilty to the charge through such pleader, to

authorise, in writing, the pleader to plead guilty to the charge on

his behalf and to pay the fine through such pleader:

Provided that the amount of the fine specified in such summons

shall not exceed one hundred rupees.

(2) For the purposes of this section, "petty offence" means any

offence punishable only with fine not exceeding one thousand rupees,

but does not include any offence so punishable under the Motor

Vehicles Act, 1939 (4of 1939), or under any other law which provides

for convicting the accused person in his absence on a plea of guilty,

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1\*[(3) The State Government may, by notification, specially

empower any Magistrate to exercise the powers conferred by sub-section

(1) in relation to any offence which is compoundable under section 320

or any offence punishable with imprisonment for a term not exceeding

three months, or with fine, or with both where the Magistrate is of

opinion that, having regard to the facts and circumstances of the

case, the imposition of fine only would meet the ends of justice.]

207.

Supply to the accused of copy of police report and other documents.

207.Supply to the accused of copy of police report and other

documents. In any case where the proceeding has been instituted on a

police report, the Magistrate shall without delay furnish to the

accused, free of cost, a copy of each of the following: -

(i) the police report;

(ii) the first information report recorded under section

154;

(iii) the statements recorded under sub-section (3) of

section 161 of all persons whom the prosecution proposes to

examine as its witnesses, excluding therefrom any part in

regard to which a request for such exclusion has been made by

the police officer under sub-section (6) of section 173 ;

(iv) the confessions and statements, if any, recorded under

section 164;

(v) any other document or relevant extract thereof

forwarded to the Magistrate with the police report under subsection

(5) of section 173:

Provided that the Magistrate may, after perusing any such part of

a statement as is referred to in clause (iii) and considering the

reasons given by the police officer for the request, direct that a

copy of that part of the statement or of such portion thereof as the

Magistrate thinks proper, shall be furnished to the accused :

Provided further that if the Magistrate is satisfied that any

document referred to in clause (v) is voluminous, he shall, instead of

furnishing the accused with a copy thereof, direct that he will only

be allowed to inspect it either personally or through pleader in

Court.

208.

Supply of copies of statements and documents to accused in other casestriable

by Court of Session.

208.Supply of copies of statements and documents to accused in

other cases triable by Court of Session. Where, in a case instituted

otherwise than on a police report, it appears to the Magistrate

issuing process under section 204 that the offence is triable

exclusively by the Court of Session, the Magistrate shall without

delay furnish to the accused, free of cost, a copy of each of the

following: -

(i) the statements recorded under section 200 or section

202, of all persons examined by the Magistrate;

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1 Ins. by Act 45 of 1978, s, 18 (w,e.f, 18-12-1978).

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(ii) the statements and confessions, if any, recorded under

section 161 or section 164 ;

(iii) any documents produced before the Magistrate on

which the prosecution proposes to rely :

Provided that if the Magistrate is satisfied that any such

document is voluminous, he shall, instead of furnishing the accused

with a copy thereof, direct that he will only be allowed to inspect it

either personally or through pleader in Court.

209.

Commitment of case to Court of Session when offence is

triableexclusively by it.

209.Commitment of case to Court of Session when offence is

triable exclusively by it. When in a case instituted on a police

report or otherwise, the accused appears or is brought before the

Magistrate and it appears to the Magistrate that the offence is

triable exclusively by the Court of Session, he shall-

1\*[(a) commit, after complying with the provisions of section

207 or section 208, as the case may be, the case to the Court

of Session, and subject to the provisions of this Code

relating to bail, remand the accused to custody until such

commitment has been made;]

(b) subject to the provisions of this Code relating to

bail, remand the accused to custody during, and until the

conclusion of, the trial ;

(c) send to that Court the record of the case and the

documents and articles, if any, which are to be produced in

evidence ;

(d) notify the Public Prosecutor of the commitment of the

case to the Court of Session.

210.

Procedure to be followed when there is a complaint case and

policeinvestigation in respect of the same offence.

210.Procedure to be followed when there is a complaint case and

police investigation in respect of the same offence. (1) When in a

case instituted otherwise than on a police report (hereinafter

referred to as a complaint case), it is made to appear to the

Magistrate, during the course of the inquiry or trial held by him,

that an investigation by the police is in progress in relation to the

offence which is the subject-matter of the inquiry or trial held by

him, the Magistrate shall stay the proceedings of such inquiry or

trial and call for a report on the matter from the police officer

conducting the investigation.

(2) If a report is made by the investigating police officer

under section 173 and on such report cognizance of any offence is

taken by the Magistrate against any person who is an accused in the

complaint case, the Magistrate shall inquire into or try together the

complaint case and

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1 Subs. by Act 45 of 1978, s. 19, for cl. (a) (w.e.f. 18-12-1978).

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the case arising out of the police report as if both the cases were

instituted on a police report.

(3) If the police report does not relate to any accused in the

complaint case or if the Magistrate does not take cognizance of any

offence on the police report, he shall proceed with the inquiry or

trial, which was stayed by him, in accordance with the provisions of

this Code.

CHAP

THE CHARGE.

CHAPTER XVII

THE CHARGE

A.-Form of charges

221.

Contents of charge.

211.Contents of charge. (1) Every charge under this Code shall

state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specificname,

the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any

specific name, so much of the definition of the offence must be stated

as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is

said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a

statement that every legal condition required by law to constitute the

offence charged was fulfilled in the particular case.

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any

offence, is liable, by reason of such previous conviction, to enhanced

punishment, or to punishment of a different kind, for a subsequent

offence, and it is intended to prove such previous conviction for the

purpose of affecting the punishment which the Court may think fit to

award for the subsequent offence, the fact, date and place of the

previous conviction shall be stated in the charge; and if such

statement has been omitted, the Court may add it at any time before

sentence is passed.

Illustrations

(a) A is charged with the murder of B. This is equivalent to a

statement that A's act fell within the definition of murder given in

sections 299 and 300 of the Indian Penal Code (45 of 1860); that it

did not fall within any of the general exceptions of the said Code;

and that it did not fall within any of the five exceptions to section

300, or that, if it did fall within Exception 1, one or other of the

three provisos to that exception applied to it.

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(b)A is charged under section 326 of the Indian Penal Code (45 of 1860),

with voluntarily causing grievous hurt to B by means of an instrument

for shooting. This is equivalent to a statement that the case was not

provided for by section 335 of the said Code-, and that the general

exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery

or criminal intimidation, or using a false property-mark. The charge

may state that A committed murder, or cheating, or theft, or

extortion, or adultery, or criminal intimidation, or that he used a

false property-mark, without reference to the definitions of those

crimes contained in the Indian Penal Code (45 of 1860); but the

sections under which the offence is punishable must, in each instance,

be referred to in the charge.

(d)A is charged under section 184 of the Indian Penal Code(45 of 1860)

with intentionally obstructing a sale of property offered for sale by

the lawful authority of a public servant.The charge should be in those

words.

212.

Particulars as to time, place and person.

212.Particulars as to time, place and person. (1) The charge

shall contain such particulars as to the time and place of the alleged

offence, and the person (if any) against whom, or the thing (if any)

in respect of which, it was committed, as are reasonably sufficient to

give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or

dishonest misappropriation of money or other movable property, It

shall be sufficient to specify the gross sum or, as the case may be,

describe the movable property in respect of which the offence is

alleged to have been committed, and the dates between which the

offence is alleged to have been committed, without specifying

particular items or exact dates, and the charge so framed shall be

deemed to be a charge of one offence within the meaning of section

219;

Provided that the time included between the first and last of

such dates shall not exceed one year.

213.

When manner of committing offence must be stated.

213.When manner of committing offence must be stated. When the

nature of the case is such that the particulars mentioned in sections

211 and 212 do not give the accused sufficient notice of the matter

with which he is charged, the charge shall also contain such

particulars of the manner in which the alleged offence was committed

as will be sufficient for that purpose.

Illustrations

(a) A is accused of the theft of a certain article at a certain

time and place. The charge need not set out the manner in which the

theft was effected.

(b) A is accused of cheating B at a given time and place. The

charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and

place. The charge must set out that portion of the evidence given by

A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the

discharge of his public functions at a given time and place. The

charge must set out the manner in which A obstructed B in the

discharge of his functions.

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(e)A is accused of the murder of B at a given time and place.

The charge need not state the manner in which A murdered B.

(f)A is accused of disobeying a direction of the law with intent

to save B from punishment. The charge must set out the disobedience

charged and the law infringed.

214.

Words in charge taken in sense of law under which offence

ispunishable.

214.Words in charge taken in sense of law under which offence is

punishable. In every charge words used in describing an offence shall

be deemed to have been used in the sense attached to them respectively

by the law under which such offence is punishable.

215.

Effect of errors.

215.Effect of errors. No error in stating either the offence or

the particulars required to be stated in the charge, and no omission

to state the offence or those particulars, shall be regarded at any

stage of the case as material, unless the accused was in fact misled

by such error or omission, and it has occasioned a failure of justice.

Illustrations

(a)A is charged under section 242 of the Indian Penal Code (45 of

1860), with "having been in possession of counterfeit coin, having

known at the time when he became possessed thereof that such coin was

counterfeit," the word "fraudulently" being omitted in the charge.

Unless it appears that A was in fact misled by this omission, the

error shall not be regarded as material.

(b)A is charged with cheating B, and the manner in which he

cheated B is not set out in the charge, or is set out incorrectly. A

defends himself, calls witnesses and gives his own account of the

transaction. The Court may infer from this that the omission to set

out the manner of the cheating is not material.

(c)A is charged with cheating B, and the manner in which he

cheated B is not set out in the charge. There were many transactions

between A and B, and A had no means of knowing to which of them the

charge referred, and offered no defence. The Court may inter from

such facts that the omission to set out the manner of the cheating

was, in the case, a material error.

(d)A is charged with the murder of Khoda Baksh on the 21st

January, 1882. In fact, the murdered person's name was Haidar Baksh

and the date of the murder was the 20th January, 1882. A was never

charged with any murder but one, and had heard the inquiry before the

Magistrate, which referred exclusively to the case of Haidar Baksh:

The Court may infer from these facts that A was not misled, and that

the error in the charge was immaterial.

(e)A was charged with murdering Haidar Baksh on the 20th January,

1882, and Khoda Baksh (who tried to arrest him for that murder) on the

21st January 1882. When charged for the murder of Haider Baksh, he

was tried for the murder of Khoda Baksh. The witnesses present in his

defence were witnesses in the case of Haidar Baksh. The Court may

infer from this that A was misled, and that the error was material.

216.

Court may alter charge.

216.Court may alter charge.(1) Any Court may alter or add to any

charge at any time before judgment is pronounced.

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(2) Every such alteration or addition shall be read and

explained to the accused.

(3)If the alteration or addition to a charge is such that

proceeding immediately with the trial is not likely, in the opinion of

the Court, to prejudice the accused in his defence or the prosecutor

in the conduct of the case, the Court may, in its discretion, after

such alteration or addition has been made, proceed with the trial as

if the altered or added charge had been the original charge.

(4)If the alteration or addition is such that proceeding

immediately with the trial is likely, in the opinion of the Court, to

prejudice the accused or the prosecutor as aforesaid, the Court may

either direct a new trial or adjourn the trial for such period as may

be necessary.

(5) If the offence stated in the altered or added charge is one

for the prosecution of which previous sanction is necessary, the case

shall not be proceeded with until such sanction is obtained, unless

sanction has been already obtained for a prosecution on the same

facts as those on which the altered or added charge is founded.

217.

Recall of witnesses when charge altered.

217.Recall of witnesses when charge altered.Whenever a charge is

altered or added to by the Court after the commencement of the trial,

the prosecutor and the accused shall be allowed-

(a) to recall or re-summon, and examine with reference to

such alteration or addition, any witness who may have been

examined, unless the Court, for reasons to be recorded in

writing, considers that the prosecutor or the accused, as the

case may be, desires to recall or re-examine such witness for

the purpose of vexation or delay or for defeating the ends of

justice ;

(b) also to call any further witness whom the Court may

think to be material.

B.-Joinder of charges

218.

Separate charges for distinct offences.

218.Separate charges for distinct offences.(1) For every distinct

offence of which any person is accused there shall be a separate

charge, and every such charge shall be tried separately :

Provided that where the accused person, by an application in

writing, so desires and the Magistrate is of opinion that such person

is not likely to be prejudiced thereby, the Magistrate may try

together all or any number of the charges framed against such person.

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(2) Nothing in sub-section (1) shall affect the operation of the

provisions of sections 219, 220, 221 and 223.

Illustration

A is accused of a theft on one occasion, and of causing grievous

hurt on another occasion. A must be separately charged and separately

tried for the theft and causing grievous hurt.

219.

Three offences of same kind within year may be charged together.

219.Three offences of same kind within year may be charged

together. (1) When a person is accused of more offences than one of

the same kind committed within the space of twelve months from the

first to the last of such offences, whether in respect of the same

person or not, he may be charged with, and tried at one trial for, any

number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with

the same amount of punishment under the same section of the Indian

Penal Code (45 of 1860) or of any special or local law :

Provided that, for the purposes of this section, an offence

punishable under section 379 of the Indian Penal Code (45 of 1860)shall

be deemed to be an offence of the same kind as an offence punishable

under section 380 of the said Code, and that an offence punishable under

any section of the said Code, or of any special or local law, shall be

deemed to be an offence of the same kind as an attempt to commit such

offence, when such an attempt is an offence.

220.

Trial for more than one offence.

220.Trial for more than one offence. (1) If, in one series of

acts so connected together as to form the same transaction, more

offences than one are committed by the same person, he may be charged

with, and tried at one trial for, every such offence.

(2) When a person charged with one or more offences of criminal

breach of trust or dishonest misappropriation of property as provided

in sub-section (2) of section 212 or in sub-section (1) of section

219, is accused of committing, for the purpose of facilitating or

concealing the commission of that offence or those offences, one or

more offences of falsification of accounts, he may be charged with,

and tried at one trial for, every such offence.

(3) If the acts alleged constitute an offence falling within two

or more separate definitions of any law in force for the time being by

which offences are defined or punished, the person accused of them may

be charged with, and tried at one trial for, each of such offences.

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(4) If several acts, of which one or more than one would by

itself or themselves constitute an offence, constitute when combined a

different offence, the person accused of them may be charged with, and

tried at one trial for the offence constituted by such acts when

combined, and for any offence constituted by any one, or more, of such

acts.

(5) Nothing contained in this section shall affect section 71 of

the Indian Penal Code (45 of 1860).

Illustrations to sub-section (1)

(a) A rescues B, a person in lawful custody, and in so doing

causes grievous hurt to C, a constable in whose custody B was. A may

be charged with, and convicted of, offences under sections 225 and 333

of the Indian Penal Code (45 of 1860).

(b) A commits house-breaking by day with intent to commit

adultery, and commits, in the house so entered, adultery with B's

wife. A may be separately charged with, and convicted of, offences

under sections 454 and 497 of the Indian Penal Code (45 of 1860).

(c) A entices B, the wife of C, away from C, with intent to

commit adultery with B, and then commits adultery with her. A may be

separately charged with, and convicted of, offences under sections 498

and 497 of the Indian Penal Code (45 of 1860).

(d) A has in his possession several seals, knowing them to be

counterfeit and intending to use them for the purpose of committing

several forgeries punishable under section 466 of the Indian Penal

Code (45 of 1860). A may be separately charged with, and convicted of,

the possession of each seal under section 473 of the Indian Penal Code

(45 of 1860).

(e) With intent to cause injury to B, A institutes a criminal

proceeding against him, knowing that there is no just or lawful ground

for such proceeding, and also falsely accuses B of having committed an

offence, knowing that there is no just or lawful ground for such

charge. A may be separately charged with, and convicted of, two

offences under section 211 of the Indian Penal Code (45 of 1860).

(f) A, with intent to cause injury to B, falsely accuses him of

having committed an offence, knowing that there is no just or lawful

ground for such charge. On the trial, A gives false evidence against

B, intending thereby to cause B to be convicted of a capital offence.

A may be separately charged with, and convicted of, offences under

sections 211 and 194 of the Indian Penal Code (45 of 1860).

(g) A, with six others, commits the offences of rioting,

grievous hurt and assaulting a public servant endeavouring in the

discharge of his duty as such to suppress the riot. A may be

separately charged with, and convicted of, offences under sections

147, 325 and 152 of the Indian Penal Code (45 of 1860).

(h) A threatens B, C and D at the same time with injury to their

persons with Intent to cause alarm to them. A may be separately

charged with, and convicted of, each of the three offences under

section 506 of the Indian Penal Code (45 of 1860).

The separate charges referred to in Illustrations (a) to (h),

respectively, may be tried at the same time.

Illustrations to sub-section (3)

(i) A wrongfully strikes B with a cane. A may be separately

charged with and convicted of, offences under sections 352 and 323 of

the Indian Penal Code (45 of 1860).

(j) Several stolen sacks of corn are made over to A and B, who

knew they are stolen property, for the purpose of concealing them. A

and B thereupon voluntarily assist each other to conceal the sacks at

the bottom of a grain-pit. A

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and B may be separately charged with, and convicted of, offences

under sections 411 and 414 of the Indian Penal Code (45 of 1860).

(k) A exposes her child with the knowledge that she is thereby

likely to cause its death. The child dies in consequence of such

exposure. A may be separately charged with, and convicted of,

offences under sections 317 and 304 of the Indian Penal Code (45 of

1860).

(l) A dishonestly uses a forged document as genuine evidence, in

order to convict B, a public servant, of an offence under section

167 of the Indian Penal Code. A may be separately charged with, and

convicted of, offences under sections 471 (read with section 466) and

196 of that Code (45 of 1860).

Illustration to sub-section (4)

(m) A commits robbery on B, and in doing so voluntarily causes

hurt to him. A may be separately charged with, and convicted of,

offences under sections 323, 392 and 394 of the Indian Penal Code. (45

of 1860.)

221.

Where it is doubtful what offence has been committed.

221.Where it is doubtful what offence has been committed. (1) If

a single act or series of acts is of such a nature that it is doubtful

which of several offences the facts which can be proved will

constitute, the accused may be charged with having committed all or

any of such offences, and any number of such charges may be tried at

once; or he may be charged in the alternative with having committed

some one of the said offences.

(2) If in such a case the accused is charged with one offence,

and it appears in evidence that he committed a different offence for

which he might have been charged under the provisions of sub-section

(1), he may be convicted of the offence which he is shown to have

committed, although he was not charged with it.

Illustrations

(a) A is accused of an act which may amount to theft, or

receiving stolen property, or criminal breach of trust or cheating.

He may be charged with theft, receiving stolen property, criminal

breach of trust and cheating, or he may be charged with having

committed theft, or receiving stolen property, or criminal breach of

trust or cheating.

(b) In the case mentioned, A is only charged with theft. It

appears that he committed the offence of criminal breach of trust, or

that of receiving stolen goods. He may be convicted of criminal

breach of trust or of receiving stolen goods (as the case may be),

though he was not charged with such offence.

(c) A states on oath before the Magistrate that he saw B hit C

with a club. Before the Sessions Court A states on oath that B never

hit C. A may be charged in the alternative and convicted of

intentionally giving false evidence, although it cannot be proved

which of these contradictory statements was false.

222.

When offence proved included in offence charged.

222.When offence proved included in offence charged. (1) When a

person is charged with an offence consisting of several particulars, a

combination of some only of which constitutes a complete minor

offence, and such combination is proved, but the remaining particulars

are not proved, he may be convicted of the minor offence though he was

not charged with it.

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(2)When a person is charged with an offence and facts are proved

which reduce it to a minor offence, he may be convicted of the minor

offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be

convicted of an attempt to commit such offence although the attempt is

not separately charged.

(4) Nothing in this section shall be deemed to authorise a

conviction of any minor offence where the conditions requisite for the

initiation of proceedings in respect of that minor offence have not

been satisfied.

Illustrations

(a) A is charged, under section 407 of the Indian Penal Code

(45 of 1860), with criminal breach of trust in respect of property

entrusted to him as a carrier. It appears, that he did commit criminal

breach of trust under section 406 of that Code in respect of the

property, but that it was not entrusted to him as a carrier. He may be

convicted of criminal breach of trust under the said section 406.

(b) A is charged, under section 325 of the Indian Penal Code (45 of

1860), with causing grievous hurt. He proves that he acted on grave and

sudden provocation. He may be convicted under section 335 of that

Code.

223.

What persons may be charged jointly.

223.What persons may be charged jointly.The following persons may

be charged and tried together, namely:-

(a) persons accused of the same offence committed in the

course same transaction ;

(b) person accused of an offence and persons accused of

abetment of, or attempt to commit, such offence ;

(c) person accused of more than one offence of the same kind,

within the meaning of section 219 committed by them jointly

within the period of twelve months;

(d) persons accused of different offences committed in

the course of the same transaction;

(e) persons accused of an offence which includes theft,

extortion, cheating, or criminal misappropriation, and

persons accused of receiving or retaining, or assisting in

the disposal or concealment of, property possession of which

is alleged to have been transferred by any such offence

committed by the first named persons, or of abetment of or

attempting to commit any such last-named offence;

(f) persons accused of offences under sections 411 and 414 of

the Indian Penal Code (45 of 1860). or either of those

sections in respect of

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stolen property the possession of which has been transferred

by one offence;

(g) persons accused of any offence under Chapter XII of the

Indian Penal Code relating to counterfeit coin and persons

accused of any other offence under the said Chapter relating

to the same coin, or of abetment of or attempting to commit

any such offence; and the provisions contained in the former

part of this Chapter shall, so far as may be, apply to all

such charges:

Provided that where a number of persons are charged with separate

offences and such persons do not fall within any of the categories

specified in this section, the Magistrate may, if such persons by an

application in writing, so desire, and if he is satisfied that such

persons would not be prejudicially affected thereby, and it is

expedient so to do, try all such persons together.

224.

Withdrawal of remaining charges on conviction on one of severalcharges.

224.Withdrawal of remaining charges on conviction on one of

several charges. When a charge containing more heads than one is

framed against the same person, and when a conviction has been had on

one or more of them, the complainant, or the officer conducting the

prosecution, may, with the consent of the Court, withdraw the

remaining charge or charges, or the Court of its own accord may stay

the inquiry into, or trial of, such charge or charges and such

withdrawal shall have the effect of an acquittal on such charge or

charges, unless the conviction be set aside, in which case the said

Court (subject to the order of the Court setting aside the conviction)

may proceed with the inquiry into, or trial of, the charge or charges

so withdrawn.

CHAP

TRIAL BEFORE A COURT OF SESSION.

CHAPTER XVIII

TRIAL BEFORE A COURT OF SESSION

225.

Trial to be conducted by Public Prosecutor.

225.Trial to be conducted by Public Prosecutor. In every trial

before a Court of Session, the prosecution shall be conducted by a

Public Prosecutor.

226.

Opening case for prosecution.

226.Opening case for prosecution. When the accused appears or is

brought before the Court in pursuance of a commitment of the case

under section 209, the prosecutor shall open his case by describing

the charge brought against the accused and stating by what evidence he

proposes to prove the guilt of the accused.

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227.

Discharge.

227.Discharge. If, upon consideration of the record of the case

and the documents submitted therewith, and after hearing the

submissions of the accused and the prosecution in this behalf, the

Judge considers that there is not sufficient ground for proceeding

against the accused, he shall discharge the accused and record his

reasons for so doing.

228.

Framing of charge.

228.Framing of charge. (1) If, after such consideration and

hearing as aforesaid, the Judge is of opinion that there is ground for

presuming that the accused has committed an offence which-

(a) is not exclusively triable by the Court of Session, he

may, frame a charge against the accused and, by order,

transfer the case for trial to the Chief Judicial Magistrate,

and thereupon the Chief Judicial Magistrate shall try the

offence in accordance with the procedure for the trial of

warrant-cases instituted on a police report ;

(b) is exclusively triable by the Court, he shall frame in

writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection

(1), the charge shall be read and explained to the accused and

the accused shall be asked whether he pleads guilty of the offence

charged or claims to be tried.

229.

Conviction on plea of guilty.

229.Conviction on plea of guilty. If the accused pleads guilty,

the Judge shall record the plea and may, in his discretion, convict

him thereon.

230.

Date for prosecution evidence.

230.Date for prosecution evidence. If the accused refuses to

plead, or does not plead, or claims to be tried or is not convicted

under section 229, the Judge shall fix a date for the examination of

witnesses, and may, on the application of the prosecution, issue any

process for compelling the attendance of any witness or the production

of any document or other thing.

231.

Evidence for prosecution.

231.Evidence for prosecution. (1) On the date so fixed, the Judge

shall proceed to take all such evidence as may be produced in support

of the prosecution.

(2) The Judge may, in his discretion, permit the crossexamination

of any witness to be deferred until any other witness or

witnesses have been examined or recall any witness for further crossexamination.

232.

Acquittal.

232.Acquittal. If, after taking the evidence for the prosecution,

examining the accused and hearing the prosecution and the defence on

the point, the

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Judge considers that there is no evidence that the accused committed

the offence, the Judge shall record an order of acquittal.

233.

Entering upon defence.

233.Entering upon defence. (1) Where the accused is not

acquitted under section 232, he shall be called upon to enter on his

defence and adduce any evidence he may have in support thereof.

(2) If the accused puts in any written statement, the Judge shall

file it with the record.

(3) If the accused applies for the issue of any process for

compelling the attendance of any witness or the production of any

document or thing, the Judge shall issue such process unless he

considers, for reasons to be recorded, that such application should be

refused on the ground that it is made for the purpose of vexation or

delay or for defeating the ends of justice.

234.

Arguments.

234.Arguments. When the examination of the witnesses (if any) for

the defence is complete, the prosecutor shall sum up his case and the

accused or his pleader shall be entitled to reply :

Provided that where any point of law is raised by the accused or

his pleader, the prosecution may, with the permission of the Judge,

make his submissions with regard to such point of law.

235.

Judgment of acquittal or conviction.

235.Judgment of acquittal or conviction. (1) After hearing

arguments and points of law (if any), the Judge shall give a judgment

in the case.

(2) If the accused is convicted, the Judge shall, unless he

proceeds in accordance with the provisions of section 360, hear the

accused on the question of sentence, and then pass sentence on him

according to law.

236.

Previous conviction.

236.Previous conviction. In a case where a previous conviction is

charged under the provisions of sub-section (7) of section 211, and

the accused does not admit that he has been previously convicted as

alleged in the charge, the Judge may, after he has convicted the said

accused under section 229 or section 235, take evidence in respect of

the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Judge nor

shall the accused be asked to plead thereto nor shall the previous

conviction be referred to by the prosecution or in any evidence

adduced by it, unless and until the accused has been convicted under

section 229 or section 235.

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237.

Procedure in cases instituted under section 199(2).

237.Procedure in cases instituted under section 199(2). (1) A

Court of Session taking cognizance of an offence under sub-section (2)

of section 199 shall try the case in accordance with the procedure for

the trial of warrant-cases instituted otherwise than on a police

report before a Court of Magistrate :

Provided that the person against whom the offence is alleged to

have been committed shall, unless the Court of Session, for reasons to

be recorded, otherwise directs, be examined as a witness for the

prosecution.

(2) Every trial under this section shall be held in camera if

either party thereto so desires or if the Court thinks fit so to do.

(3) If, in any such case, the Court discharges or acquits all or

any of the accused and is of opinion that there was no reasonable

cause for making the accusation against them or any of them, it

may, by its order of discharge or acquittal, direct the person against

whom the offence was alleged to have been committed (other than the

President, Vice-President or the Governor of a State or the

Administrator of a Union territory) to show cause why he should not

pay compensation to such accused or to each or any of such accused,

when there are more than one.

(4) The Court shall record and consider any cause which may be

shown by the person so directed, and if it is satisfied that there was

no reasonable cause for making the accusation, it may, for reasons to

be recorded, make an order that compensation to such amount not

exceeding one thousand rupees, as it may determine, be paid by such

person to the accused or to each or any of them.

(5) Compensation awarded under sub-section (4) shall be

recovered as if it were a fine imposed by a Magistrate.

(6) No person who has been directed to pay compensation under

subsection (4) shall, by reason of such order, be exempted from any

civil or criminal liability in respect of the complaint made under

this section ;

Provided that any amount paid to an accused person under this

section shall be taken into account in awarding compensation to such

person in any subsequent civil suit relating to the same matter.

(7) The person who has been ordered under sub-section (4) to pay

compensation may appeal from the order, in so far as it relates to the

payment of compensation, to the High Court.

(8) When an order for payment of compensation to an accused

person is made, the compensation shall not be paid to him before the

period allowed for the presentation of the appeal has elapsed, or, if

an appeal is presented, before the appeal has been decided.

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CHAP

TRIAL OF WARRANT-CASES BY MAGISTRATES.

CHAPTER XIX

TRIAL OF WARRANT-CASES BY MAGISTRATES

A.-Cases instituted on a police report

238.

Compliance with section 207.

238.Compliance with section 207. When, in any warrant-case

instituted on a police report, the accused appears or is brought

before a Magistrate at the commencement of the trial, the Magistrate

shall satisfy himself that he has complied with the provisions of

section 207.

239.

When accused shall be discharged.

239.When accused shall be discharged. If, upon considering the

police report and the documents sent with it under section 173 and

making such examination, if any, of the accused as the Magistrate

thinks necessary and after giving the prosecution and the accused an

opportunity of being heard, the Magistrate considers the charge

against the accused to be groundless, he shall discharge the accused,

and record his reasons for so doing

240.

Framing of charge.

240.Framing of charge. (1) If, upon such consideration,

examination, if any, and hearing, the Magistrate is of opinion that

there is ground for presuming that the accused has committed an

offence triable under this Chapter, which such Magistrate is competent

to try and which, in his opinion, could be adequately punished by him,

he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused,

and he shall be asked whether he pleads guilty of the offence charged

or claims to be tried.

241.

Conviction on plea of guilty.

241.Conviction on plea of guilty, the accused pleads guilty, the

Magistrate shall record the plea and may, in his discretion, convict

him thereon.

242.

Evidence for prosecution.

242.Evidence for prosecution. (1) If the accused refuses to plead

or does not plead, or claims to be tried or the Magistrate does not

convict the accused under section 241, the Magistrate shall fix a date

for the examination of witnesses.

(2) The Magistrate may, on the application of the prosecution,

issue a summons to any of its witnesses directing him to attend or to

produce any document or other thing.

(3) On the date so fixed, the Magistrate shall proceed to take

all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of

any witness to be deferred until any other witness or witnesses have

been examined or recall any witness for further cross-examination.

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243.

Evidence for defence.

243.Evidence for defence. (1) The accused shall then be called

upon to enter upon his defence and produce his evidence; and if the

accused puts in any written statement, the Magistrate shall file it

with the record.

(2) If the accused, after he has entered upon his defence,

applies to the Magistrate to issue any process for compelling the

attendance of any witness for the purpose of examination or crossexamination,

or the production of any document or other thing, the

Magistrate shall issue such .process unless he considers that such

application should be refused on the ground that it is made for the

purpose of vexation or delay or for defeating the ends of justice and

such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the

opportunity of cross-examining any witness before entering on his

defence, the attendance of such witness shall not be compelled under

this section, unless the Magistrate is satisfied that it is necessary

for the ends of justice.

(3) The Magistrate may, before summoning any witness on an

application under sub-section (2), require that the reasonable

expenses incurred by the witness in attending for the purposes of the

trial be deposited in Court.

B.-Cases instituted otherwise than on police report

244.

Evidence for prosecution.

244.Evidence for prosecution. (1) When, in any warrant-case

instituted otherwise than on a police report, the accused appears or

is brought before a Magistrate, the Magistrate shall proceed to hear

the prosecution and take all such evidence as may be produced in

support of the prosecution.

(2) The Magistrate may, on the application of the prosecution,

issue a summons to any of its witnesses directing him to attend or to

produce any document or other thing.

245.

When accused shall be discharged.

245.When accused shall be discharged. (1) If, upon taking all

the evidence referred to in section 244, the Magistrate considers, for

reasons to be recorded, that no case against the accused has been made

out which, if unrebutted, would warrant his conviction, the Magistrate

shall discharge him.

(2) Nothing in this section shall be deemed to prevent a

Magistrate from discharging the accused at any previous stage of the

case if, for

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reasons to be recorded by such Magistrate, he considers the charge to

be groundless.

246.

Procedure where accused is not discharged.

246.Procedure where accused is not discharged. (1) If, when such

evidence has been taken, or at any previous stage of the case, the

Magistrate is of opinion that there is ground for presuming that the

accused has committed an offence triable under this Chapter, which

such Magistrate is competent to try and which, in his opinion, could

be adequately punished by him, he shall frame in writing a charge

against the accused.

(2) The charge shall then be read and explained to the accused,

and he shall be asked whether he pleads guilty or has any defence to

make.

(3) If the accused pleads guilty, the Magistrate shall record

the plea, and may, in his discretion, convict him thereon.

(4) If the accused refuses to plead, or does not plead or claims

to be tried or if the accused is not convicted under sub-section (3),

he shall be required to state, at the commencement of the next hearing

of the case, or, if the Magistrate for reasons to be recorded in

writing so thinks fit, forthwith, whether he wishes to cross-examine

any, and, if so, which, of the witnesses for the prosecution whose

evidence has been taken.

(5) If he says he does so wish, the witnesses named by him shall

be recalled and, after cross-examination and re-examination (if any),

they shall be discharged.

(6) The evidence of any remaining witnesses for the prosecution

shall next be taken, and after cross-examination and re-examination

(if any), they shall also be discharged.

247.

Evidence for defence.

247.Evidence for defence. The accused shall then be called upon

to enter upon his defence and produce his evidence; and the provisions

of section 243 shall apply to the case.

C.-Conclusion of trial

248.

Acquittal or conviction.

248.Acquittal or conviction. (1) If, in any case under this

Chapter in which a charge has been framed, the Magistrate finds the

accused not guilty, he shall record an order of acquittal.

(2) Where, in any case under this Chapter, the Magistrate finds

the accused guilty, but does not proceed in accordance with the

provisions

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of section 325 or section 360, he shall, after hearing the accused on

the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction

is charged under the provisions of sub-section (7) of section 211 and

the accused does not admit that he has been previously convicted as

alleged in the charge, the Magistrate may, after he has convicted the

said accused, take evidence in respect of the alleged previous

conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Magistrate

nor shall the accused be asked to plead thereto nor shall the previous

conviction be referred to by the prosecution or in any evidence

adduced by it, unless and until the accused has been convicted under

sub-section (2).

249.

Absence of complainant.

249.Absence of complainant. When the proceedings have been

instituted upon complaint, and on any day fixed for the hearing of the

case, the complainant is absent, and the offence may be lawfully

compounded or is not a cognizable offence, the Magistrate may, in his

discretion, notwithstanding anything hereinbefore contained, at any

time before the charge has been framed, discharge the accused.

250.

Compensation for accusation without reasonable cause.

250.Compensation for accusation without reasonable cause. (1) If,

in any case instituted upon complaint or upon information given to a

police officer or to a Magistrate, one or more persons is or are

accused before a Magistrate of any offence triable by a Magistrate,

and the Magistrate by whom the case is heard discharges or acquits all

or any of the accused, and is of opinion that there was no reasonable

ground for making the accusation against them or any of them, the

Magistrate may, by his order of discharge or acquittal, if the person

upon whose complaint or information the accusation was made is

present, call upon him forthwith to show cause why he should not pay

compensation to such accused or to each or any of such accused when

there are more than one ; or, if such person is not present, direct

the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which

such complainant or informant may show, and if he is satisfied that

there was no reasonable ground for making the accusation, may, for

reasons to be recorded make an order that compensation to such amount,

not exceeding the amount of fine he is empowered to impose, as he may

determine, be

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paid by such complainant or informant to the accused or to each or any

of them.

(3) The Magistrate may, by the order directing payment of the

compensation under sub-section (2), further order that, in default of

payment, the person ordered to pay such compensation shall undergo

simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the

provisions of sections 68 and 69 of the Indian Penal Code (45 of 1860).

shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under

this section shall, by reason of such order, be exempted from any

civil or criminal liability in respect of the complaint made or

information given by him:

Provided that any amount paid to an accused person under this

section shall be taken into account in awarding compensation to such

person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under subsection

(2) by a Magistrate of the second class to pay compensation

exceeding one hundred rupees, may appeal from the order, as if such

complainant or informant had been convicted on a trial held by such

Magistrate.

(7) When an order for payment of compensation to an accused

person is made in a case which is subject to appeal under sub-section

(6), the compensation shall not be paid to him before the period

allowed for the presentation of the appeal has elapsed, or, if an

appeal is presented, before the appeal has been decided ; and where

such order is made in a case which is not so subject to appeal the

compensation shall not be paid before the expiration of one month from

the date of the order.

(8) The provisions of this section apply to summons-cases as

well as to warrant-cases.

CHAP

TRIAL OF SUMMONS-CASES BY MAGISTRATES.

CHAPTER XX

TRIAL OF SUMMONS-CASES BY MAGISTRATES

251.

Substance of accusation to be stated.

251.Substance of accusation to be stated. When in a summons-case

the accused appears or is brought before the Magistrate, the

particulars of the offence of which he is accused shall be stated to

him, and he shall be asked whether he pleads guilty or

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has any defence to make, but it shall not be necessary to frame a

formal charge.

252.

Conviction on plea of guilty.

252.Conviction on plea of guilty. If the accused pleads guilty,

the Magistrate shall record the plea as nearly as possible in the

words used by the accused and may, in his discretion, convict him

thereon.

253.

Conviction on plea of guilty in absence of accused in petty cases.

253.Conviction on plea of guilty in absence of accused in petty

cases.(1) Where a summons has been issued under section 206 and the

accused desires to plead guilty to the charge without appearing before

the Magistrate, he shall transmit to the Magistrate, by post or by

messenger, a letter containing his plea and also the amount of fine

specified in the summons.

(2) The Magistrate may, in his discretion, convict the accused

in his absence, on his plea of guilty and sentence him to pay the fine

specified in the summons, and the amount transmitted by the accused

shall be adjusted towards that fine, or where a pleader authorised by

the accused in this behalf pleads guilty on behalf of the accused, the

Magistrate shall record the plea as nearly as possible in the words

used by the pleader and may, in his discretion, convict the accused on

such plea and sentence him as aforesaid.

254.

Procedure when not convicted.

254.Procedure when not convicted.(1) If the Magistrate does not

convict the accused under section 252 or section 253, the Magistrate

shall proceed to hear the prosecution and take all such evidence as

may be produced in support of the prosecution, and also to hear the

accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he thinks fit, on the application of

the prosecution or the accused, issue a summons to any witness

directing him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such

application require that the reasonable expenses of the witness

incurred in attending for the purposes of the trial be deposited in

Court.

255.

Acquittal or conviction.

255.Acquittal or conviction. (1) If the Magistrate, upon taking

the evidence referred to in section 254 and such further evidence, if

any, as he may, of his own motion, cause to be produced, finds the

accused not guilty, he shall record an order of acquittal.

(2) Where the Magistrate does not proceed in accordance with the

provisions of section 325 or section 360, he shall, if he finds the

accused guilty, pass sentence upon him according to law.

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(3) A Magistrate may, under section 252 or section 255, convict

the accused of any offence triable under this Chapter, which from the

facts admitted or proved he appears to have committed, whatever may be

the nature of the complaint or summons, if the Magistrate is satisfied

that the accused would not be prejudiced thereby.

256.

Non-appearance or death of complainant.

256.Non-appearance or death of complainant. (1) If the summons

has been issued on complaint, and on the day appointed for the

appearance of the accused, or any day subsequent thereto to which the

hearing may be adjourned, the complainant does not appear, the

Magistrate shall, notwithstanding anything hereinbefore contained,

acquit the accused, unless for some reason he thinks it proper to

adjourn the hearing of the case to some other day:

Provided that where the complainant is represented by a pleader

or by the officer conducting the prosecution or where the Magistrate

is of opinion that the personal attendance of the complainant is not

necessary, the Magistrate may dispense with his attendance and proceed

with the case.

(2) The provisions of sub-section (1) shall, so far as may be,

apply also to cases where the non-appearance of the complainant is due

to his death.

257.

Withdrawal of complaint.

257.Withdrawal of complaint. If a complainant, at any time

before a final order is passed in any case under this Chapter,

satisfies the Magistrate that there are sufficient grounds for

permitting him to withdraw his complaint against the accused, or if

there be more than one accused, against all or any of them, the

Magistrate may permit him to withdraw the same, and shall thereupon

acquit the accused against whom the complaint is so withdrawn.

258.

Power to stop proceedings in certain cases.

258.Power to stop proceedings in certain cases. In any summonscase

instituted otherwise than upon complaint, a Magistrate of the

first class or, with the previous sanction of the Chief Judicial

Magistrate, any other Judicial Magistrate, may, for reasons to be

recorded by him, stop the proceedings at any stage without pronouncing

any judgment and where such stoppage of proceedings is made after the

evidence of the principal witnesses has been recorded, pronounce a

judgment of acquittal, and in any other case, release the accused, and

such release shall have the effect of discharge.

259.

Power of Court to convert summons-cases into warrant-cases.

259.Power of Court to convert summons-cases into warrant-cases.

When in the course of the trial of a summons-case relating to an

offence punishable with imprisonment for a term exceeding six months

it appears to the Magistrate that in the interests of justice, the

offence

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should be tried in accordance with the procedure for the trial of

warrant-cases, such Magistrate may proceed to re-hear the case in the

manner provided by this Code for the trial of warrant-cases and may

recall an witness who may have been examined.

CHAP

SUMMARY TRIALS.

CHAPTER XXI

SUMMARY TRIALS

260.

Power to try summarily.

260.Power to try summarily. (1) Notwithstanding anything

contained in this Code-

(a) any Chief Judicial Magistrate;

(b) any Metropolitan Magistrate ;

(c) any Magistrate of the first class specially empowered

in this behalf by the High Court,

may, if he thinks fit, try in a summary way all or any of the

following offences : -

(i) offences not punishable with death, imprisonment for

life or imprisonment for a term exceeding two years;

(ii) theft, under section 379, section 380 or section 381 of

the India Penal Code (45 of 1860), where the value of the

property stolen does no exceed two hundred rupees;

(iii) receiving or retaining stolen property, under

section 411 of the Indian Penal Code (45 of 1860), where the

value of the property does not exceed two hundred rupees;

(iv) assisting in the concealment or disposal of stolen

property under section 414 of the Indian Panel Code (45 of

1860), where the value of such property does not exceed two

hundred rupees;

(v) offences under sections 454 and 456 of the Indian Penal

Code (45 of 1860);

(vi) insult with intent to provoke a breach of the peace,

under section 504, and criminal intimidation, under section

506 of the Indian Penal Code (45 of 1860);

(vii) abetment of any of the foregoing offences;

(viii) an attempt to commit any of the foregoing

offences, when such attempt is an offence;

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(ix) any offence constituted by an act in respect of which a

complaint may be made under section 20 of the Cattle-trespass

Act, 1871 (1 of 1871).

(2) When, in the course of a summary trial it appears to the

Magistrate that the nature of the case is such that it is undesirable

to try it summarily, the Magistrate shall recall any witnesses who may

have been examined and proceed to re-hear the case in the manner

provided by this Code.

261.

Summary trial by magistrate of the second class.

261.Summary trial by magistrate of the second class. The High

Court may confer on any Magistrate invested with the powers of a

Magistrate of the second class power to try summarily any offence

which is punishable only with fine or with imprisonment for a term not

exceeding six months with or without fine, and any abetment of or

attempt to commit any such offence.

262.

Procedure for summary trials.

262.Procedure for summary trials. (1) In trials under this

Chapter, the procedure specified in this Code for the trial of

summons-ease shall be followed except as hereinafter mentioned.

(2) No sentence of imprisonment for a term exceeding three

months shall be passed in the case of any conviction under this

Chapter.

263.

Record in summary trials.

263. Record in summary trials.In every case tried summarily, the

Magistrate shall enter, in such form as the State Government may

direct, the following particulars, namely : -

(a) the serial number of the case;

(b) the date of the commission of the offence;

(c) the date of the report or complaint ;

(d) the name of the complainant (if any);

(e) the name, parentage and residence of the accused;

(f)the offence complained of and the offence (if any) proved,

and in cases coming under clause (ii), clause (iii) or clause

(iv) of sub-section (1) of section 260, the value of the

property in respect of which the offence has been committed;

(g) the plea of the accused and his examination (if any);

(h) the finding;

(i) the sentence or other final order the date on which

proceedings terminated.

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264.

Judgement in cases tried summarily.

264. Judgement in cases tried summarily.In every case tried

summarily in which the accused does not plead guilty, the Magistrate

shall record the substance of the evidence and a judgment containing a

brief statement of the reasons for the finding.

265

Language of record and judgement.

265. Language of record and judgement.(1) Every such record and

judgment shall be written in the language of the Court.

(2) The High Court may authorise any Magistrate empowered to try

offences summarily to prepare the aforesaid record or judgment or both

by means of an officer appointed in this behalf by the Chief Judicial

Magistrate, and the record or judgment so prepared shall be signed by

such Magistrate.

CHAP

ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS.

CHAPTER XXII

ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

266.

Definitions.

266. Definitions. In this Chapter,-

(a) "detained" includes detained under any law providing

for preventive detention;

(b) "prison" includes,-

(i) any place which has been declared by the State

Government, by general or special order, to be a

subsidiary jail ;

(ii) any reformatory, Borstal institution or other

institution of a like nature.

267.

Power to require attendance of prisoners.

267. Power to require attendance of prisoners.(1) Whenever, in

the course of an inquiry, trial or other proceeding under this Code,

it appears to a Criminal Court,-

(a) that a person confined or detained in a prison should

be brought before the Court for answering to a charge of an

offence, or for the purpose of any proceedings against him,

or

(b) that it is necessary for the ends of justice to examine

such person as a witness,

the Court may make an order requiring the officer in charge of the

prison to produce such person before the Court for answering to the

charge or for the purpose of such proceeding or, as the case may be,

for giving evidence.

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(2) Where an order under sub-section (1) is made by a Magistrate

of the second class, it shall not be forwarded to, or acted upon by,

the officer in charge of the prison unless it is countersigned by the

Chief Judicial Magistrate to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section

(2) shall be accompanied by a statement of the facts which, in the

opinion of Magistrate, render the order necessary, and the Chief

Judicial Magistrate to whom it is submitted may, after considering

such statement, decline to countersign the order.

268.

Power of State Government to exclude certain persons from operation ofsection

267.

268. Power of State Government to exclude certain persons from

operation of section 267.(1) The State Government may, at any time,

having regard to the matters specified in sub-section (2), by general

or special order, direct that any person or class of persons shall not

be removed from the prison in which he or they may be confined or

detained, and thereupon, so long as the order remains in force, no

order made under section 267, whether before or after the order of the

State Government, shall have effect in respect of such person or class

of persons.

(2) Before making an order under sub-section (1), the State

Government shall have regard to the following matters, namely:-

(a) the nature of the offence for which, or the grounds on

which, the person or class of persons has been ordered to be

confined or detained in prison;

(b) the likelihood of the disturbance of public order if

the person or class of persons is allowed to be removed from

the prison;

(c) the public interest, generally.

269.

Officer in charge of prison to abstain from carrying out

certaincontingencies.

269. Officer in charge of prison to abstain from carrying out

certain contingencies. Where the person in respect of whom an order is

made under section 267-

(a) is by reason of sickness or infirmity Unfit to be

removed from the prison; or

(b) is under committal for trial or under remand pending

trial or pending a preliminary investigation; or

(c) is in custody for a period which would expire before

the expiration of the time required for complying with the

order and for taking him back to the prison in which he is

confined or detained ; or

(d) is a person to whom an order made by the State

Government under section 268 applies,

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the officer in charge of the prison shall abstain from carrying out

the Court's order and shall send to the Court a statement of reasons

for so abstaining :

Provided that where the attendance of such person is required for

giving evidence at a place not more than twenty-five kilometres

distant from the prison, the officer in charge of the prison shall not

so abstain for the reason mentioned in clause (b).

270.

Prisoner to be brought to Court in custody.

270. Prisoner to be brought to Court in custody. Subject to the

provisions of section 269, the officer in charge of the prison shall,

upon delivery of an order made under sub-section (1) of section 267

and duly countersigned, where necessary, under sub-section (2)

thereof, cause the person named in the order to be taken to the Court

in which his attendance is required, so as to be present there at the

time mentioned in the order, and shall cause him to be kept in custody

in or near the Court until he has been examined or until the Court

authorises him to be taken back to the prison in which he was confined

or detained.

271.

Power to issue commission for examination of witness in prison.

271. Power to issue commission for examination of witness in

prison.The provisions of this Chapter shall be without prejudice to

the power of the Court to issue, under section 284, a commission for

the examination, as a witness, of any person confined or detained in a

prison; and the provisions of Part B of Chapter XXIII shall apply in

relation to the examination on commission of any such person in the

prison as they apply in relation to the examination on commission of

any other person.

CHAP

EVIDENCE IN INQUIRIES AND TRIALS.

CHAPTER XXIII

EVIDENCE IN INQUIRIES AND TRIALS

A.-Mode of taking an recording evidence

272.

Language of Courts.

272. Language of Courts. The State Government may determine what

shall be, for purposes of this Code, the language of each Court within

the State other than the High Court.

273.

Evidence to be taken in presence of accused.

273. Evidence to be taken in presence of accused. Except as

otherwise expressly provided, all evidence taken in the course of the

trial or other proceeding shall be taken in the presence of the

accused, or, when his personal attendance is dispensed with, in the

presence of his pleader.

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Explanation.-In this section, "accused" includes a person in

relation to whom any proceeding under Chapter VIII has been commenced

under this Code.

274.

Record in summons-cases and inquiries.

274. Record in summons-cases and inquiries. (1) In all summonscases

tried before a Magistrate, in all inquiries under sections 145

to 148 (both inclusive), and in all proceedings under section 446

otherwise than in the course of a trial, the Magistrate shall, as the

examination of each witness proceeds, make a memorandum of the

substance of his evidence in the language of the Court :

Provided that if the Magistrate is unable to make such memorandum

himself, he shall, after recording the reason of his inability, cause

such memorandum to be made in writing or from his dictation in open

Court.

(2) Such memorandum shall be signed by the Magistrate and shall

form part of the record.

275.

Record in warrant-cases.

275. Record in warrant-cases. (1) In all warrant-cases tried

before a Magistrate, the evidence of each witness shall, as his

examination proceeds, be taken down in writing either by the

Magistrate himself or by his dictation in open Court or, where he is

unable to do so owing to a physical or other incapacity, under his

direction and superintendence, by an officer of the Court appointed by

him in this behalf.

(2) Where the Magistrate causes the evidence to be taken down,

he shall record a certificate that, the evidence could not be taken

down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of

a narrative; but the Magistrate may, in his discretion take down, or

cause to be taken down, any part of such evidence in the form of

question and answer.

(4) The evidence so taken down shall be signed by the Magistrate

and shall form part of the record.

276.

Record in trial before Court of Session.

276. Record in trial before Court of Session. (1) In all trials

before a Court of Session, the evidence of each witness shall, as his

examination proceeds, be taken down in writing either by the presiding

Judge himself or by his dictation in open Court or, under his

direction and superintendence, by an officer of the Court appointed by

him in this behalf.

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1\*[(2) Such evidence shall ordinarily be taken down in the form of

a narrative, but the presiding Judge may, in his discretion, take

down, or cause to be taken down, any part of such evidence in the form

of question and answer.]

(3) The evidence so taken down shall be signed by the presiding

Judge and shall form part of the record.

277.

Language of record of evidence.

277. Language of record of evidence.In every case where evidence

is taken down under section 275 or section 276,-

(a) if the witness gives evidence in the language of the

Court, it shall be taken down in that language;

(b) if he gives evidence in any other language, it may, if

practicable, be taken down in that language, and if it is not

practicable to do so, a true translation of the evidence in

the language of the Court shall be prepared as the

examination of the witness proceeds, signed by the Magistrate

or presiding Judge, and shall form part of the record ;

(c) where under clause (b) evidence is taken down in a

language other than the language of the Court, a true

translation thereof in the language of the Court shall be

prepared as soon as practicable, signed by the Magistrate or

presiding Judge, and shall form part of the record :

Provided that when under clause (b) evidence is taken down in

English and a translation thereof in the language of the Court is not

required by any of the parties, the Court may dispense with such

translation.

278.

Procedure in regard to such evidence when completed.

278. Procedure in regard to such evidence when completed. (1)

As the evidence of each witness taken under section 275 or section 276

is completed, it shall be read over to him in the presence of the

accused, if in attendance, or of his pleader, if he appears by

pleader, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the

evidence when the same is read over to him, the Magistrate or

presiding Judge may, instead of correcting the evidence, make a

memorandum thereon of the objection made to it by the witness and

shall add such remarks as he thinks necessary.

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1 Subs. by Act 45 of 1978, s. 20, for sub-section (2) (w.e.f. 18-12-

1978).

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(3) If the record of the evidence is in a language different

from that in which it has been given and the witness does not

understand that language, the record shall be interpreted to him in

the language in which it was given, or in a language which he

understands.

279.

Interpretation of evidence to accused or his pleader.

279. Interpretation of evidence to accused or his pleader.(1)

Whenever any evidence is given in a language not understood by the

accused, and he is present in Court in person, it shall be interpreted

to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a

language other than the language of the Court, and not understood by

the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put for the purpose of formal proof, it

shall be in the discretion of the Court to interpret as much thereof

as appears necessary.

280.

Remarks respecting demeanour of witness.

280. Remarks respecting demeanour of witness. When a presiding

Judge or Magistrate has recorded the evidence of a witness, he shall

also record such remarks (if any) as he thinks material respecting the

demeanour of such witness whilst under examination.

281.

Record of examination of accused.

281. Record of examination of accused. (1) Whenever the accused

is examined by a Metropolitan Magistrate, the Magistrate shall make a

memorandum of the substance of the examination of the accused in the

language of the Court and such memorandum shall be signed by the

Magistrate and shall form part of the record.

(2) Whenever the accused is examined by any Magistrate other

than a Metropolitan Magistrate, or by a Court of Session, the whole of

such examination, including every question put to him and every answer

given by him, shall be recorded in full by the presiding Judge or

Magistrate himself or where he is unable to do so owing to a physical

or other incapacity, under his direction and superintendence by an

officer of the Court appointed by him in this behalf.

(3) The record shall, if practicable, be in the language in

which the accused is examined or, if that is not practicable, in the

language of the Court.

(4) The record shall be shown or read to the accused, or, if he

does not understand the language in which it is written, shall be

interpreted

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to him in a language which he understands, and he shall be at liberty

to explain or add to his answers.

(5) It shall thereafter be signed by the accused and by the

Magistrate or presiding Judge, who shall certify under his own hand

that the examination was taken in his presence and hearing and that

the record contains a full and true account of the statement made by

the accused.

(6) Nothing in this section shall be deemed to apply to the

examination of an accused person in the course of a summary trial.

282.

Interpreter to be bound to interpret truthfully.

282. Interpreter to be bound to interpret truthfully. When the

services of an interpreter are required by any Criminal Court for the

interpretation of any evidence or statement, he shall be bound to

state the true interpretation of such evidence or statement.

283.

Record in High Court.

283. Record in High Court. Every High Court may, by general rule,

prescribe the manner in which the evidence of witnesses and the

examination of the accused shall be taken down in cases coming before

it ; and such evidence and examination shall be taken down in

accordance with such rule,

B.-Commissions for the examination of witnesses

284.

When attendance of witness may be dispensed with and commissionissued.

284. When attendance of witness may be dispensed with and

commission issued.(1) Whenever, in the course of any inquiry, trial or

other proceeding under this Code, it appears to a Court or Magistrate

that the examination of a witness is necessary for the ends of

justice, and that the attendance of such witness cannot be procured

without an amount of delay, expense or inconvenience which, under the

circumstances of the case, would be unreasonable, the Court or

Magistrate may dispense with such attendance and may issue a

commission for the examination of the witness in accordance with the

provisions of this Chapter:

Provided that where the examination of the President or the

Vice-President of India or the Governor of a State or the

Administrator of a Union territory as a witness is necessary for the

ends of justice, a commission shall be issued for the examination of

such a witness.

(2) The Court may, when issuing a commission for the examination

of a witness for the prosecution, direct that such amount as the Court

considers reasonable to meet the expenses of the accused, including

the pleader's fees, be paid by the prosecution.

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285.

Commission to whom to be issued.

285. Commission to whom to be issued. (1) If the witness is

within the territories to which this Code extends, the commission

shall be directed to the Chief Metropolitan Magistrate or Chief

Judicial Magistrate, as the case may be, within whose local

jurisdiction the witness is to be found.

(2) If the witness is in India, but in a State or an area to

which this Code does not extend, the commission shall be directed to

such Court or officer as the Central Government may, by notification,

specify in this behalf.

(3) If the witness is in a country or place outside India and

arrangements have been made by the Central Government with the

Government of such country or place for taking the evidence of

witnesses in relation to criminal matters, the commission shall be

issued in such form, directed to such Court or officer, and sent to

such authority for transmission, as the Central Government may, by

notification, prescribe in this behalf.

286.

Execution of commissions.

286. Execution of commissions. Upon receipt of the commission,

the Chief Metropolitan Magistrate or Chief Judicial Magistrate, or

such Metropolitan or Judicial Magistrate as he may appoint in this

behalf, shall summon the witness before him or proceed to the place

where the witness is, and shall take down his evidence in the same

manner, and may for this purpose exercise the same powers, as in

trials of warrant-cases under this Code.

287.

Parties may examine witnesses.

287. Parties may examine witnesses. (1) The parties to any

proceeding under this Code in which a commission is issued may

respectively forward any interrogatories in writing which the Court

or Magistrate directing the commission may think relevant to the

issue, and it shall be lawful for the Magistrate, Court or officer to

whom the commission is directed, or to whom the duty of executing it

is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate, Court or

officer by pleader, or if not in custody, in person, and may examine,

cross-examine and re-examine (as the case may be) the said witness.

288.

Return of commission.

288. Return of commission. (1) After any commission issued under

section 284 has been duly executed, it shall be returned, together

with the deposition of the witness examined thereunder, to the Court

or Magistrate issuing the commission ; and the commission, the return

thereto and the deposition shall be opened at all reasonable times to

inspection of the parties, and

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may, subject to all just exceptions, be read in evidence in the case

by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions

prescribed by section 33 of the Indian Evidence Act, 1872 (1 of 1872),

may also be received in evidence at any subsequent stage of the case

before another Court.

289.

Adjournment of proceeding.

289. Adjournment of proceeding. In every case in which a

commission is issued under section 284, the inquiry, trial or other

proceeding may be adjourned for a specified time reasonably sufficient

for the execution and return of the commission.

290.

Execution of foreign commissions.

290. Execution of foreign commissions. (1) The provisions of

section 286 and so much of section 287 and section 288 as relate to

the execution of a commission and its return shall apply in respect of

commissions issued by any of the Courts, Judges or Magistrates

hereinafter mentioned as they apply to commissions issued under

section 284.

(2) The Courts, Judges and Magistrates referred to in subsection

(1) are-

(a) any such Court, Judge or Magistrate exercising

jurisdiction within an area in India to which this Code does

not extend, as the Central Government may, by notification,

specify in this behalf;

(b) any Court, Judge or Magistrate exercising jurisdiction

in any such country or place outside India, as the Central

Government may, by notification, specify in this behalf, and

having authority, under the law in force in that country or

place. to issue commissions for the examination of witnesses

in relation to criminal matters.

291.

Deposition of medical witness.

291. Deposition of medical witness. (1) The deposition of a

civil surgeon or other medical witness, taken and attested by a

Magistrate in the presence of the accused, or taken on commission

under this Chapter, may be given in evidence in any inquiry, trial or

other proceeding under this Code, although the deponent is not called

as a witness.

(2) The Court may, if it thinks fit, and shall, on the

application of the prosecution or the accused, summon and examine any

such deponent as to the subject-matter of his deposition.

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292.

Evidence of officers of the Mint.

292. Evidence of officers of the Mint. (1) Any document

purporting to be a report under the hand of any such gazetted officer

of the Mint or of the India Security Press (including the office of

the Controller of Stamps and Stationery) as the Central Government

may, by notification, specify in this behalf, upon any matter or thing

duly submitted to him for examination and report in the course of any

proceeding under this Code, may be used as evidence in any inquiry,

trial or other proceeding under this Code, although such officer is

not called as a witness.

(2) The Court may, if it thinks fit, summon and examine any such

officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any

records on which the report is based.

(3) Without prejudice to the provisions of sections 123 and 124

of the Indian Evidence Act, 1872 (1 of 1872), no such officer shall,

except with the permission of the Master of the Mint or the India

Security Press or the Controller of Stamps and Stationery, as the case

may be, be permitted-

(a) to give any evidence derived from any unpublished

official records on which the report is based ; or

(b) to disclose the nature or particulars of any test

applied by him in the course of the examination of the matter

or thing.

293.

Reports of certain Government scientific experts.

293. Reports of certain Government scientific experts. (1) Any

document purporting to be a report under the hand of a Government

scientific expert to whom this section applies, upon any matter or

thing duly submitted to him for examination or analysis and report in

the course of any proceeding under this Code, may be used as evidence

in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, summon and examine any such

expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court and he is

unable to attend personally, he may, unless the Court has expressly

directed him to appear personally, depute any responsible officer

working with him to attend the Court, if such officer is conversant

with the facts of the case and can satisfactorily depose in Court on

his behalf.

(4) This section applies to the following Government scientific

experts, namely:-

(a) any Chemical Examiner or Assistant Chemical Examiner to

Government;

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(b) the Chief Inspector of-Explosives;

(c) the Director of the Finger Print Bureau;

(d) the Director, Haffkeine Institute, Bombay;

(e) the Director 1\*[,Deputy Director or Assistant Director]

of a Central Forensic Science Laboratory or a State Forensic

Science Laboratory ;

(f) the Serologist to the Government.

294.

No formal proof of certain documents.

294. No formal proof of certain documents.(1) Where any

document is filed before any Court by the prosecution or the accused,

the particulars of every such document shall be included in a list and

the prosecution or the accused, as the case may be, or the pleader for

the prosecution or the accused, if any, shall be called upon to admit

or deny the genuineness of each such document.

(2) The list of documents shall be in such form as may be

prescribed by the State Government.

(3) Where the genuineness of any document is not disputed, such

document may be read in evidence in any inquiry, trial or other

proceeding under this Code without proof of the signature of the

person to whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature

to be proved.

295.

Affidavit in proof of conduct of public servants.

295. Affidavit in proof of conduct of public servants. When any

application is made to any Court in the course of any inquiry, trial

or other proceeding under this Code, and allegations are made therein

respecting any public servant, the applicant may give evidence of the

facts alleged in the application by affidavit, and the Court may, if

it thinks fit, order that evidence relating to such facts be so given.

296.

Evidence of formal character on affidavit.

296. Evidence of formal character on affidavit. (1) The evidence

of any person whose evidence is of a formal character may be given by

affidavit and may, subject to all just exceptions, be read in

evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, and shall, on the

application of the prosecution or the accused, summon and examine any

such person as to the facts contained in his affidavit.

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1\* Ins. by Act 45 of 1978, s. 21 (w.e.f. 18-12-1980).

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297.

Authorities before whom affidavits may be sworn.

297. Authorities before whom affidavits may be sworn. (1)

Affidavits to be used before any Court under this Code may be sworn or

affirmed before-

1[(a) any Judge or any Judicial or Executive Magistrate, or]

(b) any Commissioner of Oaths appointed by a High Court or

Court of Session, or

(c) any notary appointed under the Notaries Act, 1952 (53

of 1952).

(2) Affidavits shall be confined to, and shall state separately,

such facts as the deponent is able to prove from his own knowledge and

such facts as he has reasonable ground to believe to be true, and in

the latter case, the deponent shall clearly state the grounds of such

belief.

(3) The Court may order any scandalous and irrelevant matter in

the affidavit to be struck out or amended.

298.

Previous conviction or acquittal how proved.

298. Previous conviction or acquittal how proved. In any

inquiry, trial or other proceeding under this Code, a previous

conviction or acquittal may be proved, in addition to any other mode

provided by any law for the time being in force,-

(a) by an extract certified under the hand of the Officer

having the custody of the records of the Court in which such

conviction or acquittal was held, to be a copy of the

sentence or order,or

(b) in case of a conviction, either by a certificate signed

by the officer in charge of the jail in which the punishment

or any part thereof was undergone, or by production of the

warrant of commitment under which the punishment was

suffered,

together with, in each of such cases, evidence as to the identity of

the accused person with the person so convicted or acquitted.

299.

Record of evidence in absence of accused.

299. Record of evidence in absence of accused. (1) If it is

proved that an accused person has absconded, and that there is no

immediate prospect of arresting him, the Court competent to try 2\*[,or

commit for trial] such person for the offence complained of may, in

his absence, examine the witnesses (if any) produced on behalf of the

prosecution, and record their depositions and any such deposition may,

on the arrest of such person, be given in evidence against him on the

inquiry into, or trial for, the offence with which he is charged, if

the deponent is dead or incapable of giving evidence or cannot be

found or

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1\* Subs. by Act 45 of 1978, s. 22, for cl. (a) (w.e.f. 18-12-1978),

2\* Ins. by s. 23, ibid. (w.e.f. 18-12-1978).

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his presence cannot be procured without an amount of -delay, expense

or inconvenience which, under the circumstances of the case, would be

unreasonable.

(2) If it appears that an offence punishable with death or

imprisonment for life has been committed by some person or persons

unknown, the High Court or the Sessions Judge may direct that any

Magistrate of the first class shall hold an inquiry and examine any

witnesses who can give evidence concerning the offence and any

depositions so taken may be given in evidence against any person who

is subsequently accused of the offence, if the deponent is dead or

incapable of giving evidence or beyond the limits of India.

CHAP

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

300.

Person once convicted or acquitted not to be tried for same offence.

300. Person once convicted or acquitted not to be tried for same

offence.(1) A person who has once been tried by a Court of competent

jurisdiction for an offence and convicted or acquitted of such offence

shall, while such conviction or acquittal remains in force,not be

liable to be tried again for the same offence, nor on the same facts

for any other offence for which a different charge from the one made

against him might have been made under sub-section (1) of section 221,

or for which he might have been convicted under sub-section (2)

thereof.

(2) A person acquitted or convicted of any offence may be

afterwards tried, with the consent of the State Government, for any

distinct offence for which a separate charge might have been made

against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act

causing consequences which, together with such act, constituted a

different offence from that of which he was convicted, may be

afterwards tried for such last-mentioned offence, if the consequences

had not happened, or were not known to the Court to have happened, at

the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted

by any acts may, notwithstanding such acquittal or conviction, be

subsequently charged with, and tried for, any other offence

constituted by the same acts which he may have committed if the Court

by which he was first

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tried was not competent to try the offence with which he is

subsequently charged.

(5) A person discharged under section 258 shall not be tried

again for the same offence except with the consent of the Court by

which he was discharged or of any other Court to which the firstmentioned

Court is subordinate.

(6) Nothing in this section shall affect the provisions of

section 26 of the General Clauses Act, 1897,(10 of 1897) or of section

188 of this Code.

Explanation.-The dismissal of a complaint, or the discharge of

the accused, is not an acquittal for the purposes of this section.

Illustrations

(a) A is tried upon a charge of theft as a servant and

acquitted. He cannot afterwards, while the acquittal remains in

force, be charged with theft as a servant, or, upon the same facts,

with theft simply, or with criminal breach of trust.

(b) A is tried for causing grievous hurt and convicted. The

person injured afterwards dies. A may be tried again for culpable

homicide.

(c) A is charged before the Court of Session and convicted of

the culpable homicide of B. A may not afterwards be tried on the same

facts for the murder of B.

(d) A is charged by a Magistrate of the first class with, and

convicted by him of, voluntarily causing hurt to B. A may not

afterwards be tried for voluntarily causing grievous hurt to B on the

same facts, unless the cage comes within sub-section (3) of this

section.

(e) A is charged by a Magistrate of the second class with, and

convicted by him of, theft of property from the person of B. A may

subsequently be charged with, and tried for, robbery on the same

facts.

(f) A, B and C are charged by a Magistrate of the first class

with, and convicted by him of, robbing D. A, B and C may afterwards be

charged with, and tried for, dacoity on the same facts.

301.

Appearance by Public Prosecutors.

301. Appearance by Public Prosecutors. (1) The Public Prosecutor

or Assistant Public Prosecutor in charge of a case may appear and

plead without any written authority before any Court in which that

case is under inquiry, trial or appeal.

(2) If in any such case, any private person instructs a pleader

to prosecute any person in any Court, the Public Prosecutor or

Assistant Public Prosecutor in charge of the case shall conduct the

prosecution, and the pleader so instructed shall act therein under the

directions of the Public Prosecutor or Assistant Public Prosecutor,

and may, with the permission of the Court, submit written arguments

after the evidence is closed in the case.

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302.

Permission to conduct prosecution.

302. Permission to conduct prosecution. (1) Any Magistrate

inquiring into or trying a case may permit the prosecution to be

conducted by any person other than a police officer below the rank of

Inspector; but no person, other than the Advocate General or

Government Advocate or a Public Prosecutor or Assistant Public

Prosecutor, shall be entitled to do so without such permission :

Provided that no police officer shall be permitted to conduct the

prosecution if he has taken part in the investigation into the offence

with respect to which the accused is being prosecuted.

(2)Any person conducting the prosecution may do so personally or

by a pleader.

303.

Right of person against whom proceedings are instituted to bedefended.

303. Right of person against whom proceedings are instituted to

be defended. Any person accused of an offence before a Criminal Court,

or against whom proceedings are instituted under this Code, may of

right be defended by a pleader of his choice.

304.

Legal aid to accused at State expense in certain cases.

304. Legal aid to accused at State expense in certain cases.(1)

Where, in a trial before the Court of Session, the accused is not

represented by a pleader, and where it appears to the Court that the

accused has not sufficient means to engage a pleader, the Court shall

assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State

Government, make rules providing for-

(a) the mode of selecting pleaders for defence under subsection

(1);

(b) the facilities to be allowed to such pleaders by the

Courts;

(c) the fees payable to such pleaders by the Government,

and generally, for carrying out the purposes of sub-section

(1).

(3) The State Government may, by notification, direct that, as

from such date as may be specified in the notification, the provisions

of sub-sections (1) and (2) shall apply in relation to any class of

trials before other Courts in the State as they apply in relation to

trials before Courts of Session.

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305.

Procedure when corporation or registered society is an accused.

305. Procedure when corporation or registered society is an

accused. Right of person against whom proceedings are instituted to

be defended.(1) In this section, "corporation" means an incorporated

company or other body corporate, and includes a society registered

under the Societies Registration Act, 1860 (21 of 1860).

(2) Where a corporation is the accused person or one of the

accused persons in an inquiry or trial, it may appoint a

representative for the purpose of the inquiry or trial and such

appointment need not be under the seal of the corporation.

(3) Where a representative of a corporation appears, any

requirement of this Code that anything shall be done in the presence

of the accused or shall be read or stated or explained to the accused,

shall be construed as a requirement that that thing shall be done in

the presence of the representative or read or stated or explained to

the representative, and any requirement that the accused shall be

examined shall be construed as a requirement that the representative

shall be examined.

(4) Where a representative of a corporation does not appear, any

such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the

managing director of the corporation or by any person (by whatever

name called) having, or being one of the persons having the management

of the affairs of the corporation to the effect that the person named

in the statement has been appointed as the representative of the

corporation for the purposes of this section, is filed, the Court

shall, unless the contrary is proved, presume that such person has

been so appointed.

(6) If a question arises as to whether any person, appearing as

the representative of a corporation in an inquiry or trial before a

Court is or is not such representative, the question shall be

determined by the Court.

306.

Tender of pardon to accomplice.

306. Tender of pardon to accomplice. (1) With a view to obtaining

the evidence of any person supposed to have been directly or

indirectly concerned in or privy to an offence to which this section

applies, the Chief Judicial Magistrate or a Metropolitan Magistrate at

any stage of the investigation or inquiry into, or the trial of, the

offence, and the Magistrate of the first class inquiring into or

trying the offence, at any stage of the inquiry or trial, may tender a

pardon to such person on condition of his making a full and true disclosure

of the whole of the circumstances within his knowledge

relative to the offence and to every other person concerned, whether

as principal or abettor, in the commission thereof.

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(2) This section applies to-

(a) any offence triable exclusively by the Court of Session

or by the Court of a Special Judge appointed under the

Criminal Law Amendment Act, 1952 (46 of 1952);

(b) any offence punishable with imprisonment which may

extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1)

shall record-

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the

person to whom it was made,

and shall, on application made by the accused, furnish him with a copy

of such record free of cost.

(4) Every person accepting a tender of pardon made under subsection

(1) -

(a) shall be examined as a witness in the Court of the

Magistrate taking cognizance of the offence and in the

subsequent trial, if any ;

(b) shall, unless he is already on bail, be detained in

custody until the termination of the trial.

(5) Where a person has, accepted a tender of pardon made under

sub-section (1) and has been examined under sub-section (4), the

Magistrate taking cognizance of the offence shall, without making any

further inquiry in the case,-

(a) commit it for trial-

(i) to the Court of Session if the, offence is triable

exclusively by that Court or if the Magistrate taking

cognizance is the Chief Judicial Magistrate;

(ii) to a Court of Special Judge appointed under the

Criminal Law Amendment Act, 1952 (46 of 1952), if the

offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief

Judicial Magistrate who shall try the case himself.

307.

Power to direct tender of pardon.

307. Power to direct tender of pardon. At any time after

commitment of a case but before judgment is passed, the Court to which

the commitment is made may, with a view

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to obtaining at the trial the evidence of any person supposed to have

been directly or indirectly concerned in, or privy to, any such

offence, tender a pardon on the same condition to such person.

308.

Trial of person not complying with conditions of pardon.

308. Trial of person not complying with conditions of pardon. (1)

Where, in regard to a person who has accepted a tender of pardon made

under section 306 or section 307, the Public Prosecutor certifies

that in his opinion such person has, either by wilfully concealing

anything essential or by giving false evidence, not complied with the

condition on which the tender was made, such person may be tried for

the offence in respect of which the pardon was so tendered or for any

other offence of which he appears to have been guilty in connection

with the same matter, and also for the offence of giving false

evidence:

Provided that such person shall not be tried jointly with any of

the other accused :

Provided further that such person shall not be tried for the

offence of giving false evidence except with the sanction of the High

Court, and nothing contained in section 195 or section 340 shall

apply to that offence.

(2) Any statement made by such person accepting the tender of

pardon and recorded by a Magistrate under section 164 or by a Court

under sub-section (4) of section 306 may be given in evidence against

him at such trial.

(3) At such trial, the accused shall be entitled to plead that

he has complied with the condition upon which such tender was made; in

which case it shall be for the prosecution to prove that the condition

has no been complied with.

(4) At such trial, the Court shall-

(a) if it is a Court of Session, before the charge is read

out an explained to the accused;

(b) if it is the Court of a Magistrate, before the evidence

of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the

conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the

plea an proceed with the trial and it shall, before passing judgment

in the case, find whether or not the accused has complied with the

conditions of the pardon, and, if it finds that he has so complied, it

shall, notwithstanding anything contained in this Code, pass judgment

of acquittal.

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309.

Power to postpone or adjourn proceedings.

309. Power to postpone or adjourn proceedings. (1) In every

inquiry or trial, the proceedings shall be held as expeditiously as

possible, and in particular, when the examination of witnesses has

once begun, the same shall be continued from day to day until all the

witnesses in attendance have been examined, unless the Court finds the

adjournment of the same beyond the following day to be necessary for

reasons to be recorded.

(2) If the Court, after taking cognizance of an offence, or

commencement of trial, finds it necessary or advisable to postpone the

commencement of, or adjourn, any inquiry or trial, it may, from time

to time, for reasons to be recorded, postpone or adjourn the same on

such terms as it thinks fit, for such time as it considers reasonable,

and may by a warrant remand the accused if in custody :

Provided that no Magistrate shall remand an accused person to

custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no

adjournment or postponement shall be granted, without examining them,

except for special reasons to be recorded in writing:

1\*[Provided also that no adjournment shall be granted for the

purpose only of enabling the accused person to show cause against the

sentence proposed to be imposed on him.]

Explanation 1.-If sufficient evidence has been obtained to raise

a suspicion that the accused may have committed an offence, and it

appears likely that further evidence may be obtained by a remand, this

is a reasonable cause for a remand.

Explanation 2.-The terms on which an adjournment or postponement

may be granted include, in appropriate cases, the payment of costs by

the prosecution or the accused.

310.

Local inspection.

310. Local inspection. (1) Any Judge or Magistrate may, at any

stage of any inquiry, trial or other proceeding, after due notice to

the parties, visit and inspect any place in which an offence is

alleged to have been committed, or any other place which it is in his

opinion necessary to view for the purpose of properly appreciating the

evidence given at such inquiry or trial, and shall without unnecessary

delay record a memorandum of any relevant facts observed at such

inspection.

(2) Such memorandum shall form part of the record of the case

and if the prosecutor, complainant or accused or any other party to

the case,

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1 Ins. by Act 45 of 1978, s. 24 (w.e.f. 18-12-1978).

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so desires, a copy of the memorandum shall be furnished to him free of

cost.

311.

Power to summon material witness, or examine person present.

311. Power to summon material witness, or examine person

present. Any Court may, at any stage of any inquiry, trial or other

proceeding under this Code, summon any person as a witness, or examine

any person in attendance, though not summoned as a witness, or. recall

and re-examine any person already examined; and the Court shall summon

and examine or recall and re-examine any such person if his evidence

appears to it to be essential to the just decision of the case.

312.

Expenses of complaints and witnesses.

312. Expenses of complaints and witnesses. Subject to any rules

made by the State Government, any Criminal Court may, if it thinks

fit, order payment, on the part of Government, of the reasonable

expenses of any complainant or witness attending for the purposes of

any inquiry, trial or other proceeding before such Court under this

Code.

313.

Power to examine the accused.

313. Power to examine the accused. (1) In every inquiry or trial,

for the purpose of enabling the accused personally to explain any

circumstances appearing in the evidence against him, the Court-

(a) may at any stage, without previously warning the

accused, put such questions to him as the Court considers

necessary ;

(b) shall, after the witnesses for the prosecution have

been examined and before he is called on for his defence,

question him generally on the case :

Provided that in a summons-case, where the Court has dispensed

with the personal attendance of the accused, it may also dispense with

his examination under clause (b).

(2) No oath shall be administered to the accused when he is

examined under sub-section (1).

(3) The accused shall not render himself liable to punishment

by refusing to answer such questions, or by giving false answers to

them.

(4) The answers given by the accused may be taken into

consideration in such inquiry or trial, and put in evidence for or

against him in any other inquiry into, or trial for, any other

offence which such answers may tend to show he has committed.

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314.

Oral arguments and memorandum of arguments.

314. Oral arguments and memorandum of arguments. (1) Any party

to a proceeding may, as soon as may be, after the close of his

evidence, address concise oral arguments, and may, before he concludes

the oral arguments, if any, submit a memorandum to the Court setting

forth concisely and under distinct headings, the arguments in support

of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished

to the opposite party.

(3) No adjournment of the proceedings shall be granted for the

purpose of filing the written arguments unless the Court, for reasons

to be recorded in writing, considers it necessary to grant such

adjournment.

(4) The Court may, if it is of opinion that the oral arguments

are not concise or relevant, regulate such arguments.

315.

Accused person to be competent witness.

315. Accused person to be competent witness. (1) Any person

accused of an offence before a Criminal Court shall be a competent

witness for the defence and may give evidence on oath in disproof of

the charges made against him or any person charged together with him

at the same trial:

Provided that-

(a) he shall not be called as a witness except on his own

request in writing;

(b) his failure to give evidence shall not be made the

subject of any comment by any of the parties or the Court or

give rise to any presumption against himself or any person

charged together with him at the same trial.

(2) Any person against whom proceedings are instituted in any

Criminal Court under section 98, or section 107, or section 108, or

section 109, or section 110, or under Chapter IX or under Part B, Part

C or Part D of Chapter X, may offer himself as a witness in such

proceedings:

Provided that in proceedings under section 108, section 109 or

section 110, the failure of such person to give evidence shall not be

made the subject or any comment by any of the parties or the Court or

give rise to any presumption against him or any other person proceeded

against together with him at the same inquiry.

316.

No influence to be used to induce disclosure.

316. No influence to be used to induce disclosure. Except as

provided in sections 306 and 307, no influence, by means of any

promise or threat or otherwise, shall be used to an accused

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person to induce him to disclose or withhold any matter within his

knowledge.

317.

Provision for inquiries and trial being held in the absence ofaccused

in certain cases.

317. Provision for inquiries and trial being held in the

absence of accused in certain cases.(1) At any stage of an inquiry or

trial under this Code, if the Judge or Magistrate is satisfied, for

reasons to be recorded, that the personal attendance of the accused

before the Court is not necessary in the interests of justice, or that

the accused persistently disturbs the proceedings in Court, the Judge

or Magistrate may, if the accused is represented by a pleader,

dispense with his attendance and proceed with such inquiry or trial in

his absence, and may, at any subsequent stage of the proceedings,

direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a

pleader, or if the Judge or Magistrate considers his personal

attendance necessary, he may, if he thinks fit and for reasons to be

recorded by him, either adjourn such inquiry or trial, or order that

the case of such accused be taken up or tried separately.

318.

Procedure where accused does not understand proceedings.

318. Procedure where accused does not understand proceedings. If

the accused, though not of unsound mind, cannot be made to understand

the proceedings, the Court may proceed with the inquiry or trial ;

and, in the case of a Court other than a High Court, if such proceedings

result in a conviction, the proceedings shall be forwarded to the

High Court with a report of the circumstances of the case, and the

High Court shall pass thereon such order as it thinks fit.

319.

Power to proceed against other persons appearing to be guilty ofoffence.

319. Power to proceed against other persons appearing to be

guilty of offence.(1) Where, in the course of any inquiry into, or

trial of, an offence, it appears from the evidence that any person not

being the accused has committed any offence for which such person

could be tried together with the accused, the Court may proceed

against such person for the offence which he appears to have

committed.

(2) Where such person is not attending the Court, he may be

arrested or summoned, as the circumstances of the case may require,

for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or

upon a summons, may be detained by such Court for the purpose of

the inquiry into, or trial of, the offence which he appears to have

committed.

(4) Where the Court proceeds against any person under subsection

(1), then-

(a) the proceedings in respect of such person shall be

commenced a fresh, and the witnesses re-heard;

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(b) subject to the provisions of clause (a), the case may

proceed as if such person had been an accused person when the

Court took cognizance of the offence upon which the inquiry

or trial was commenced.

320.

Compounding of offences.

320. Compounding of offences. (1) The offences punishable under

the sections of the Indian Penal Code specified in the first two

columns of the Table next following may be compounded by the persons

mentioned in the third column of that Table:-

TABLE

---------------------------------------------------------------------

Section of

the Indian

Offence Penal Code Person by whom offence

applicable may be compounded

---------------------------------------------------------------------

1 2 3

---------------------------------------------------------------------

Uttering words, etc., with 298 The person whose relideliberate

intent to wound gious feelings are inthe

religious feelings of tended to be compounany

person. ded.

Causing hurt------------- 323, 334 The person to whom the

hurt is caused.

Wrongfully restraining or 341, 342 The person restrained or

confining any person. confined.

Assault or use of criminal 352, 355, 358 The person assaulted or

force. to whom criminal force is

used.

Mischief, when the only loss 426, 427 The person to whom the

or damage caused is loss or loss or damage is caused.

damage to a private person.

Criminal trespass------------- 447 The person in possession

of the property trespassed

upon.

House-trespass----------- 448 Ditto.

Criminal breach of contract 491 The person with whom the

of service. offender has contracted.

Adultery---------------- 497 The husband of the woman.

Enticing or taking away or 498 Ditto.

detaining with criminal intent

a married woman.

1\*[Defamation, except such 500 The person defamed.

cases as are specified against

section 500 of the Indian

Penal Code in column 1 of

the Table under sub-section

(2).]

Printing or engraving matter, 501 Ditto.

knowing it to be defamatory.

Sale of printed or engraved 502 Ditto.

substance containing defamatory

matter, knowing it

to contain such matter.

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1\* Subs. by Act 45 of 1978, s. 25, for "defamation" (w. e. f. 18-

12-1978).

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Section of

the Indian

Offence Penal Code Person by whom offence

applicable may be compounded

---------------------------------------------------------------------

1 2 3

---------------------------------------------------------------------

Insult intended to provoke 504 The person insulted.

a breach of the peace.

Criminal intimidation except 506 The person intimidated.

when the offence is punishable

with imprisonment for

seven years.

Act caused by making a person 508 The person against whom

believe that he will be an the offence was commiobject

of divine displeasure. tted.

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(2)The offences punishable under the sections of the Indian Penal

(45 of 1860) Code specified in the first two columns of the Table next

following may, with the permission of the Court before which any

prosecution for such offence is pending, be compounded by the persons

mentioned in the third column of that Table:

TABLE

---------------------------------------------------------------------

Section of

the Indian

Offence Penal Code Person by whom offence

applicable may be compounded

---------------------------------------------------------------------

1 2 3

---------------------------------------------------------------------

Voluntarily causing hurt by 324 The person to whom hurt

dangerous weapons or means. is caused.

Voluntarily causing grievous 325 Ditto.

hurt.

Voluntarily causing grievous 335 Ditto.

hurt on grave and sudden

provocation.

Causing hurt by doing an act 337 Ditto,

so rashly and negligently as

to endanger human life or the

personal safety of others.

Causing grievous hurt by 338 Ditto.

doing an act so rashly and

negligently as to endanger

human life or the personal

safety of others.

Wrongfully confining a person 343 The person confined.

for three days or more.

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Section of

the Indian

Offence Penal Code Person by whom offence

applicable may be compounded

---------------------------------------------------------------------

1 2 3

---------------------------------------------------------------------

Wrongfully confining for ten 344 The person confined.

or more days.

Wrongfully confining a person 346 Ditto.

in secret.

Assault or criminal force to 354 The woman assulted to

woman with intent to outrage whom the criminal force

her modesty. was used.

Assault or criminal force in 357 The person assaulted or

attempting wrongfully to con- to whom the force was

fine a person. used.

Theft, where the value of 379 The owner of the proproperty

stolen does not perty stolen.

exceed two hundred and

fifty rupees.

Theft, by clerk or servant 381 Ditto.

of property in possession

of master, where the value

of the property stolen does

not exceed two hundred and

fifty rupees.

Dishonest misappropriation 403 The owner of the property

of property misappropriated.

Criminal breach of trust, 406 The owner of the property

where the value of the pro- in respect of which the

perty does not exceed two breach of trust has been

hundred and a fifty rupees. committed.

Criminal breach of trust, 407 Ditto.

by a carrier, wharfinger,

etc., where the value of

the property does not exceed

two hundred and afifty

rupees.

Criminal breach of trust by 408 Ditto.

a clerk or servant, where

the value of the property

does not exceed two hundred

and fifty rupees.

Dishonestly, receiving 411 The owner of the property

stolen property, knowing stolen.

it to be stolen, when the

value of the stolen property

does not exceed two

hundred and fifty rupees.

Assuming in the concealment 414 Ditto.

or disposal of stolen property,

knowing it to be stolen,

where the value of the stolen

property does not exceed two

hundred and fifty rupees.

Cheating. --------- 417 The person cheated.

Cheating a person whose in- 418 Ditto.

terest the offender was bound,

either by law or by legal

contract, to protect.

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Section of

the Indian

Offence Penal Code Person by whom offence

applicable may be compounded

---------------------------------------------------------------------

1 2 3

---------------------------------------------------------------------

Cheating by personation 419 The person cheated.

Cheating and dishonestly in- 420 Ditto.

ducing delivery of property

or the making alternation

or distruction of a valuable

security.

Fraudulent removal over 421 The creditors who are

concealment of property, affected thereby.

etc., to prevent distribution

among creditors.

Fraudulently preventing from 422 Ditto.

being made available for his

creditors a debt or demand

due to the offender.

Fraudulent execution of deed 423 The person affacted

of transfer containing false thereby.

statement of consideration.

Fraudulent removal or con- 424 Ditto.

cealment of property.

Mischief by killing or mai- 428 The owner of the animal.

ming animal of the value of

ten rupees or upwards.

Mischief by killing or mai- 429 The owner of the cattle

ming cattle, etc., of any or animal.

value or any other animal

of the value of fifty rupees

or upwards.

Mischief by injury to work of 430 The person to whom the

irrigation by wrongfuly diver- the loss or damage is

ting water when the only loss caused.

or damage caused is loss or

damage to a private person.

House-trespass to commit an 451 The person in possession

offence (other than theft) of the house trespassed

punishable with imprisonment. upon.

Using a false trade or pro- 482 The person to whom loss

perty mark or injury is caused by

such use.

Counterfeiting a trade or 483 The person whose trade or

property mark used by anot- property mark is counterher.

feited.

Knowingly selling, or expo- 486 Ditto.

sing or possessing for sale

or for manufacturing purpose,

goods marked with a counterfeit

property mark.

Marrying again during the 494 The husband or wife of

lifetime of a husband or wife. the person so marrying.

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956

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Section of

the Indian

Offence Penal Code Person by whom offence

applicable may be compounded

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1 2 3

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Defamation against the Presi- 500 The person defamed.

dent or the Vice-President

or the Governor of a State

or the Administrator of a

Union territory or a

Minister in respect of his

conduct in the discharge of

his public functions when

instituted upon a complaint

made by the Public Prosecutor.

Uttering words or sounds or 509 The woman whom it was

making gestures or exhibiting intended to insult or

any object intending to insult whose privacy was intruthe

modesty of a woman or in- ded upon.

truding upon the privacy of

a woman.

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(3) When any offence is compoundable under this section, the

abetment of such offence or an attempt to commit such offence (when

such attempt is itself an offence) may be compounded in like manner.

(4) (a) When the person who would otherwise be competent to compound

an offence under this section is under the age of eighteen years

or is an idiot or a lunatic, any person competent to contract on his

behalf may, with the permission of the Court, compound such offence.

(b) When the person who would otherwise be competent to compound

an offence under this section is dead, the legal representative, as

defined in the Code of Civil Procedure, 1908 (5 of 1908), of such

person may, with the consent of the Court, compound such offence.

(5) When the accused has been committed for trial or when he has

been convicted and an appeal is pending, no composition for the

offence shall be allowed without the leave of the Court to which he is

committed, or, as the case may be, before which the appeal is to be

heard.

(6) A High Court or Court of Session acting in the exercise of

its powers of revision under section 401 may allow any person to

compound any offence which such person is competent to compound under

this section.

(7) No offence shall be compounded if the accused is, by reason

of a previous conviction, liable either to enhanced punishment or to a

punishment of a different kind for such offence.

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(8) The composition of an offence under this section shall have

the effect of an acquittal of the accused with whom the offence has

been compounded.

(9) No offence shall be compounded except as provided by this

section.

321.

Withdrawal from prosecution.

321. Withdrawal from prosecution. The Public Prosecutor or

Assistant Public Prosecutor in charge of a case may, with the consent

of the Court, at any time before the judgment is pronounced, withdraw

from the prosecution of any person either generally or in respect of

any one or more of the offences for which he is tried; and, upon such

withdrawal,-

(a) if it is made before a charge has been framed, the

accused shall be discharged in respect of such offence or

offences ;

(b) if it is made after a charge has been framed, or when

under this Code no charge is required, he shall be acquitted

in respect of such offence or offences :

Provided that where such offence-

(i) was against any law relating to a matter to which

the executive power of the Union extends, or

(ii) was investigated by the Delhi Special Police

Establishment under the Delhi Special Police

Establishment Act, 1946 (25 of 1946), or

(iii) involved the misappropriation or destruction

of, or damage to, any property belonging to the Central

Government, or

(iv) was committed by a person in the service of the

Central Government while acting or purporting to act in

the discharge of his official duty,

and the Prosecutor in charge of the case hag hot been appointed by the

Central Government, he shall not, unless he hag been permitted by the

Central Government to do so, move the Court for its consent to withdraw

from the prosecution and the Court shall, before according consent,

direct the Prosecutor to produce before it the permission granted by

the Central Government to withdraw from the prosecution.

322.

Procedure in cases which Magistrate cannot dispose of.

322. Procedure in cases which Magistrate cannot dispose of. (1)

If, in the course of any inquiry into an offence or a trial before a

Magistrate in any district, the evidence appears to him to Warrant a

presumption-

(a) that he has no jurisdiction to try the case or commit

it for trial, or

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(b) that the case is one which should be tried or committed

for trial by some other Magistrate in the district, or

(c) that the case should be tried by the Chief Judicial

Magistrate,

he shall stay the proceedings and submit the case, with a brief report

explaining its nature, to the Chief Judicial Magistrate or to such

other Magistrate, having jurisdiction, as the Chief Judicial

Magistrate directs.

(2)The Magistrate to whom the case is submitted may, if so empowered,

either try the case himself, or refer it to any Magistrate

subordinate to him having jurisdiction, or commit the accused for

trial.

323.

Procedure when, after Commencement of inquiry or trial, Magistratefinds

case should be committed.

323. Procedure when, after Commencement of inquiry or trial,

Magistrate finds case should be committed.If, in any inquiry into an

offence or a trial before a Magistrate, it appears to him at any stage

of the proceedings before signing judgment that the case is one which

ought to be tried by the Court of Session, he shall commit it to that

Court under the provisions hereinbefore contained 1\*[and thereupon the

provisions of Chapter XVIII shall apply to the commitment so made].

324

Trial of persons previously convicted of offences against coinage,stamp-law

or property.

324. Trial of persons previously convicted of offences against

coinage, stamp-law or property.(1) Where a person, having been

convicted of an offence punishable under Chapter XII or Chapter XVII

of the Indian Penal Code (45 of 1860) with imprisonment for a term of

three years or upwards, is again accused of any offence punishable

under either of those Chapters with imprisonment for a term of three

years or upwards, and the Magistrate before whom the case is pending

is satisfied that there is ground for presuming that such person has

committed the offence, he shall be sent for trial to the Chief

Judicial Magistrate or committed to the Court of Session, unless the

Magistrate is competent to try the case and is of opinion that he can

himself pass an adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial

Magistrate or committed to the Court of Session under sub-section (1)

any other person accused jointly with him in the same inquiry or trial

shall be similarly sent or committed, unless the Magistrate discharges

such other person under section 239 or section 245, as the case may

be.

325.

Procedure when Magistrate cannot pass sentence sufficiently severe.

325. Procedure when Magistrate cannot pass sentence sufficiently

severe.(1) Whenever a Magistrate is of opinion, after hearing the

evidence for the prosecution and the accused, that the accused is

guilty, and that he ought to receive a punishment different in kind

from, or more severe than, that which such Magistrate is empowered to

inflict, or, being a Magistrate of the second class, is of opinion

that the accused ought to be required to execute a bond under section

106, he may record the opinion

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1 Ins. by Act 45 of 1978, s. 26 (w.e.f. 18-12-1978).

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and submit his proceedings, and forward the accused, to the Chief

Judicial Magistrate to whom he is subordinate.

(2) When more accused than one are being tried together, and the

Magistrate considers it necessary to proceed under sub-section (1), in

regard to any of such accused, he shall forward all the accused, who

are in his opinion guilty, to the Chief Judicial Magistrate.

(3) The Chief Judicial Magistrate to whom the proceedings are

submitted may, if he thinks fit, examine the parties and recall and

examine any witness who has already given evidence in the case and may

call for and take any further evidence and shall pass such judgment,

sentence or order in the case as he thinks fit, and as is according to

law.

326.

Conviction or commitment on evidence partly recorded by

oneMagistrate and partly by another.

326. Conviction or commitment on evidence partly recorded by one

Magistrate and partly by another.(1) Whenever any 1\*[Judge or

Magistrate], after having heard and recorded the whole or any part of

the evidence in an inquiry or a trial, ceases to exercise jurisdiction

therein and is succeeded by another 1\*[Judge or Magistrate] who has and

who exercises such jurisdiction, the 1\*[Judge or Magistrate] so

succeeding may act on the evidence so recorded by his predecessor, or

partly recorded by his predecessor and partly recorded by himself :

Provided that if the succeeding 1\*[Judge or Magistrate] is of

opinion that further examination of any of the witnesses whose

evidence has already been recorded is necessary in the interests of

justice, he may re-summon any such witness, and after such further

examination, cross-examination and re-examination, if any, as he may

permit, the witness shall be discharged.

(2) When a case is transferred under the provisions of this Code

2\* [from one Judge to another Judge or from one Magistrate to another

Magistrate], the former shall be deemed to cease to exercise

jurisdiction therein, and to be succeeded by the latter, within the

meaning of sub-section (1).

(3) Nothing in this section applies to summary trials or to

cases in which proceedings have been stayed under section 322 or in

which proceedings have been submitted to a superior Magistrate under

section 325.

327.

Court to be open.

327.Court to be open.3[(1)] The place in which any Criminal Court

is held for the purpose of inquiring into or trying any offence shall

be deemed to be an open

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1 Subs. by Act 45 of 1978, s.27, for Magistrate (w.e.f. 18-12-

1978).

2 Subs. by s.27 ibid. fpr Certain words (w.e.f. 18.12.1978).

3 Renumbered by Act, --- of 1983, s.4.

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Court, to which the public generally may have access, so far as the

same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks

fit, order at any stage of any inquiry into, or trial of, any

particular case, that the public generally, or any particular person,

shall not have access to, or be or remain in, the room or building

used by the Court.

1\*[(2) Notwithstanding anything contained in sub-section (1), he

inquiry into and trial of rape or an offence under section 376,

section 376A, section 376B, section 376C or section 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.

(3)Where any proceedings are held under sub-section (2), it shall

not be lawful for any person to print or publish any matter in

relation to any such proceedings, except with 'the previous permission

of the court.]

CHAP

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND.

CHAPTER XXV

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND.

328.

Procedure in case of accused being lunatic.

328. Procedure in case of accused being lunatic. (1) When a

Magistrate holding an inquiry has reason to believe that the person

against whom the inquiry is being held is of unsound mind and

consequently incapable of making his defence, the Magistrate shall

inquire into the fact of such unsoundness of mind, and shall cause

such person to be examined by the civil surgeon of the district or

such other medical officer as the State Government may direct, and

thereupon shall examine such surgeon or other officer as a witness,

and shall reduce the examination to writing.

(2) Pending such examination and inquiry, the Magistrate may

deal with such person in accordance with the provisions of section

330.

(3) If such Magistrate is of opinion that the person referred to

in sub-section (1) is of unsound mind and consequently incapable of

making his defence, he shall record a finding to that effect and shall

postpone further proceedings in the case.

329.

Procedure in case of person of unsound mind tried before Court.

329. Procedure in case of person of unsound mind tried before

Court.(1) If at the trial of any person before a Magistrate or Court

of Session, it appears to the Magistrate or Court that such person is

of unsound mind and consequently incapable of making his defence, the

Magistrate or Court shall, in the first instance, try the fact of

such unsoundness and incapacity, and if the Magistrate or Court, after

considering such medical and other evidence as may be produced before

him or it, is satisfied of the fact, he or it shall record a finding

to that effect and shall postpone further proceedings in the case.

(2) The trial of the fact of the unsoundness of mind and

incapacity of the accused shall be deemed to be part of his trial

before the Magistrate or Court.

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1 Ins. by Act 43 of 1983, s.4.

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330

Release of lunatic pending investingaion or trial.

330.Release of lunatic pending investingaion or trial. (1)

Whenever a person is found, under section 328 or section 329, to be of

unsound mind and incapable of making his defence, the Magistrate or

Court, as the case may be, whether the case is one in which bail may

be taken or not, may release him on sufficient security being given

that he shall be properly taken care of and shall be prevented from

doing injury to himself or to any other person, and for his appearance

when required before the Magistrate or Court or such officer as the

Magistrate or Court appoints in this behalf.

(2)If the case is one in which, in the opinion of the Magistrate

or Court, bail should not be taken, or if sufficient security is not

given, the Magistrate or Court, as the case may be, shall order the

accused to be detained in safe custody in such place and manner as he

or it may think fit, and shall report the action taken to the State

Government :

Provided that no order for the detention of the accused in a

lunatic asylum shall be made otherwise than in accordance with such

rules as the State Government may have made under the Indian Lunacy

Act, 1912 (4 of 1912).

331.

Resumption of inquiry or trial.

331.Resumption of inquiry or trial. (1) Whenever an inquiry or a

trial is postponed under section 328 or section 329, the Magistrate or

Court, as the case may be, may at any time after the person concerned

has ceased to be of unsound mind, resume the inquiry or trial, and

require the accused to appear or be brought before such Magistrate or

Court.

(2)When the accused has been released under section 330, and the

sureties for his appearance produce him to the officer whom the Magistrate

or Court appoints in this behalf, the certificate of such

officer that the accused is capable of making his defence shall be

receivable in evidence.

332.

Procedure on accused appearing before Magistrate or Court.

332.Procedure on accused appearing before Magistrate or Court.

(1) If, when the accused appears or is again brought before the

Magistrate or Court, as the case may be, the Magistrate or Court

considers him capable of making his defence, the inquiry or trial

shall proceed.

(2)If the Magistrate or Court considers the accused to be still

in capable of making his defence, the Magistrate or Court shall act

accordIng to the provisions of section 328 or section 329, as the case

may be, and if the accused is, found to be of unsound mind and

consequently incapable of, making his defence, shall deal with such

accused in accordance with the provisions of section 330.

333.

When accused appears to have been of sound mind.

333. When accused appears to have been of sound mind. When the

accused appears to be of sound mind at the time of inquiry or trial,

and the Magistrate is satisfied from the evidence given

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before him that there is reason to believe that the accused committed

an act, which, if he had been of sound mind, would have been an

offence, and that he was, at the time when the act was committed, by

reason of unsoundness of mind, incapable of knowing the nature of the

act or that it was wrong or contrary to law, the Magistrate shall

proceed with the case, and, if the accused ought to be tried by the

Court of Session, commit him for trial before the Court of Session.

334.

Judgement of acquittal on ground of unsoundness of mind.

334.Judgement of acquittal on ground of unsoundness of

mind.Whenever any person is acquitted upon the ground that, at the

time at which he is alleged to have committed an offence, he was, by

reason of unsoundness of mind, incapable of knowing the nature of the

act alleged as constituting the offence, or that it was wrong or

contrary to law, the finding shall state specifically whether he

committed the act or not.

335.

Person acquitted on such ground to be detained in safe custody.

335.Person acquitted on such ground to be detained in safe

custody. (1) Whenever the finding states that the accused person committed

the act alleged, the Magistrate or Court before whom or which

the trial has been held, shall, if such act would, but for the

incapacity found, have constituted an offence,-

(a) order such person to be detained in safe custody in

such place and manner as the Magistrate or Court thinks fit;

or

(b) order such person to be delivered to any relative or

friend of such person.

(2) No order for the detention of the accused in a lunatic

asylum shall be made under clause (a) of sub-section (1) otherwise

than in accordance with such rules as the State Government may have

made under the Indian Lunacy Act, 1912 (4 of 1912).

(3) No order for the delivery of the accused to a relative or

friend shall be made under clause (b) of sub-section (1), except upon

the application of such relative or friend and on his giving security

to the satisfaction of the Magistrate or Court that the person

delivered shall-

(a) be properly taken care of and prevented from doing

injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at

such times and places, as the State Government may direct.

(4) The Magistrate or Court shall report to the State Government

the action taken under sub-section (1).

336.

Power of State Government to empower officer in charge to discharge.

336. Power of State Government to empower officer in charge to

discharge.The State Government may empower the officer in charge of

the jail in which a person is confined under the provisions of section

330.

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or section 335 to discharge all or any of the functions of the

Inspector-General of Prisons under section 337 or section 338.

337.

Procedure where lunatic prisoner is reported capable of making hisdefence.

337. Procedure where lunatic prisoner is reported capable of

making his defence.If such person is detained under the provisions of

sub-section (2)of section 330 and in the case of a person detained in

a jail, the Inspector-General of Prisons, or, in the case of a person

detained in a lunatic asylum, the visitors of such asylum or any two

of them shall certify that, in his or their opinion, such person is

capable of making his defence, he shall be taken before the Magistrate

or Court, as the case may be, at such time as the Magistrate or Court

appoints, and the Magistrate or Court shall deal with such person

under the provisions of section 332 ; and the certificate of such

Inspector-General or visitors as aforesaid shall be receivable as

evidence.

338.

Procedure where lunatic detained is declared fit to be released.

338. Procedure where lunatic detained is declared fit to be

released.(1) If such person is detained under the provisions of subsection

(2)of section 330, or section 335, and such Inspector-General

or visitors shall certify that, in his or their judgment, he may be

released without danger of his doing injury to himself or to any other

person, the State Government may thereupon order him to be released,

or to be detained in custody, or to be transferred to a public lunatic

asylum if he has not been already sent to such an asylum; and, in case

it orders him to be transferred to an asylum, may appoint a

Commission, consisting of a judicial and two medical officers.

(2)Such Commission shall make a formal inquiry into the state of

mind of such person, take such evidence as is necessary, and shall

report to the State Government, which may order his release or

detention as it thinks fit.

339.

Delivery of lunatic to care of relative or friend.

339.Delivery of lunatic to care of relative or friend. (1)

Whenever any relative or friend of any person detained under the

provisions of section 330 or section 335 desires that he shall be

delivered to his care and custody, the State Government may, upon the

application of such relative or friend and on his giving security to

the satisfaction of such State Government, that the person delivered

shall-

(a) be properly taken care of and prevented from doing

injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at

such time and places, as the State Government may direct;

(c) in the case of a person detained under sub-section (2)

of section 330, be produced when required before such

Magistrate or Court,

order such person to be delivered to such relative or friend.

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(2) If the person so delivered is accused of any offence, the

trial of which has been postponed by reason of his being of unsound

mind and incapable of making his defence, and the inspecting officer

referred to in clause (b) of sub-section (1), certifies at any time to

the Magistrate or Court that such person is capable of making his

defence, such Magistrate or Court shall call upon the relative or

friend to whom such accused was delivered to produce him before the

Magistrate or Court ; and, upon such production the Magistrate or

Court shall proceed in accordance with the provisions of section 332,

and the certificate of the inspecting officer shall be receivable as

evidence.

CHAP

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

CHAPTER XXVI

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

340.

Procedure in cases mentioned in section 195.

340. Procedure in cases mentioned in section 195. (1) When, upon

an application made to it in this behalf or otherwise, any Court is of

opinion that it is expedient in the interests of justice that an

inquiry should be made into any offence referred to in clause (b) of

sub-section (1) of section 195, which appears to have been committed

in or in relation to a proceeding in that Court or, as the case may

be, in respect of a document produced or given in evidence in a

proceeding in that Court, such Court may, after such preliminary

inquiry, if any, as it thinks necessary,-

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having

jurisdiction;

(d) take sufficient security for the appearance of the

accused before such Magistrate, or if the alleged offence is

non-bailable and the Court thinks it necessary so to do, send

the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before

such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect

of an offence may, in any case where that Court has neither made a

complaint under sub-section (1) in respect of that offence nor

rejected an application for the making of such complaint, be exercised

by the Court to which such former Court is subordinate within the

meaning of sub-section (4) of section 195.

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(3) A complaint made under this section shall be signed,-

(a) where the Court making the complaint is a High Court,

by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the

Court.

(4) In this section, "Court" has the same meaning as in section

195.

341.

Appeal.

341. Appeal. (1) Any person on whose application any Court other

than a High Court has refused to make a complaint under sub-section

(1)or sub-section (2) of section 340, or against whom such a complaint

has been made by such Court, may appeal to the Court to which such

former Court is subordinate within the meaning of sub-section (4) of

section 195, and the superior Court may thereupon, after notice to the

parties concerned, direct the withdrawal of the complaint, or, as the

case may be, making of the complaint which such former Court might

have made under section 340, and if it makes such complaint, the

provisions of that section shall apply accordingly.

(2) An order under this section, and subject to any such order,

an order under section 340, shall be final, and shall not be subject

to revision.

342.

Power to order costs.

342. Power to order costs. Any Court dealing with an application

made to it for filing a complaint under section 340 or an appeal under

section 341, shall have power to make such order as to costs as may be

just.

343.

Procedure of Magistrate taking cognizance.

343. Procedure of Magistrate taking cognizance. (1) A Magistrate

to whom a complaint is made under section 340 or section 341 shall,

notwithstanding anything contained in Chapter XV, proceed, as far as

may be, to deal with the case as if it were instituted on a police

report.

(2) Where it is brought to the notice of such Magistrate, or of

any other Magistrate to whom the case may have been transferred, that

an appeal is pending against the decision arrived at in the judicial

proceeding out of which the matter has arisen, he may, if he thinks

fit, at any stage, adjourn the hearing of the case until such appeal

is decided.

344.

Summary procedure for trial for giving false evidence.

344. Summary procedure for trial for giving false evidence. (1)

If, at the time of delivery of any judgment or final order disposing

of any judicial proceeding, a Court of Session or Magistrate of the

first class expresses an opinion to the effect that any witness appearing

in such proceeding had knowingly or wilfully given false

evidence or had fabricated false evidence with the intention that such

evidence should be used in such proceeding, it or he may, if satisfied

that it is necessary and expedient in the interest of justice that the

witness should

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be tried summarily for giving or fabricating, as the case may be,

false evidence, take cognizance of the offence and may, after giving

the offender a reasonable opportunity of showing cause why he should

not be punished for such offence, try such offender summarily and

sentence him to imprisonment for a term which may extend to three

months, or to fine which may extend to five hundred rupees, or with

both.

(2) In every such case the Court shall follow, as nearly as may

be practicable, the procedure prescribed for summary trials.

(3) Nothing in this section shall affect the power of the Court

to make a complaint under section 340 for the offence, where it does

not choose to proceed under this section.

(4) Where, after any action is initiated under sub-section (1),

it is made to appear to the Court of Session or Magistrate of the

first class that an appeal or an application for revision has been

preferred or filed against the judgment or order in which the opinion

referred to in that sub-section has been expressed, it or he shall

stay further proceedings of the trial until the disposal of the appeal

or the application for revision, as the case may be, and thereupon the

further proceedings of the trial shall abide by the results of the

appeal or application for revision.

345.

Procedure in certain cases of contempt.

345. Procedure in certain cases of contempt. (1) When any such

offence as is described in section 175, section 178, section 179,

section 180 or section 228 of the Indian Penal Code (45 of 1860), is

committed in the view or presence of any Civil, Criminal or Revenue

Court, the Court may cause the offender to be detained in custody and

may, at any time before the rising of the Court on the same day, take

cognizance of the offence and, after giving the offender a reasonable

opportunity of showing cause why he should not be punished under this

section, sentence the offender to fine not exceeding two hundred

rupees, and, in default of payment of fine, to simple imprisonment for

a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the facts

constituting the offence, with the statement (if any) made by the

offender, as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal

Code (45 of 1860), the record shall show the nature and stage of the

judicial proceeding in which the Court interrupted or insulted was

sitting, and the nature of the interruption or insult.

346.

Procedure where Court considers, that case should not be dealt withunder

section 345.

346. Procedure where Court considers,that case should not be

dealt with under section 345. (1) If the Court in any case considers

that a person accused of any of the offences referred to in section

345 and committed in its view or presence should be imprisoned

otherwise than in default of payment

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of fine, or that a fine exceeding two hundred rupees should be imposed

upon him, or such Court is for any other reason of opinion that the

case should not be disposed of under section 345, such Court, after

recording the facts constituting the offence and the statement of the

accused as hereinbefore provided, may forward the case to a Magistrate

having jurisdiction to try the same, and may require security to be

given for the appearance of such person before such Magistrate, or if

sufficient security is not given shall forward such person in custody

to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this

section shall proceed to deal with, as far as may be, as if it were

instituted on a police report.

347.

When Registrar or Sub-Registrar to be deemed a Civil Court.

347. When Registrar or Sub-Registrar to be deemed a Civil Court.

When the State Government so directs, any Registrar or any Sub-

Registrar appointed under the 1\* \* \* Registration Act, 1908 (16 of

1908), shall be deemed to be a Civil Court within the meaning of

sections 345 and 346.

348.

Discharge of offender on submission of apology.

348. Discharge of offender on submission of apology. When any

Court has under section 345 adjudged an offender to punishment, or has

under section 346 forwarded him to a Magistrate for trial, for

refusing or omitting to do anything which he was lawfully required to

do or for any intentional insult or interruption, the Court may, in

its discretion, discharge the offender or remit the punishment on his

submission to the order or requisition of such Court, or on apology

being made to its satisfaction.

349.

Imprisonment or committal of person refusing to answer or producedocument.

349. Imprisonment or committal of person refusing to answer or

produce document.If any witness or person called to produce a document

or thing before a Criminal Court refuses to answer such questions as

are put to him or to produce any document or thing in his possession

or power which the Court requires him to produce, and does not, after

a reasonable opportunity has been, given, to him so to do, offer any

reasonable excuse for such refusal, such Court may, for reasons to be

recorded in writing, sentence him to simple imprisonment, or by

warrant under the hand of the Presiding Magistrate or Judge commit him

to the custody of an officer of the Court for any term not exceeding

seven days, unless in the meantime, such person consents to be

examined and to answer, or to produce the document or thing and in the

event of his persisting in his refusal, he may be dealt with according

to the provisions of section 345 or section 346.

1. Omitted by Act 56 of 1974 s. 3 and Sch. II (w.e.f. 10-1-1975).

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350.

Summary procedure for punishment for non-attendance by a witness inobedience

to summons.

350.Summary procedure for punishment for non-attendance by a

witness in obedience to summons.(1) If any witness being summoned to

appear before a Criminal Court is legally bound to appear at a certain

place and time in obedience to the summons and without just excuse

neglects or refuses to attend at that place or time or departs from

the place where he has to attend before the time at which it is lawful

for him to depart, and the Court before which the witness is to appear

is satisfied that it is expedient in the interests of justice that

such a witness should be tried summarily, the Court may take

cognizance of the offence and after giving the offender an opportunity

of showing cause why he should not be punished under this section,

sentence him to fine not exceeding one hundred rupees.

(2) In every such case the Court shall follow, as nearly as may

be practicable, the procedure prescribed for summary trials.

351.

Appeals from convictions under sections 344, 345, 349, and 350.

351. Appeals from convictions under sections 344, 345, 349, and

350.(1) Any person sentenced by any Court other than a High Court

under section 344, section 345, section 349, or section 350 may, notwithstanding

anything contained in this Code appeal to the Court to

which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXIX shall, so far as they are

applicable, apply to appeals under this section, and the Appellate

Court may alter or reverse the finding, or reduce or reverse the

sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes

shall lie to the Court of Session for the sessions division within

which such Court is situate.

(4) An appeal from such conviction by any Registrar or Sub-

Registrar deemed to be a Civil Court by virtue of a direction issued

under section 347 shall lie to the Court of Session for the sessions

division within which the office of such Registrar or Sub-Registrar is

situate.

352.

Certain Judges and Magistrates not to try certain offences whencommitted

before themselves.

352. Certain Judges and Magistrates not to try certain

offences when committed before themselves.Except as provided in

sections 344, 345, 349 and 350, no Judge of a Criminal Court (other

than a Judge of a High Court) or Magistrate shall try any person for

any offence referred to in section 195, when such offence is committed

before himself or in contempt of his authority, or is brought under

his notice as such Judge or Magistrate in the course of a judicial

proceeding.

CHAP

THE JUDGMENT.

CHAPTER XXVII

THE JUDGMENT

353.

Judgment.

353. Judgment. (1) The judgment in every trial in any Criminal

Court of original jurisdiction shall be pronounced in open Court by

the Presiding officer

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immediately after the termination of the trial or at some subsequent

time of which notice shall be given to the parties or their pleaders,-

(a) by delivering the whole of the judgment; or

(b) by reading out the whole of the judgment; or

(c) by reading out the operative part of the judgment and

explaining the substance of the judgment in a language which

is understood by the accused or his pleader.

(2) Where the judgment

is delivered under clause (a) of sub-section (1),

the presiding officer shall cause it to be taken down in

short-hand, sign the transcript and every page thereof as

soon as it is made ready, and write on it the date of the

delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out

under clause (b) or clause (c) of sub-section (1), as the case may be,

it shall be dated and signed by the presiding officer in open Court,

and if it is not written with his own hand, every page of the judgment

shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in

clause (c) of sub-section (1), the whole judgment or a copy thereof

shall be immediately made available for the perusal of the parties or

their pleaders free of cost.

(5) If the accused is in custody, he shall be brought up to hear

the judgment pronounced.

(6) If the accused is not in custody, he shall be required by

the Court to attend to hear the judgment pronounced, except where his

personal attendance during the trial has been dispensed with and the

sentence is one of fine only or he is acquitted :

Provided that, where there are more accused than one, and one or

more of them do not attend the Court on the date on which the judgment

is to be pronounced, the presiding officer may, in order to avoid

undue delay in the disposal of the case, pronounce the judgment

notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed

to be invalid by reason only of the absence of any party or his

pleader on the day or from the place notified for the delivery

thereof, or of any omission to serve, or defect in serving, on the

parties or their pleaders, or any of them, the notice of such day and

place.

(8) Nothing in this section shall be construed to limit in any

way the extent of the provisions of section 465.

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354.

Language and contents of judgment.

354. Language and contents of judgment.(1) Except as otherwise

expressly provided by this Code, every judgment referred to in section

353,-

(a) shall be written in the language of the Court;

(b) shall contain the point or points for determination,

the decision thereon and the reasons for the decision ;

(c) shall specify the offence (if any) of which, and the

section of the Indian Penal Code (45 of 1860)or other law

under which, the accused is convicted and the punishment to

which he is sentenced ;

(d) if it be a judgment of acquittal, shall state the

offence of which the accused is acquitted and direct that he

be set at liberty.

(2) When the conviction is under the Indian Penal Code (45 of

1860), and it is doubtful under which of two sections, or under which

Of two parts of the same section, of that Code the offence falls, the

Court shall distinctly express the same, and pass judgment in the

alternative.

(3) When the conviction is for an offence punishable with death

or, in the alternative, with imprisonment for life or imprisonment for

a term of years, the judgment shall state the reasons for the sentence

awarded, and, in the case of sentence of death, the special reasons

for such sentence.

(4) When the conviction is for an offence punishable with

imprisonment for a term of one year or more, but the Court imposes a

sentence of imprisonment for a term of less than three months, it

shall record its reasons for awarding such sentence, unless the

sentence is one of imprisonment till the rising of the Court or unless

the case was tried summarily under the provisions of this Code.

(5) When any person is sentenced to death, the sentence shall

direct that he be hanged by the neck till he is dead.

(6) Every order under section 117 or sub-section (2) of section

138 and every final order made under section 125, section 145 or

section 147 shall contain the point or points for determination, the

decision thereon and the reasons for the decision.

355.

Metropolitan Magistrate's judgment.

355. Metropolitan Magistrate's judgment.Instead of recording a

judgment in the manner hereinbefore provided, a Metropolitan

Magistrate shall record the following particulars, namely: -

(a) the serial number of the case;

(b) the date of the commission of the offence;

(c) the name of the complainant (if any) ;

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(d) the name of the accused person, and his parentage and

residence ;

(e) the offence complained of or proved;

(f) the plea of the accused and his examination (if any);

(g) the final order;

(h) the date of such order;

(i) in all cases in which an appeal lies from the final

order either under section 373 or under sub-section (3) of

section 374, a brief statement of the reasons for the

decision.

356.

Order for notifying address of previously convicted offender.

356. Order for notifying address of previously convicted

offender.(1) When any person, having been convicted by a Court in

India of an offence punishable under section 215, section 489A,

section 489B, section 489C or section 489D of the Indian Penal

Code,(45 of 1860) or of any offence punishable under Chapter XII or

Chapter XVII of that Code, with imprisonment for a term of three years

or upwards, is again convicted of any offence punishable under any of

those sections or Chapters with imprisonment for a term of three years

or upwards by any Court other than that of a Magistrate of the second

class, such Court may, if it thinks fit, at the time of passing a

sentence of imprisonment on such person, also order that his residence

and any change of, or absence from, such residence after release be

notified as hereinafter provided for a term not exceeding five years

from the date of the expiration of such sentence.

(2) The provisions of sub-section (1) with reference to the

offences named therein, apply also to criminal conspiracies to commit

such offences and to the abetment of such offences and attempts to

commit them.

(3) If such conviction is set aside on appeal or otherwise, such

order shall become void.

(4) An order under this section may also be made by an Appellate

Court or by the High Court or Court of Session when exercising its

powers of revision.

(5) The State Government may, by notification, make rules to

carry out the provisions of this section relating to the notification

of residence or change of, or absence from, residence by released

convicts.

(6) Such rules may provide for punishment for the breach thereof

and any person charged with a breach of any such rule may be tried by

a Magistrate of competent jurisdiction in the district in which the

place last notified by him as his place of residence is situated.

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357.

Order to pay compensation.

357. Order to pay compensation. (1) When a Court imposes a

sentence of fine or a sentence (including a sentence of death) of

which fine forms a part, the Court may, when passing judgment, order

the whole or any part of the fine recovered to be applied-

(a) in defraying the expenses properly incurred in the

prosecution;

(b) in the payment to any person of compensation for any

loss or injury caused by the offence, when compensation is,

in the opinion of the Court, recoverable by such person in a

Civil Court;

(c) when any person is convicted of any offence for having

caused the death of another person or of having abetted the

commission of such an offence, in paying compensation to the

persons who are, under the Fatal Accidents Act, 1855 (13 of

1855), entitled to recover damages from the person sentenced

for the loss resulting to them from such death ;

(d) when any person is convicted of any offence which

includes theft, criminal misappropriation, criminal breach of

trust, or cheating, or of having dishonestly received or

retained, or of having voluntarily assisted in disposing of,

stolen property knowing or having reason to believe the same

to be stolen, in compensating any bona fide purchaser of such

property for the loss of the same if such property is

restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal,

no such payment shall be made before the period allowed for presenting

the appeal has elapsed, or, if an appeal be presented, before the

decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form

a part, the Court may, when passing judgment, order the accused person

to pay, by way of compensation, such amount as may be specified in the

order to the person who has suffered any loss or injury by reason of

the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate

Court or by the High Court or Court of Session when exercising its

powers of revision.

(5) At the time of awarding compensation in any subsequent civil

suit relating to the same matter, the Court shall take into account

any sum paid or recovered as compensation under this section.

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358.

Compensation to persons groundlessly arrested.

358. Compensation to persons groundlessly arrested. (1) Whenever

any person causes a police officer to arrest another person, if it

appears to the Magistrate by whom the case is heard that there was no

sufficient ground for causing such arrest, the Magistrate may award

such compensation, not exceeding one hundred rupees, to be paid by the

person so causing the arrest to the person so arrested, for his loss

of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the

Magistrate may, in like manner, award to each of them such

compensation, not exceeding one hundred rupees, as such Magistrate

thinks fit.

(3) All compensation awarded under this section may be recovered

as if it were a fine, and, if it cannot be so recovered, the person by

whom it is payable shall be sentenced to simple imprisonment for such

term not exceeding thirty days as the Magistrate directs, unless such

sum is sooner paid.

359.

Order to pay costs in non-cognizable cases.

359. Order to pay costs in non-cognizable cases.(1) Whenever any

complaint of a non-cognizable offence is made to a Court, the Court,

if it convicts the accused, may, in addition to the penalty imposed

upon him, order him to pay to the complainant, in whole or in part,

the cost incurred by him in the prosecution, and may further order

that in default of payment, the accused shall suffer simple

imprisonment for a period not exceeding thirty days and such costs may

include any expenses incurred in respect of process-fees, witnesses

and pleader's fees which the Court may consider reasonable.

(2) An order under this section may also be made by an Appellate

Court or by the High Court or Court of Session when exercising its

powers of revision.

360.

Order to release on probation of good conduct or after admonition.

360. Order to release on probation of good conduct or after

admonition.(1) When any person not under twenty-one years of age is

convicted of an offence punishable with fine only or with imprisonment

for a term of seven years or less, or when any person under twenty-one

years of age or any woman is-convicted of an offence not punishable

with death or imprisonment for life, and no previous conviction is

proved against the offender, if it appears to the Court before which

he is convicted, regard being had to the age, character or antecedents

of the offender, and to the circumstances in which the offence was

committed, that it is expedient that the offender should be released

on probation of good conduct, the Court may, instead of sentencing him

at once to any punishment, direct that he be released on his entering

into a bond with or without sureties, to appear and receive sentence

when called

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upon during such period (not exceeding three years) as the Court may

direct and in the meantime to keep the peace and be of good behaviour:

Provided that where any first offender is convicted by a

Magistrate of the second class not specially empowered by the High

Court, and the Magistrate is of opinion that the powers conferred by

this section should be exercised, he shall record his opinion to that

effect, and submit the proceedings to a Magistrate of the first class,

forwarding the accused to, or taking bail for his appearance before,

such Magistrate, who shall dispose of the case in the manner provided

by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first

class as provided by sub-section (1), such Magistrate may thereupon

pass such sentence or make such order as he might have passed or made

if the case had originally been heard by him, and, if he thinks

further inquiry or additional evidence on any point to be necessary,

he may make such inquiry or take such evidence himself or direct such

inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft

in a building, dishonest misappropriation, cheating or any offence

under the Indian Penal Code(45 of 1860), punishable with not more than

two years' imprisonment or any offence punishable with fine only and

no previous conviction is proved against him, the Court before which

he is so convicted may, if it thinks fit, having regard to the age,

character, antecedents or physical or mental condition of the offender

and to the trivial nature of the offence or any extenuating

circumstances under which the offence was committed, instead of

sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate

Court or by the High Court or Court of Session when exercising its

powers of revision.

(5) When an order has been made under this section in respect of

any offender, the High Court or Court of Session may, on appeal when

there is a right of appeal to such Court, or when exercising its

powers of revision, set aside such order, and in lieu thereof pass

sentence on such offender according to law:

Provided that the High Court or Court of Session shall not under

this sub-section inflict a greater punishment than might have been

inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as

may be, apply in the case of sureties offered in pursuance of the

provisions of this section.

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(7) The Court, before directing the release of an offender under

sub-section (1), shall be satisfied that an offender or his surety (if

any) has a fixed place of abode or regular occupation in the place for

which the Court acts or in which the offender is likely to live during

the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which

could have dealt with the offender in respect of his original offence,

is satisfied that the offender has failed to observe any of the

conditions of his recognizance, it may issue a warrant for his

apprehension.

(9) An offender, when apprehended on any such warrant, shall be

brought forthwith before the Court issuing the warrant, and such

Court may either remand him in custody until the case is heard or

admit him to bail with a sufficient surety conditioned on his

appearing for sentence and such Court may, after hearing the case,

pass sentence.

(10) Nothing in this section shall affect the provisions of the

Probation of Offenders Act, 1958 (20 of 1958), or the Children Act,

1960 (60 of 1960), or any other law for the time being in force for

the treatment, training or rehabilitation of youthful offenders.

361.

Special reasons to be recorded in certain cases.

361. Special reasons to be recorded in certain cases. Where in

any case the Court could have dealt with,-

(a) an accused person under section 360 or under the

provisions of the Probation of Offenders Act, 1958 (20 of

1958), or

(b) a youthful offender under the Children Act, 1960 (60 of

1960), or any other law for the time being in force for the

treatment, training or rehabilitation of youthful offenders,

but has not done so, it shall record in its judgment the special

reasons for not having done so.

362.

Court not to after judgement.

362. Court not to after judgement. Save as otherwise provided by

this Code or by any other law for the time being in force, no Court,

when it has signed its judgment or final order disposing of a case,

shall alter or review the same except to correct a clerical or

arithmetical error.

363.

Copy of judgement to be given to the accused and other persons.

363. Copy of judgement to be given to the accused and other

persons.(1) When the accused is sentenced to imprisonment, a copy of

the judgment shall, immediately after the pronouncement of the

judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the

judgment, or when he so desires, a translation in his own language if

practicable or in the language of the Court, shall be given to him

without delay, and

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such copy shall, in every case where the judgment is appealable by the

accused, be given free of cost :

Provided that where a sentence of death is passed or confirmed by

the High Court, a certified copy of the judgment shall be immediately

given to the accused free of cost whether or not he applies for the

same.

(3) The provisions of sub-section (2) shall apply in relation to

an order under section 117 as they apply in relation to a judgment

which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an

appeal lies from such judgment as of right, the Court shall inform him

of the period within which, if he wishes to appeal, his appeal should

be preferred.

(5) Save as otherwise provided in sub-section (2), any person

affected by a judgment or order passed by a Criminal Court shall, on

an application made in this behalf and on payment of the prescribed

charges, be given a copy of such judgment or order or of any

deposition or other part of the record :

Provided that the Court may, if it thinks fit for some special

reason, give it to him free of cost.

(6) The High Court may, by rules, provide for the grant of

copies of any judgment or order of a Criminal Court to any person who

is not affected by a judgment or order, on payment, by such person, of

such fees, and subject to such conditions, as the High Court may, by

such rules, provide.

364.

Judgement when to be translated.

364. Judgement when to be translated. The original judgment shall

be filed with the record of the proceedings and where the original is

recorded in a language different from that of the Court and the

accused so requires, a translation thereof into the language of the

Court shall be added to such record.

365.

Court of Session to send copy of finding and sentence to

DistrictMagistrate.

365. Court of Session to send copy of finding and sentence to

District Magistrate.In cases tried by the Court of Session or a Chief

Judicial Magistrate, the Court or such Magistrate, as the case may be,

shall forward a copy of its or his finding and sentence (if any) to

the District Magistrate within whose local jurisdiction the trial was

held.

CHAP

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION.

CHAPTER XXVIII

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

366.

Sentence of death to be submitted by Court of session

forconfirmation.

366. Sentence of death to be submitted by Court of session for

confirmation.(1) When the Court of Session passes a sentence of death,

the proceedings shall be submitted to the High Court, and the sentence

shall not be executed unless it is confirmed by the High Court.

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(2) The Court passing the sentence shall commit the convicted

person to jail custody under a warrant.

367.

Power to direct further inquiry to be made or additional evidence tobe taken.

367. Power to direct further inquiry to be made or additional

evidence to be taken. (1) If, when such proceedings are submitted, the

High Court thinks that a further inquiry should be made into, or

additional evidence taken upon, any point bearing upon the guilt or

innocence of the convicted person, it may make such inquiry or take

such evidence itself, or direct it to be made or taken by the Court of

Session.

(2) Unless the High Court otherwise directs, the presence of the

convicted person may be dispensed with when such inquiry is made or

such evidence is taken.

(3) When the inquiry or evidence (if any) is not made or taken

by the High Court, the result of such inquiry or evidence shall be

certified to such Court.

368.

Power of High Court to confirm sentence or annul conviction.

368. Power of High Court to confirm sentence or annul conviction.

In any case submitted under section 366, the High Court-

(a) may confirm the sentence, or pass any other sentence

warranted by law, or

(b) may annul the conviction, and convict the accused of

any offence of which the Court of Session might have

convicted him, or order a new trial on the same or an amended

charge, or

(c) may acquit the accused person:

Provided that no order of confirmation shall be made under this

section until the period allowed for preferring an appeal has expired,

or, if an appeal is presented within such period, until such appeal is

disposed of.

369.

Confirmation or new sentence to be signed by two Judges.

369. Confirmation or new sentence to be signed by two Judges. In

every case so submitted, the confirmation of the sentence, or any new

sentence or order passed by the High Court, shall, when such Court

consists of two or more Judges, be made, passed and signed by at least

two of them.

370.

Procedure in case of difference of opinion.

370. Procedure in case of difference of opinion. Where any such

case is heard before a Bench of Judges and such judges are equally

divided in opinion, the case shall be decided in the manner provided

by section 392.

371.

Procedure in cases submitted to High Court for confirmation.

371. Procedure in cases submitted to High Court for confirmation.

In cases submitted by the Court of Session to the High Court for the

confirmation of a sentence of death, the proper officer of the High

Court shall, without delay, after the order of confirmation or other

order has been made by the High Court, send a copy of the order, under

the seal of the High Court and attested with his official signature,

to the Court of Session.

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CHAP

APPEALS.

CHAPTER XXIX

APPEALS

372.

No appeal to lie, unless otherwise provided.

372. No appeal to lie, unless otherwise provided. No appeal shall

lie from any judgment or order of a Criminal Court except as provided

for by this Code or any other law for the time being in force.

373.

Appeal from orders requiring security or refusal to accept orrejecting

surety for keeping peace or good behaviour.

373. Appeal from orders requiring security or refusal to accept

or rejecting surety for keeping peace or good behaviour. Any person,-

(i) who has been ordered under section 117 to give security

for keeping the peace or for good behaviour, or

(ii) who is aggrieved by any order refusing to accept or

rejecting a surety under section 121,

may appeal against such order to the Court of Session:

Provided that nothing in this section shall apply to persons the

proceedings against whom are laid before a Sessions Judge in

accordance with the provisions of sub-,section (2) or sub-section (4)

of section 122.

374.

Appeals from convictions.

374. Appeals from convictions. (1) Any person convicted on a

trial held by a High Court in its extraordinary original criminal

jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or

an Additional Sessions Judge or on a trial held by any other Court in

which a sentence of imprisonment for more than seven years 2[has been

passed against him or against any other person convicted at the same

trial], may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person,-

(a) convicted on a trial held by a Metropolitan Magistrate

or Assistant Sessions Judge or Magistrate of the first class,

or of the second class, or

(b) sentenced under section 325, or

(c) in respect of whom an order has been made or a sentence

has been passed under section 360 by any Magistrate,

may appeal to the Court of Session.

375.

No Appeal in certain cases when accused pleads guilty.

375. No Appeal in certain cases when accused pleads guilty.

Notwithstanding anything contained in section 374, where an accused

person has pleaded guilty and has been convicted on such plea, there

shall be no appeal,-

(a) if the conviction is by a High Court ; or

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1\* Subs. by Act 45 of 1976, s. 28 for "has been passed" (w.e.f.

18-12-1978).

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(b) if the conviction is by a Court of Session,

Metropolitan Magistrate or Magistrate of the first or second

class, except as to the extent or legality of the sentence.

376.

No appeal in petty cases.

376. No appeal in petty cases. Notwithstanding anything contained

in section 374, there shall be no appeal by a convicted person in any

of the following cases, namely: -

(a) where a High Court passes only a sentence of

imprisonment for a term not exceeding six months or of fine

not exceeding one thousand rupees, or of both such

imprisonment and fine ;

(b) where a Court of Session or a Metropolitan Magistrate

passes only a sentence of imprisonment for a term not

exceeding three months or of fine not exceeding two hundred

rupees, or of both such imprisonment and fine ;

(c) where a Magistrate of the first class passes only a

sentence of fine not exceeding one hundred rupees; or

(d) where, in a case tried summarily, a Magistrate

empowered to act under section 260 passes only a sentence of

fine not exceeding two hundred rupees:

Provided that an appeal may be brought against any such sentence

if any other punishment is combined with it, but such sentence shall

not be appealable merely on the ground-

(i) that the person convicted is ordered to furnish

security to keep the peace; or

(ii) that a direction for imprisonment in default of payment

of fine is included in the sentence ; or

(iii) that more than one sentence of fine is passed in

the case, if the total amount of fine imposed does not exceed

the amount hereinbefore specified in respect of the case.

377.

Appeal by the State Government against sentence.

377. Appeal by the State Government against sentence. (1) Save

as otherwise provided in sub-section (2), the State Government may, in

any case of conviction on a trial held by any Court other than a High

Court, direct the Public Prosecutor to present an appeal to the High

Court against the sentence on the ground of its inadequacy.

(2) if such conviction is in a case in which the offence has

been investigated by the Delhi Special Police Establishment,

constituted under the Delhi Special Police Establishment Act, 1946

(25 of 1946) or by any other agency empowered to make investigation

into an offence under any Central Act

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other than this Code, 1[the Central Government may also direct] the

Public Prosecutor to present an appeal to the High Court against the

sentence on the ground of its inadequacy.

(3)When an appeal has been filed against the sentence on the

ground of its inadequacy, the High Court shall not enhance the

sentence except after giving to the accused a reasonable opportunity

of showing cause against such enhancement and while showing cause, the

accused may plead for his acquittal or for the reduction of the

sentence.

378.

Appeal in case of acquittal.

378. Appeal in case of acquittal. (1) Save as otherwise provided

in sub-section (2) and subject to the provisions of sub-sections (3)

and (5), the State Government may, in any case, direct the Public

Prosecutor to present an appeal to the High Court from an original or

appellate order of acquittal passed by any Court other than a High

Court 2\*[or an order of acquittal passed by the Court of Session in

revision.]

(2)If such an order of acquittal is passed in any case in which

the offence has been investigated by the Delhi Special Police

Establishment constituted under the Delhi Special Police Establishment

Act, 1946 (25 of 1946), or by any other agency empowered to make

investigation into an offence under any Central Act other than this

Code, the Central Government may also direct the Public Prosecutor to

present an appeal, subject to the provisions of sub-section (3), to

the High Court from the order of acquittal.

(3)No appeal under sub-section (1) or sub-section (2) shall be

entertained except with the leave of the High Court.

(4)If such an order of acquittal is passed in any case instituted

upon complaint and the High Court, on an application made to it by the

complainant in this behalf, grants special leave to appeal from the

order of acquittal, the complainant may present such an appeal to the

High Court.

(5)No application under sub-section (4) for the grant of special

leave to appeal from an order of acquittal shall be entertained by the

High Court after the expiry of six months, where the complainant is a

public servant, and sixty days in every other case, computed from the

date of that order of acquittal.

(6)If in any case, the application under sub-section (4) for the

grant of special leave to appeal from an order of acquittal is

refused, no appeal from that order of acquittal shall lie under subsection

(1) or under sub-section (2).

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1 Subs. by Act 45 of 1978, s. 29, for certain words (w.e.f.

18-12-1978).

2 Ins by s. 30, ibid. (w.e.f. 18-12-78).

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379.

Appeal against conviction by High Court in certain cases.

379. Appeal against conviction by High Court in certain cases.

Where the High Court has, on appeal, reversed an order of acquittal of

an accused person and convicted him and sentenced him to death or to

imprisonment for life or to imprisonment for a term of ten years or

more, he may appeal to the Supreme Court.

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Special right of appeal in certain cases.

380. Special right of appeal in certain cases. Notwithstanding

anything contained in this Chapter, when more persons than one are

convicted in one trial, and an appealable judgment or order has been

passed in respect of any of such persons, all or any of the persons

convicted at such trial shall have a right of appeal.

381.

Appeal to Court of Session how heard.

381. Appeal to Court of Session how heard. (1) Subject to the

provisions of sub-section (2), an appeal to the Court of Session or

Sessions Judge shall be heard by the Sessions Judge or by an

Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a

Magistrate of the second class may be heard and disposed of by an

Assistant Sessions Judge or a Chief Judicial Magistrate.

(2)An Additional Sessions Judge, Assistant Sessions Judge or a

Chief Judicial Magistrate shall hear only such appeals as the Sessions

Judge of the division may, by general or special order, make over to

him or as the High Court may, by special order, direct him to hear.

382.

Petition of appeal.

382. Petition of appeal. Every appeal shall be made in the form

of a petition in writing presented by the appeallant or his pleader,

and every such petition shall (unless the Court to which it is

presented otherwise directs) be accompanied by a copy of the judgment

or order appealed against.

383.

Procedure when appellant in jail.

383. Procedure when appellant in jail. If the appellant is in

jail, he may present his petition of appeal and the copies

accompanying the same to the officer in charge of the jail, who shall

thereupon forward such petition and copies to the proper Appellate

Court.

384.

Summary dismissal of appeal.

384. Summary dismissal of appeal. (1) If upon examining the

petition of appeal and copy of the judgment received under section 382

or section 383, the Appellate Court considers that there is no

sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that-

(a) no appeal presented under section 382 shall be

dismissed unless the appellant or his pleader has had a

reasonable opportunity of being heard in support of the same

;

(b) no appeal presented under section 383 shall be

dismissed except after giving the appellant a reasonable

opportunity of being

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heard in support of the same, unless the Appellate Court considers

that the appeal is frivolous or that the production of

the accused in custody before the Court would involve such

inconvenience as would be disproportionate in the

circumstances of the case ;

(c) no appeal presented under section 383 shall be

dismissed summarily until the period allowed for preferring

such appeal has expired.

(2) Before dismissing an appeal under this section, the Court

may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this

section is a Court of Session or of the Chief Judicial Magistrate, it

shall record its reasons for doing so.

(4) Where an appeal presented under section 383 has been

dismissed summarily under this section and the Appellate Court finds

that another petition of appeal duly presented under section 382 on

behalf of the same appellant has not been considered by it, that Court

may, notwithstanding anything contained in section 393, if satisfied

that it is necessary in the interests of justice so to do, hear and

dispose of such appeal in accordance with law.

385.

Procedure for hearing appeals not dismissed summarily.

385. Procedure for hearing appeals not dismissed summarily. (1)

If the Appellate Court does not dismiss the appeal summarily, it shall

cause notice of the time and place at which such appeal will be heard

to be given-

(i) to the appellant or his pleader;

(ii) to such officer as the State Government may appoint in

this behalf ;

(iii) if the appeal is from a judgment of conviction in

a case instituted upon complaint, to the complainant ;

(iv) if the appeal is under section 377 or section 378, to

the accused, and shall also furnish such officer, complainant

and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record of the

case, if such record is not already available in that Court, and hear

the parties :

Provided that if the appeal is only as to the extent or the

legality of the sentence, the Court may dispose of the appeal without

sending for the record.

(3) Where the only ground for appeal from a conviction is the

alleged severity of the sentence, the appellant shall not, except with

the leave of the Court, urge or be heard in support of any other

ground.

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386.

Power of the Appellate Court.

386. Power of the Appellate Court. After perusing such record and

hearing the appellant or his pleader, if he appears, and the Public

Prosecutor if he appears, and in case of an appeal under section 377

or section 378, the accused, if he appears, the Appellate Court may,

if it considers that there is no sufficient ground for interfering,

dismiss the appeal, or may-

(a) in an appeal from an order or acquittal, reverse such

order and direct that further inquiry be made, or that the

accused be re-tried or committed for trial, as the case may

be, or find him guilty and pass sentence on him according to

law;

(b) in an appeal from a conviction-

(i) reverse the finding and sentence and acquit or

discharge the accused, or order him to be re-tried by a

Court of competent jurisdiction subordinate to such

Appellate Court or committed for trial, or

(ii) alter the finding, maintaining the sentence, or

(iii) with or without altering the finding, alter

the nature or the extent, or the nature and extent, of

the sentence, but not so as to enhance the Same;

(c) in an appeal for enhancement of sentence-

(i) reverse the finding and sentence and acquit or

discharge the accused or order him to be re-tried by a

Court competent to try the offence, or

(ii) alter the finding maintaining the sentence, or

(iii) with or without altering the finding, alter

the nature or the extent, or the nature and extent, of

the sentence, so as to enhance or reduce the same ;

(d) in an appeal from any other order, alter or reverse

such order;

(e) make any amendment or any consequential or incidental

order that may be just or proper ;

Provided that the sentence shall not be enhanced unless the

accused has had an opportunity of showing cause against such

enhancement:

Provided further that the Appellate Court shall not inflict

greater punishment for the offence which in its opinion the accused

has committed, than might have been inflicted for that offence by the

Court passing the order or sentence under appeal.

387.

Judgments of subordinate Appellate Court.

387. Judgments of subordinate Appellate Court. The rules

contained in Chapter XXVII as to the judgment of criminal Court of

original jurisdiction shall apply, so far as may be practice-

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able, to the judgement in appeal of a Court of Session of Chief

Judicial Magistrate:

Provided that, unless the Appellate Court otherwise directs, the

accused shall not be brought up, or required to attend, to hear

judgment delivered.

388.

Order of High Court on appeal to be certificated to lower Court.

388. Order of High Court on appeal to be certificated to lower

Court. (1) Whenever a case is decided on appeal by the High Court

under this Chapter, it shall certify its judgment or order to the

Court by which the finding, sentence or order appealed against was

recorded or passed and if such Court is that of a Judicial Magistrate

other than the Chief Judicial Magistrate, the High Court's judgment or

order shall be sent through the Chief Judicial Magistrate; and if such

Court is that of an Executive Magistrate, the High Court's judgment or

order shall be sent through the District Magistrate.

(2)The Court to which the High Court certifies its judgment or

order shall thereupon make such orders as are conformable to the

judgment or order of the High Court; and, if necessary, the record

shall be amended in accordance therewith.

389.

Suspension of sentence pending the appeal; release of appellant onbail.

389. Suspension of sentence pending the appeal; release of

appellant on bail. (1) Pending any appeal by a convicted person, the

Appellate Court may, for reasons to be recorded by it in writing,

order that the execution of the sentence or order appealed against be

suspended and, also, if he is in confinement, that he be released on

bail, or on his own bond.

(2)The power conferred by this section on an Appellate Court may

be exercised also by the High Court in the case of an appeal by a

convicted person to a Court subordinate thereto.

(3)Where the convicted person satisfies the Court by which he is

convicted that he intends to present an appeal, the Court shall,-

(i) where such person, being on bail, is sentenced to

imprisonment for a term not exceeding three years, or

(ii) where the offence of which such person has been

convicted is a bailable one, and he is on bail,

order that the convicted person be released on bail, unless there are

special reasons for refusing bail, for such period as will afford

sufficient time to present the appeal and obtain the orders of the

Appellate Court under sub-section (1) ; and the sentence of

imprisonment shall, so long as he is so released on bail, be deemed to

be suspended.

(4) When the appellant is ultimately sentenced to imprisonment

for a term or to imprisonment for life, the time during which he is so

released shall be excluded in computing the term for which he is so

sentenced.

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390.

Arrest of accused in appeal from acquittal.

390. Arrest of accused in appeal from acquittal. When an appeal

is presented under section 378, the High Court may issue a warrant

directing that the accused be arrested and brought before it or any

subordinate Court, and the Court before which he is brought may commit

him to prison pending the disposal of the appeal or admit him to bail.

391.

Appellate Court may take further evidence or direct it to be taken.

391. Appellate Court may take further evidence or direct it to be

taken. (1) In dealing with any appeal under this Chapter, the

Appellate Court, if it thinks additional evidence to be necessary,

shall record its reasons and may either take such evidence itself, or

direct it to be taken by a Magistrate, or when the Appellate Court is

a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of

Session or the Magistrate, it or he shall certify such evidence to the

Appellate Court, and such Court shall thereupon proceed to dispose of

the appeal.

(3) The accused or his pleader shall have the right to be

present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject

to the provisions of Chapter XXIII, as if it were an inquiry.

392.

Procedure where Judges of Court of Appeal are equally divided.

392. Procedure where Judges of Court of Appeal are equally

divided. When an appeal under this Chapter is heard by a High Court

before a Bench of Judges and they are divided in opinion, the appeal,

with their opinions, shall be laid before another Judge of that Court,

and that Judge, after such hearing as he thinks fit, shall deliver his

opinion, and the judgment or order shall follow that opinion:

Provided that if one of the Judges constituting the Bench, or,

where the appeal is laid before another Judge under this section, that

Judge, so requires, the appeal shall be re-heard and decided by a

larger Bench of Judges.

393.

Finality of judgments and orders on appeal.

393. Finality of judgments and orders on appeal. Judgments and

orders passed by an Appellate Court upon an appeal shall be final,

except in the cases provided for in section 377, section 378, subsection

(4) of section 384 or Chapter XXX :

Provided, that notwithstanding the final disposal of an appeal

against conviction in any case, the Appellate Court may hear and

dispose of, oil the merits,-

(a) an appeal against acquittal under section 378, arising

out of the same case, or

(b) an appeal for the enhancement of sentence under section

377, arising out of the same case.

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394.

Abatement of appeals.

394. Abatement of appeals. (1) Every appeal under section 377 or

section 378 shall finally abate on the death of the accused.

(2) Every other appeal under this Chapter (except an appeal from

a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and

sentence of death or of imprisonment, and the appellant dies during

the pendency of the appeal, any of his near relatives may, within

thirty days of the death of the appellant, apply to the Appellate

Court for leave to continue the appeal ; and if leave is granted, the

appeal shall not abate.

Explanation.-In this section, "near relative" means a parent,

spouse, lineal descendant, brother or sister.

CHAP

REFERENCE AND REVISION.

CHAPTER XXX

REFERENCE AND REVISION

395.

Reference to High Court.

395. Reference to High Court. (1) Where any Court is satisfied

that a case pending before it involves a question as to the validity

of any Act, Ordinance or Regulation or of any provision contained in

an Act, Ordinance or Regulation, the determination of which is

necessary for the disposal of the case, and is of opinion that such

Act, Ordinance, Regulation or provision is invalid or inoperative, but

has not been so declared by the High Court to which that Court is

subordinate or by the Supreme Court, the Court shall state a case

setting out its opinion and the reasons therefor, and refer the same

for the decision of the High Court.

Explanation.-In this section, "Regulation" means any Regulation as

defined in the General Clauses Act, 1897 (10 of 1897), or in the

General Clauses Act of a State.

(2) A Court of Session or a Metropolitan Magistrate may, if it

or he thinks fit in any case pending before it or him to which the

provisions of sub-section (1) do not apply, refer for the decision of

the High Court any question of law arising in the hearing of such

case.

(3) Any Court making a reference to the High Court under subsection

(1) or sub-section (2) may, pending the decision of the High

Court thereon, either commit the accused, to jail or release him on

bail to appear when called upon.

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396.

Disposal of case according to decision of High Court.

396. Disposal of case according to decision of High Court. (1)

When a question has been so referred, the High Court shall pass such

order thereon as it thinks fit, and shall cause a copy of such order

to be sent to the Court by which the reference was made, which shall

dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such

reference shall be paid.

397.

Calling for records to exercise powers of revision.

397. Calling for records to exercise powers of revision. (1) The

High Court or any Sessions Judge may call for and examine the record

of any proceeding before any inferior Criminal Court situate within

its or his local jurisdiction for the purpose of satisfying itself or

himself as to the correctness, legality or propriety of any finding,

sentence or order, -recorded or passed, and as to the regularity of

any proceedings of such inferior Court, and may, when calling for such

record, direct that the execution of any sentence or order be

suspended, and if the accused is in confinement, that he be released

on bail or on his own bond pending the examination of the record.

Explanation.-All Magistrates whether Executive or Judicial, and

whether exercising original or appellate jurisdiction, shall be deemed

to be inferior to the Sessions Judge for the purposes of this subsection

and of section 398.

(2) The powers of revision conferred by sub-section (1) shall

not be exercised in relation to any interlocutory order passed in any

appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any

person either to the High Court or to the Sessions Judge, no further

application by the same person shall be entertained by the other of

them.

398.

Power to order inquiry.

398. Power to order inquiry. On examining any record under

section 397 or otherwise, the High Court or the Sessions Judge may

direct the Chief Judicial Magistrate by himself or by any of the

Magistrate subordinate to him to make, and the Chief Judicial

Magistrate may himself make or direct any subordinate Magistrate to

make, further inquiry into any complaint which has been dismissed

under section 203 or sub-section (4) of section 204, or into the case

of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this

section for inquiry into the case of any person who has been

discharged unless such person has had an opportunity of showing cause

why such direction should not be made.

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399.

Sessions Judge's powers of revision.

399. Sessions Judge's powers of revision. (1) In the case of any

proceeding the record of which has been called for by himself, the

Sessions judge may exercise all or any of the powers which may be

exercised by the High Court under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before

a Sessions Judge under sub-section (1), the provisions of sub-sections

(2), (3), (4) and (5) of section 401 shall, so far as may be, apply to

such proceeding and references in the said sub-sections to the High

Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf

of an person before the Sessions Judge, the decision of the Sessions

Judge thereon in relation to such person shall be final and no further

proceeding by Way of revision at the instance of such person shall be

entertained by the High Court or any other Court.

400.

Power of Additional Sessons Judge.

400. Power of Additional Sessons Judge. An Additional Sessions

Judge shall have and may exercise all the powers of a Sessions

Judge under this Chapter in respect of any case which may be

transferred to him by or under any general or special order of the

Sessions Judge.

401.

High Court's Powers of revisions.

401. High Court's Powers of revisions. (1) In the case of any

proceeding the record of which has been called for by itself or Which

otherwise comes to its knowledge, the High Court may, in its

discretion, exercise any of the powers conferred on a Court of Appeal by

sections 386, 389, 390 and 391 or on a Court of Session by section 307

and, when the Judges composing the Court of revision are equally

divided in opinion, the case shall be disposed of in the manner

provided by section 392.

(2) No order under this section shall be made to the prejudice

of the accused or other person unless he has had an opportunity of

being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High

Court to convert a finding of acquittal into one of conviction.

(4) Where under this Code an appeal lies and no appeal is

brought, no proceeding by way of revision shall be entertained at the

instance of the party who could have appealed.

(5) Where under this Code tan appeal lies but an application

for revision has been made to the High Court by any person and the

High Court Is satisfied that such application was made under the

erroneous belief that no appeal lies thereto and that it is necessary

in the interests of justice

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so to do, the High Court may treat the application for revision as a

petition of appeal and deal with the same accordingly.

402.

Powers of High Court to withdraw or tranfer revision cases.

402. Powers of High Court to withdraw or tranfer revision cases.

(1) Whenever one or more persons convicted at the same trial makes or

make application to a High Court for revision and any other person

convicted at the same trial makes an application to the Sessions Judge

for revision, the High Court shall decide, having regard to the

general convenience of the parties and the importance of the questions

involved, which of the two Courts should finally dispose of the

applications for revision and when the High Court decides that all the

applications for revision should be disposed of by itself, the High

Court shall direct that the applications for revision pending before

the Sessions Judge be transferred to itself and where the High Court

decides that it is not necessary for it to dispose of the applications

for revision, it shall direct that the applications for revision made

to it be transferred to the Sessions Judge.

(2) Whenever any application for revision is transferred to the

High Court, that Court shall deal with the same as if it were an

application duly made before itself.

(3) Whenever any application for revision is transferred to the

Session Judge, that Judge shall deal with the same as if it were an

application duly made before himself.

(4) Where an application for revision is transferred by the High

Court to the Sessions Judge, no further application for revision shall

lie to the High Court or to any other Court at the instance of the

person or persons whose applications for revision have been disposed of

by the Session Judge.

403.

Option of Court to hear parties.

403. Option of Court to hear parties. Save as otherwise

expressly provided by this Code, no party has any right to be heard

either personally or by pleader before any Court exercising its powers

of revision; but the Court may, if it thinks fit, when exercising such

powers, hear any party either personally or by pleader.

404.

Statement by Metropolitan Magistrate of ground of his decision to

beconsidered by High Court.

404. Statement by Metropolitan Magistrate of ground of his

decision to be considered by High Court. When the record of any trial

held by a Metropolitan Magistrate is called for by the High Court or

Court of Session under section 397, the Magistrate may submit with the

record a statement setting forth the grounds of his decision or order

and any facts which he thinks material to the issue ; and the Court

shall consider such statement before overruling or setting aside the

said decision or order.

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405.

High Courts' order to be certified to lower Court.

405. High Courts' order to be certified to lower Court. When a

case is revised under this Chapter by the High Court or a Sessions

Judge, it or he shall, in the manner provided by section 388, certify

its decision or order to the Court by which the finding, sentence or

order revised was recorded or passed, and the Court to which the

decision or order is so certified shall thereupon make such orders as

are conformable to the decision so certified ; and, if necessary, the

record shall be amended in accordance therewith.

CHAP

TRANSFER OF CRIMINAL CASES.

CHAPTER XXXI

TRANSFER OF CRIMINAL CASES

406.

Power of Supreme Court to transfer cases and appeals.

406. Power of Supreme Court to transfer cases and appeals. (1)

Whenever it is made to appear to the Supreme Court that an order under

this section is expedient for the ends of justice, it may direct that

any particular case or appeal be transferred from one High Court to

another High Court or from a Criminal Court subordinate to one High

Court to another Criminal Court of equal or superior jurisdiction

subordinate to another High Court.

(2)The Supreme Court may act under this section only on the

application of the Attorney-General of India or of a party interested,

and every such application shall be made by motion, which shall,

except when the applicant is the Attorney-General of India or the

Advocate-General of the State, be supported by affidavit or

affirmation.

(3)Where any application for the exercise of the powers conferred

by this section is dismissed, the Supreme Court may, if it is of

opinion that the application was frivolous or vexatious, order the

applicant to pay by way of compensation to any person who has opposed

the application such sum not exceeding one thousand rupees as it may

consider appropriate In the circumstances of the case.

407.

Power of High Court to transfer cases and appeals.

407. Power of High Court to transfer cases and appeals. (1)

Whenever it is made to appear to the High Court-

(a) that a fair and impartial inquiry or trial cannot be

had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is

likely to arise, or

(c) that an order under this section is required by any

provision of this Code, or will tend to the general

convenience of the parties or witnesses, or is expedient for

the ends of justice,

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it may order-

(i) that any offence be inquired into or tried by any Court

not qualified under sections 177 to 185 (both inclusive), but

in other respects competent to inquire into or try such

offence;

(ii) that any particular case or appeal, or class of cases

or appeals, be transferred from a Criminal Court subordinate

to its authority to any other such Criminal Court of equal or

superior jurisdiction ;

(iii) that any particular case be committed for trial to

a Court of Session ; or

(iv) that any particular case or appeal be transferred to

and tried before itself.

(2) The High Court may act either on the report of the lower

Court, or on the application of a party interested, or on its own

initiative :

Provided that no application shall lie to the High Court for

transferring a case from one Criminal Court to another Criminal Court

in the same sessions division, unless an application for such transfer

has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall

be made by motion, which shall, except when the applicant is the

Advocate-General of the State, be supported by affidavit or

affirmation.

(4) When such application is made by an accused person, the High

Court may direct him to execute a bond, with or without sureties, for

the payment of any compensation which the High Court may award under

sub-section (7).

(5) Every accused person making such application shall give to

the Public Prosecutor notice in writing of the application, together

with copy of the grounds on which it is made; and no order shall be

made on of the merits of the application unless at least twenty-four

hours have elapsed between the giving of such notice and the hearing

of the application.

(6) Where the application is for the transfer of a case or

appeal from any subordinate Court, the High Court may, if it is

satisfied that it is necessary so to do in the interests of justice,

order that, pending the disposal of the application, the proceedings

in the subordinate Court shall be stayed, on such terms as the High

Court may think fit to impose:

Provided that such stay shall not affect the subordinate Court's

power of remand under section 309.

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(7) Where an application for an order under sub-section (1) is

dismissed, the High Court may, if it is of opinion that the

application was frivolous or vexatious, order the applicant to pay by

way of compensation to any person who has opposed the application such

sum not exceeding one thousand rupees as it may consider proper in

the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case

be transferred from any Court for trial before itself, it shall

observe in such trial the same procedure which that Court would have

observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order

of Government under section 197.

408.

Power of Sessions Judge to transfer cases and appeals.

408. Power of Sessions Judge to transfer cases and appeals. (1)

Whenever it is made to appear to a Sessions Judge that an order under

this sub-section is expedient for the ends of justice, he may order

that any particular case be transferred from one Criminal Court to

another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower

Court, or on the application of a party interested, or on his own

initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and

(9) of section 407 shall apply in relation to an application to the

Sessions Judge for an order under sub-section (1) as they apply in

relation to an application to the High Court for an order under

subsection (1) of section 407, except that sub-section (7) of that

section shall so apply as if for the words "one thousand rupees"

occurring therein, the words "two hundred and fifty rupees" were

substituted.

409.

Withdrawal of cases and appeals by Sessions Judges.

409. Withdrawal of cases and appeals by Sessions Judges. (1) A

Sessions Judge may withdraw any case or appeal from, or recall any

case or appeal which he has made over to, any Assistant Sessions Judge

or Chief Judicial Magistrate subordinate to him.

(2) At any time before the trial of the case or the hearing of

the appeal has commenced before the Additional Sessions Judge, a

Sessions Judge may recall any case or appeal which he has made over to

any Additional Sessions Judge.

(3) Where a Sessions Judge withdraws or recalls a case or appeal

under sub-section (1) or sub-section (2), he may either try the case

in his own Court or hear the appeal himself, or make it over in

accordance with the provisions of this Code to another Court for trial

or hearing, as the case may be.

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410.

Withdrawal of cases by Judicial Magistrates.

410. Withdrawal of cases by Judicial Magistrates. (1) Any Chief

Judicial Magistrate may withdraw any case from, or recall any case

which he has made over to, any Magistrate subordinate to him, and may

inquire into or try such case himself, or refer it for inquiry or

trial to any other such Magistrate competent to inquire into or try

the same.

(2)Any Judicial Magistrate may recall any case made over by him

under sub-section (2) of section 192 to any other Magistrate and may

inquire into or try such case himself.

411.

Making over or withdrawal of cases by Excutive Magistrates.

411. Making over or withdrawal of cases by Excutive Magistrates.

Any District Magistrate or Sub-divisional Magistrate may-

(a) make over, for disposal, any proceeding which has been

started before him, to any Magistrate subordinate to him;

(b) withdraw any case from, or recall any case which he has

made over to, any Magistrate subordinate to him, and dispose

of such proceeding himself or refer it for disposal to any

other Magistrate.

412.

Reasons to be recorded.

412. Reasons to be recorded. A Sessions Judge or Magistrate

making an order under section 408, section 409, section 410 or section

411 shall record his reasons for making it.

CHAP

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

CHAPTER XXXII

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A.-Death sentences

413.

Execution of order passed under section 368.

413. Execution of order passed under section 368. When in a case

submitted to the High Court for the confirmation of a sentence of

death, the Court of Session receives the order of confirmation or

other order of the High Court thereon , it shall cause such order to

be carried into effect by issuing a warrant or taking such other steps

as may be necessary.

414.

Execution of sentence of death passed by High Court.

414. Execution of sentence of death passed by High Court. When a

sentence of death is passed by the High Court in appeal or in

revision, the Court of Session shall, on receiving the order of the

High Court, cause the sentence to be carried into effect by issuing a

warrant.

415.

Postponement of execution sentence of death in case of appeal toSupreme

Court.

415. Postponement of execution sentence of death in case of

appeal to Supreme Court. (1) Where a person is sentenced to death by

the High Court and an appeal from its judgment lies to the Supreme

Court under subclause (a) or sub-clause (b) of clause (1) of article

134 of the Constitution.

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the High Court shall order the execution of the sentence to be

postponed until the period allowed for preferring such appeal has

expired, or, if an appeal is preferred within that period, until such

appeal is disposed of.

(2) Where a sentence of death is passed or confirmed by the High

Court, and the person sentenced makes an application to the High

Court for the grant of a certificate under article 132 or under subclause

(c) of clause (1) of article 134 of the Constitution, the High

Court shall order the execution of the sentence to be postponed until

such application is disposed of by the High Court, or if a certificate

is granted on such application, until the period allowed for

preferring an appeal to the Supreme Court on such certificate has

expired.

(3) Where a sentence of death is passed or confirmed by the High

Court, and the High Court is satisfied that the person sentenced

intends to present a petition to the Supreme Court for the grant of

special leave to appeal under article 136 of the Constitution, the

High Court shall order the execution of the sentence to be postponed

for such period as it considers sufficient to enable him to present

such petition.

416.

Postponement of capital sentence pregnant woman.

416. Postponement of capital sentence pregnant woman. If a woman

sentenced to death is found to be pregnant, the High Court shall order

the execution of the sentence to be postponed, and may, if it thinks

fit, commute the sentence to imprisonment for life.

B.-Imprisonment

417.

Power to appoint place of imprisonment.

417. Power to appoint place of imprisonment. (1) Except when

otherwise provided by any law for the time being in force, the State

Government may direct In what place any person liable to be imprisoned

or committed to custody under this Code shall be confined.

(2) If any person liable to be imprisoned or committed to

custody under this Code is in confinement in a civil jail, the Court

or Magistrate ordering the imprisonment or committal may direct that

the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under subsection

(2), he shall, on being released therefrom, be sent back

to the civil jail, unless either-

(a) three years have elapsed since he was removed to the

criminal jail, in Which case he shall be deemed to have been

released from the civil jail under section 58 of the Code of

Civil Pro-

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cedure, 1908 (5 of 1908 ), or section 23 of the Provincial

Insolvency Act, 1920 (5 of 1920), as the case may be; or

(b) the Court which ordered his imprisonment in the civil

jail has certified to the officer in charge of the criminal

jail that he is entitled to be released under section 58 of

the Code of Civil Procedure, 1908 (5 of 1908), or under

section 23 of the Provincial Insolvency Act, 1920 (5 of

1920), as the case may be.

418.

Execution of sentence of imprisonment.

418. Execution of sentence of imprisonment. (1) Where the accused

is sentenced to imprisonment for life or to imprisonment for a term in

cases other than those provided for by section 413, the Court passing

the sentence shall forthwith forward a warrant to the jail or other

place in which he is, or is to be, confined, and, unless the accused

is already confined in such jail or other place, shall forward him to

such jail or other place, with the warrant:

Provided that where the accused is sentenced to imprisonment till

the rising of the Court, it shall not be necessary to prepare or

forward a warrant to a jail, and the accused may be confined in such

place as the Court may direct.

(2) Where the accused is not present in Court when he is

sentenced to such imprisonment as is mentioned in sub-section (1), the

Court shall issue a warrant for his arrest for the purpose of

forwarding him to the jail or other place in which he is to be

confined; and in such case, the sentence shall commence on the date of

his arrest.

419.

Direction of warrant for execution.

419. Direction of warrant for execution. Every warrant for the

execution of a sentence of imprisonment shall be directed to the

officer in charge of the jail or other place in which the prisoner is,

or is to be, confined.

420.

Warrant with whom to be lodged.

420. Warrant with whom to be lodged. When the prisoner is to be

confined in a jail, the warrant shall be lodged with the jailor.

C.-Levy of fine

421.

Warrant for levy of fine.

421. Warrant for levy of fine. (1) When an offender has been

sentenced to pay a fine, the Court passing the sentence may take

action for the recovery of the fine in either or both of the following

ways, that is to say, it may-

(a) issue a warrant for the levy of the amount by

attachment and sale of any movable property belonging to the

offender;

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(b) issue a warrant to the Collector of the district,

authorising him to realise the amount as arrears of land

revenue from the movable or immovable property, or both, of

the defaulter:

Provided that, if the sentence directs that in default of payment

of the fine, the offender shall be imprisoned, and if such offender

has undergone the whole of such imprisonment in default, no Court

shall issue such warrant unless, for special reasons to be recorded in

writing, it considers it necessary so to do, or unless it has made an

order for the payment of expenses or compensation out of the fine

under section 357.

(2) The State Government may make rules regulating the manner In

which warrants under clause (a) of sub-section (1) are to be executed,

and for the summary determination of any claims made by any person

other than the offender in respect of any property attached in

execution of such warrant.

(3) Where the Court issues a warrant to the Collector under

clause (b) of sub-section (1), the Collector shall realise the

amount in accordance with the law relating to recovery of arrears of

land revenue, as if such warrant were a certificate issued under such

law :

Provided that no such warrant shall be executed by the arrest or

detention in prison of the offender.

422.

Effect of such warrant.

422. Effect of such warrant. A warrant issued under clause (a) of

sub-section (1) of section 421 by any Court may be executed within the

local jurisdiction of such Court, and it shall authorise the

attachment and sale of any such property outside such jurisdiction,

when it is endorsed by the District Magistrate within whose local

jurisdiction such property is found.

423.

Warrant for levy of fine issued by a Court in any territory to whichthis Code

does not extend.

423. Warrant for levy of fine issued by a Court in any territory

to which this Code does not extend. Notwithstanding anything contained

in this Code or in any other law for the time being in force, when an

offender has been sentenced to pay a fine by a Criminal Court in any

territory to which this Code does not extend and the Court passing the

sentence issues a warrant to the Collector of a district in the

territories to which this Code extends, authorising him to realise the

amount as if it were an arrear of land revenue, such warrant shall be

deemed to be a warrant issued under clause (b) of sub-section (1) of

section 421 by a Court in the territories to which this Code extends,

and the provisions of sub-section (3) of the said section, as to the

execution of such warrant shall apply accordingly.

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424.

Suspension of execution of sentence of imprisonment.

424.Suspension of execution of sentence of imprisonment. (1) When

an offender has been sentenced to fine only and to imprisonment in

default of payment of the fine, and the fine is not paid forthwith,

the Court may-

(a) order that the fine shall be payable either in full on

or before a date not more than thirty days from the date of

the order, or in two or three instalments, of which the first

shall be payable on or before a date not more than thirty

days from the date of the order and the other or others at an

interval or at intervals, as the case may be, of not more

than thirty days ;

(b) suspend the execution of the sentence of imprisonment

and release the offender, on the execution by the offender of

a bond, with or without sureties, as the Court thinks fit,

conditioned for his appearance before the Court on the date

or dates on or before which payment of the fine or the

instalments thereof, as the case may be, is to be made; and

if the amount of the fine or of any instalment, as the case

may be, is not realised on or before the latest date on which

it is payable under the order, the Court may direct the

sentence of imprisonment to be carried into execution at

once.

(2) The provisions of sub-section (1) shall be applicable also

in any case in which an order for the payment of money has been made

on non-recovery of which imprisonment may be awarded and the money is

not paid forthwith; and, if the person against whom the order has been

made, on being required to enter into a bond such as is referred to in

that sub-section, fails to do so, the Court may at once pass sentence

of imprisonment.

D.-General provisions regarding execution

425.

Who may issue warrant.

425.Who may issue warrant. Every warrant for the execution of a

sentence may be issued either by the Judge or Magistrate who passed the

sentence, or by his successor-in-office.

426.

Sentence on escaped convict when to take effect.

426. Sentence on escaped convict when to take effect. (1) When a

sentence of death, imprisonment for life or fine is passed under this

Code on an escaped convict, such sentence shall, subject to the

provisions hereinbefore contained, take effect immediately.

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(2) When a sentence of imprisonment for a term is passed under

this Code on an escaped convict,-

(a) if such sentence is severer in kind than the sentence

which such convict was undergoing when he escaped, the new

sentence shall take effect immediately;

(b) if such sentence is not severer in kind than the

sentence which such convict was undergoing when he escaped,

the new sentence shall take effect after he has suffered

imprisonment for a further period equal to that which, at the

time of his escape, remained unexpired of his former

sentence.

(3) For the purposes of sub-section (2), a sentence of rigorous

imprisonment shall be deemed to be severer in kind than a sentence of

simple imprisonment.

427

Sentence on offender already sentenced for another offence.

427.Sentence on offender already sentenced for another offence.

(1) When a person already undergoing a sentence of imprisonment is

sentenced on a subsequent conviction to imprisonment or imprisonment

for life, such imprisonment or imprisonment for life shall commence at

the expiration of the imprisonment to which he has been previously

sentenced, unless the Court directs that the subsequent sentence shall

run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment

by an order under section 122 in default of furnishing security

is, whilst undergoing such sentence, sentenced to imprisonment for an

offence committed prior to the making of such order, the latter

sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment

for life is sentenced on a subsequent conviction to imprisonment for a

term or imprisonment for life, the subsequent sentence shall run concurrently

with such previous sentence.

428.

Period of detention undergone by the accused to be set off againstthe

sentence or imprisonment.

428. Period of detention undergone by the accused to be set off

against the sentence or imprisonment. Where an accused person has,

on conviction, been sentenced to imprisonment for a term 1\*[,not being

imprisonment in default of payment of fine], the period of detention,

if any, undergone by him during the investigation, inquiry or trial of

the same case and before the date of such conviction, shall be set off

against the term of imprisonment imposed on him on such conviction,

and the liability of such person to undergo

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1 Ins. by Act 45 of 1978, s. 31 (w.e.f. 18-12-1978).

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imprisonment on such conviction shall be restricted to the remainder,

any, of the term of imprisonment imposed on him.

429.

Saving.

429. Saving. (1) Nothing in section 426 or section 427 shall be

held to excuse person from any part of the punishment to which he is

liable upon his former or subsequent conviction.

(2)When an award of imprisonment in default of payment of a fine

is annexed to a substantive sentence of imprisonment and the person

undergoing the sentence is after its execution to undergo a further

substantive sentence or further substantive sentences of imprisonment,

effect shall not be given to the award of imprisonment in default of

payment of the fine until the person has undergone the further

sentence or sentences.

430.

Return of warrant on execution sentence.

430. Return of warrant on execution sentence. When a sentence has

been fully executed, the officer executing it shall return the warrant

to the Court from which it is issued, with an endorsement under his

hand certifying the manner in which the sentence has been executed.

431.

Money ordered to be paid recoverable as a fine.

431. Money ordered to be paid recoverable as fine. Any money

(other than a fine) payable by virtue of any order made under this

Code, and the method of recovery of which is not otherwise expressly

provided for, shall be recoverable as if it were a fine:

Provided that section 421 shall, in its application to an order

under section 359, by virtue of this section, be construed as if in

the proviso to sub-section (1) of section 421, after the words and

figures "under section 357", the words and figures "or an order for

payment of costs under section 359" had been inserted,

E.-Suspension, remission and commutation of sentences

432.

Power to suspend or remit sentences.

432. Power to suspend or remit sentences. (1) When any person has

been sentenced to punishment for an offence, the appropriate

Government may, at any time, without Conditions or upon any conditions

which the person sentenced accepts, suspend the execution of his

sentence or remit the whole or any part of the punishment to which he

has been sentenced.

(2)Whenever an application is made to the appropriate Government

for the suspension or remission of a sentence, the appropriate

Government may require the. presiding Judge of the Court before or by

which the con-

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viction was had or confirmed, to state his opinion as to whether the

application should be granted or refused, together with his reasons

for such opinion and also to forward with the statement of such

opinion a certified copy of the record of the trial or of such record

thereof as exists.

(3)If any condition on which a sentence has been suspended or

remitted is, In the opinion of the appropriate Government, not

fulfilled, the appropriate Government may cancel the suspension or

remission, and thereupon the person in whose favour the sentence has

been suspended or remitted may, if at large, be arrested by any police

officer, without warrant and remanded to undergo the unexpired portion

of the sentence.

(4)The condition on which a sentence is suspended or remitted

under this section may be one to be fulfilled by the person in whose

favour the sentence is suspended or remitted, or one independent of

his will.

(5)The appropriate Government may, by general rules or special

orders give directions as to the suspension of sentences and the

conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence

of fine) passed on a male person above the age of eighteen years, no

such petition by the person sentenced or by any other person on his

behalf shall be entertained, unless the person sentenced is in jail,

and-

(a) where such petition is made by the person sentenced, it

is presented through the officer in charge of the jail ; or

(b) where such petition is made by any other person, it

contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-sections shall also apply to

any order passed by a Criminal Court under any section of this Code or

of any other law which restricts the liberty of any person or imposes

any liability upon him or his property.

(7) In this section and in section 433, the expression

"appropriate Government" means,-

(a) in cases where the sentence is for an offence against,

or the order referred to in sub-section (6) is passed under,

any law relating to a matter to which the executive power of

the Union extends, the Central Government ;

(b) in other cases, the Government of the State within

which the offender is sentenced or the said order is passed.

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433.

Power to commute sentence.

433. Power to commute sentence. The appropriate Government may,

without the consent of the person sentenced, commute-

(a) a sentence of death, for any other punishment

provided by the Indian Penal Code;

(b) a sentence of imprisonment for life, for

imprisonment for a term not exceeding fourteen years or for

fine ;

(c) a sentence of rigorous imprisonment, for simple

imprisonment for any term to which that person might have

been sentenced, or for fine ;

(d) a sentence of simple imprisonment, for fine.

433A

Restriction on powers of remission or Commutation in certain cases.

1\*[433A. Restriction on powers of remission or Commutation in

certain cases. Notwithstanding anything contained in section 432,

where a sentence of imprisonment for life is imposed on conviction of

a person for an offence for which death is one of the punishments

provided by law, or where a sentence of death imposed on a person has

been commuted under section 433 into one of imprisonment for life,

such person shall not be released from prison unless he had served at

least fourteen years of imprisonment.]

434.

Concurrent power of Central Government in case of death sentences.

434. Concurrent power of Central Government in case of death

sentences. The powers conferred by sections 432 and 433 upon the State

Government may, in the case of sentences of death, also be exercised

by the Central Government.

435.

State Government to act after consultation with Central Government incertain

cases.

435. State Government to act after consultation with Central

Government in certain cases. (1) The powers conferred by sections 432

and 433 upon the State Government to remit or commute a sentence, in

any case where the sentence Is for an offence-

(a) which was investigated by the Delhi Special Police

Establishment constituted under the Delhi Special Police

Establishment Act, 1946 (25 of 1946), or by any other agency

empowered to make investigation into an offence under any

Central Act other than this Code, or

(b) which involved the misappropriation or destruction of,

or damage to, any property belonging to the Central Government,

or

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1 Ins. by Act 45 of 1978, s. 32 (w.e.f. 18-12-1978).

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(c) which was committed by a person in the service of

the Central Government while acting or purporting to act in

the discharge of his official duty,

shall not be exercised by the State Government except after

consultation with the Central Government.

(2) No order of suspension, remission or commutation of

sentences passed by the State Government in relation to a person, who

has been convicted of offences, some of which relate to matters to

which the executive power of the Union extends, and who has been

sentenced to separate terms of imprisonment which are to run

concurrently, shall have effect unless an order for the suspension,

remission or commutation, as the case may be, of such sentences has

also been made by the Central Government in relation to the offences

committed by such person with regard to matters to which the executive

power of the Union extends.

CHAP

PROVISIONS AS TO BAIL AND BONDS.

CHAPTER XXXIII

PROVISIONS AS TO BAIL AND BONDS

436.

In what cases bail to be taken.

436. In what cases bail to be taken. (1) When any person other

than a person accused of a non-bailable offence is arrested or

detained without warrant by an officer in charge of a police station,

or appears or is brought before a Court, and is prepared at any time

while in the custody of such officer or at any stage of the proceeding

before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may,

instead of taking bail from such person, discharge him on his

executing a bond without sureties for his appearance as hereinafter

provided:

Provided further that nothing in this section shall be deemed to

affect the provisions of sub-section (3) of section 116 or section

446A1\*.

(2) Notwithstanding anything contained in sub-section (1), where

a person has failed to comply with the conditions of the bail-bond as

regards the time and place of attendance, the Court may refuse to

release him on bail, when on a subsequent occasion in the same case he

appears before the Court or is brought in custody and any such refusal

shall be without prejudice to the powers of the Court to call upon any

person bound by such bond to pay the penalty thereof under section

446.

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1 Ins. by Act 63 of 1980, s.4 (w.e.f. 23.9.1980)

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347.

When bail may be taken in case of non-bailable offence.

437. When bail may be taken in case of non-bailable offence.1\*(1)

When any person accused of, or suspected of, the commission of any

non-bailable offence is arrested or detained without 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(

i) 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;

(ii) 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 nonbailable

and cognizable offence:

Provided that the Court may direct that a person referred to in

clause (i) or clause (ii) be released on bail it such person is under

the age of sixteen years or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person

referred to in clause (ii) be released on bail if it is satisfied that

It is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be

required for being identified by witnesses during investigation shall

not be sufficient ground for refusing to grant bail if he is otherwise

entitled to be released on bail and gives an undertaking that he shall

comply with such directions as may be given by the Court.]

(2) If it appears to such officer or Court at any stage of the

investigation, inquiry or trial, as the case may be, that there are

not reasonable grounds for believing that the accused has committed a

non-bailable offence, but that there are sufficient grounds for

further inquiry into his 1\*[guilt the accused shall, subject to the

provisions of section 446A and pending such inquiry, be released on

bail] or at the discretion of such officer or Court, on the execution

by him of a bond without sureties for his appearance as hereinafter

provided.

(3)When a person accused or suspected of the commission of an

offence punishable with imprisonment which may extend to seven years

or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII

of the Indian Penal Code or abetment of, or conspiracy or attempt to

commit, any such offence, is released on bail under sub-section (1),

the Court may impose any condition which the Court considers

necessary-

(a) in order to ensure that such person shall attend in

accordance with the conditions of the bond executed under

this Chapter,or

(b) in order to ensure that such person shall not commit an

offence similar to the offence of which he is accused or of

the commission of which he is suspected, or

(c) otherwise in the interests of justice.

(4) An officer or a Court releasing any person on bail under subsection

(1) or sub-section (2), shall record in writing his or its

1\*[reasons or special seasons] for so doing.

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1 Subs. by Act 63 of 1980, s.5 (w.e.f. 23.9.1980).

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(5) Any Court which has released a person on bail under subsection

(1) or sub-section (2), may, if it considers it necessary

so to do, direct that such person be arrested and commit him to

custody.

(6) If, in any case triable by a Magistrate, the trial of a

person accused of any non-bailable offence is not concluded within a

period of sixty days from the first date fixed for taking evidence in

the case, such person shall, if he is in custody during the whole of

the said period, be released on bail to the satisfaction of the

Magistrate, unless for reasons to be recorded in writing, the

Magistrate otherwise directs.

(7) If, at any time after the conclusion of the trial of a

person accused of a non-bailable offence and before judgment is

delivered, the Court is of opinion that there are reasonable grounds

for believing that the accused is not guilty of any such offence, it

shall release the accused, if he is in custody, on the execution by

him of a bond without sureties for his appearance to hear judgment

delivered.

438.

Direction for grant of bail to person apprehending arrest.

438. Direction for grant of bail to person apprehending arrest.

(1) When any person has reason to believe that he may be arrested on

an accusation of having committed a non-bailable offence, he may apply

to the High Court or the Court of Session for a direction under this

section ; and that Court may, if it thinks fit, direct that in the

event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a

direction under sub-section (1), it may include such conditions in

such directions in the light of the facts of the particular case, as

it may think fit, including-

(i) a condition that the person shall make himself

available for interrogation by a police officer as and when

required;

(ii) a condition that the person shall not, directly or

indirectly, make any inducement, threat or promise to any

person acquainted with the facts of the case so as to

dissuade him from disclosing such facts to the Court or to

any police officer;

(iii) a condition that the person shall not leave India

without the previous permission of the Court ;

(iv) such other condition as may be imposed under subsection

(3) of section 437, as if the bail were granted under

that section.

(3) If such person is thereafter arrested without warrant by an

officer in charge of a police station on such accusation, and is

prepared either at the time of arrest or at any time while in the

custody of such officer to give bail, be shall be released on bail;

and if a Magistrate taking cogniz-

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ance of such offence decides that a warrant should issue in the first

instance against that person, he shall issue a bailable warrant in

conformity with the direction of the Court under sub-section (1).

439.

Special powers of High Court or Court of Session regarding bail.

439. Special powers of High Court or Court of Session regarding

bail. (1) A High Court or Court of Session may direct-

(a) that any person accused of an offence and in custody be

released on bail, and if the offence is of the nature

specified in subsection (3) of section 437, may impose any

condition which it considers necessary for the purposes

mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when

releasing an person on bail be set aside or modified :

Provided that the High Court or the Court of Session shall,

before granting bail to a person who is accused of an offence which is

triable exclusively by the Court of Session or which, though not so

triable, is punishable with imprisonment for life, give notice of the

application for bail to the Public Prosecutor unless it is, for

reasons to be recorded in writing, of opinion that it is not

practicable to give such notice.

(2) A High Court or Court of Session may direct that any person

who has been released on bail under this Chapter be arrested and

commit him to custody.

440.

Amount of bond and reduction thereof.

440. Amount of bond and reduction thereof. (1) The amount of

every bond executed under this Chapter shall be fixed with due regard

to the circumstances of the case and shall not be excessive.

(2) The High Court or Court of Session may direct that the bail

required by a police officer or Magistrate be reduced.

441.

Bond of accused and sureties.

441. Bond of accused and sureties. (1) Before any person is

released on bail or released on his own bond, a bond for such sum of

money as the police officer or Court, as the case may be, thinks

sufficient shall be executed by such person, and, when he is released

on bail, by one or more sufficient sureties conditioned that such

person shall attend at the time and place mentioned in the bond, and

shall continue so to attend until otherwise directed by the police

officer or Court, as the case may be.

(2) Where any condition, is imposed for the release of any

person on bail, the bond shall also contain that condition.

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(3) If the case so requires, the bond shall also bind the person

released on bail to appear when called upon at the High Court, Court

of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit

or sufficient, the Court may accept affidavits in proof of the facts

contained therein relating to the sufficiency or fitness of the

sureties, or, if it considers necessary, may either, hold an inquiry

itself or cause an inquiry to be made by a Magistrate subordinate to

the Court, as to such sufficiency or fitness.

442.

Discharge from custody.

442. Discharge from custody. (1) As soon as the bond has been

executed, the person for whose appearance it has been executed shall

be released; and, when he is in jail, the Court admitting him to bail

shall issue an order of release to the officer in charge of the jail,

and such officer on receipt of the orders shall release him.

(2) Nothing in this section, section 436 or section 437 shall be

deemed to require the release of any person liable to be detained for

some matter other than that in respect of which the bond was executed.

443.

Power to order sufficient bail when that first taken is insufficient.

443. Power to order sufficient bail when that first taken is

insufficient. If, through mistake, fraud, or otherwise, insufficient

sureties have been accepted, or if they afterwards become

insufficient, the Court may issue a warrant of arrest directing that

the person released on bail be brought before it and may order him to

find sufficient sureties, and, on his failing so to do, may commit him

to jail.

444.

Discharge of sureties.

444. Discharge of sureties. (1) All or any sureties for the

attendance and appearance of a person released on bail may at any time

apply to a Magistrate to discharge the bond, either wholly or so far

as relates to the applicants.

(2) On such application being made, the Magistrate shall issue

his warrant of arrest directing that the person so released be brought

before him.

(3) On the appearance of such person pursuant to the warrant, or

on his voluntary surrender, the Magistrate shall direct the bond to be

discharged either wholly or so far as relates to the applicants, and

shall call upon such person to find other sufficient sureties, and, if

he fails to do so, may commit him to jail.

445.

Deposit instead of recognizance.

445. Deposit instead of recognizance. When any person is required

by any Court or officer to execute a bond with or without sureties,

such Court or officer may, except in the case of a bond for good

behaviour, permit him to deposit a sum of money

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or Government promissory notes to such amount as the Court or officer

may fix in lieu of executing such bond.

446.

Procedure when bond has been forfeited.

446. Procedure when bond has been forfeited. (1) Where a bond

under this Code is for appearance, or for production of property,

before a Court and it is proved to the satisfaction of that Court, or

of any Court to which the case has subsequently been transferred, that

the bond has been forfeited,

or where, in respect of any other bond under this Code, it is

proved to the satisfaction of the Court by which the bond was taken,

or of any Court to which the case has subsequently been transferred,

or of the Court of any Magistrate of the first class, that the bond

has been forfeited,

the Court shall record the grounds of such proof, and may call

upon any person bound by such bond to pay the penalty thereof or to

show cause why it should not be paid.

Explanation.-A condition in a bond for appearance, or for

production of property, before a Court shall be construed as including

a condition for appearance, or as the case may be, for production of

property, before any Court to which the case may subsequently be

transferred.

(2) If sufficient cause is not shown and the penalty is not

paid, the Court may proceed to recover the same as if such penalty

were a fine imposed by it under this Code.

1\*["provided that where such penalty is not paid and cannot be

recovered in the manner aforesaid, the person so bound as surety shall

be liable, by order of the Court ordering the recovery of the penalty,

to imprisonment in civil jail for a term which may extend to six

months.]

(3)The Court may, at its discretion, remit any portion of the

penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited,

his estate shall be discharged from all liability in respect of the

bond.

(5) Where any person who has furnished security under section

106 or section 117 or section 360 is convicted of an offence the

commission of which constitutes a breach of the conditions of his

bond, or of a bond executed in lieu of his bond under section 448, a

certified copy of the judgment of the Court by which he was convicted

of such offence may be used as evidence in proceedings under this

section against his surety or sureties, and, ;if such certified copy

is so used, the Court shall presume that such offence was committed by

him unless the contrary is proved.

2\*[446A. Cancellation of bond and bail-bond. Without prejudice to

the provisions of section 446, where a bond under this Code is for

appearance of a person in a case and it is forfeited for breach of a

condition-

(a) the bond executed by such person as well as the bond,

if any, executed by one or more of his sureties in that case

shall stand cancelled; and

(b) thereafter no such person shall be released only on his

own bond in that case, if the Police Officer or the Court, as

the case may be, for appearance before whom the bond was

executed, is satisfied that there was no sufficient cause for

the failure of the person bound by the bond to comply with

its condition:

Provided that subject to any other provision of this Code he may

be released in that case upon the execution of a fresh personal bond

for such sum of money and bond by one or more of such sureties as the

Police Officer or the Court, as the case may be, thinks sufficient.]

447.

Procedure in case of insolvency or death of surety or when a bond isforfeited.

447. Procedure in case of insolvency or death of surety or when a

bond is forfeited. When any surety to a bond under this Code becomes

insolvent or dies, or when any bond is forfeited under the provisions

of section 446, the Court by whose order such bond was taken, or a

Magistrate of the first class may order the person from whom such

security was demanded to furnish fresh security in accordance with the

directions of the original

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1. Added by Act 63 of 1980, s.6 (w.e.f. 23-09-1980).

2. Ins. by s.7, ibid. (w.e.f. (23-09-1980).

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order, and if such security is not furnished, such Court or

Magistrate may proceed as if there had been a default in complying

with such original order.

448.

Bond required from minor.

448. Bond required from minor. When the person required by any

Court, or officer to execute a bond is a minor, such Court or offer

may accept, in lieu thereof, a bond executed by a surety or sureties

only.

449.

Appeal from orders under section 446.

449. Appeal from orders under section 446. All orders passed

under section 446 shall be appealable,-

(i) in the case of an order made by a Magistrate, to the

Sessions Judge ;

(ii) in the case of an order made by a Court of Session, to

the Court to which an appeal lies from an order made by such

Court.

450.

Power to direct levy of amount due on certain recognizances.

450. Power to direct levy of amount due on certain recognizances.

The High Court or Court of Session may direct any Magistrate to levy

the amount due on a bond for appearance or attendance at such High

Court or Court of Session.

CHAP

DISPOSAL OF PROPERTY.

CHAPTER XXXIV

DISPOSAL OF PROPERTY

451.

Order for custody and disposal of property pending trial in certaincases.

451. Order for custody and disposal of property pending trial in

certain cases. When any property is produced before any Criminal Court

during any inquiry or trial, the Court may make such order as it

thinks fit for the proper custody of such property pending the

conclusion of the inquiry or trial, and, if the property is subject to

speedy and natural decay, or if it is otherwise expedient so to do,

the Court may, after recording such evidence as it thinks necessary,

order it to be sold or otherwise disposed of.

Explanation.-For the purposes of this section, "property"

includes-

(a) property of any kind or document which is produced

before the Court or which is in its custody,

(b) any property regarding which an offence appears to

have been committed or which appears to have been used for

the commission of any offence.

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452.

Order for disposal of property at conclusion of trial.

452. Order for disposal of property at conclusion of trial. (1)

When an inquiry or trial in any Criminal Court is concluded, the Court

may make such order as it thinks fit for the disposal, by

destruction, confiscation or delivery to any person claiming to be

entitle to possession thereof or otherwise, of any property or

document produced before it or in its custody, or regarding which any

offence appears to have been committed, or which has been used for the

commission of any offence.

(2) An order may be made under sub-section (1) for the delivery

of any property to any person claiming to be entitled to the

possession thereof, without any condition or on condition that he

executes a bond, with or without sureties, to the satisfaction of the

Court, engaging to restore such property to the Court if the order

made under sub-section (1) is modified or set aside on appeal or

revision.

(3) A Court of Session may, instead of itself making an order

under sub-section (1), direct the property to be delivered to the

Chief Judicial Magistrate, who shall thereupon deal with it in the

manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to

speedy and natural decay, or where a bond has been executed in

pursuance of subsection (2), an order made under sub-section (1) shall

not be carried out for two months, or when an appeal is presented,

until such appeal has been disposed of.

(5) In this section, the term "property" includes, in the case

of property regarding which an offence appears to have been committed,

not only such property as has been originally in the possession or

under the control of any party, but also any property into or for

which the same may have been converted or exchanged, and anything

acquired by such conversion or exchange, whether immediately or

otherwise.

453.

Payment to innocent purchaser of money found on accused.

453. Payment to innocent purchaser of money found on accused.

When any person is convicted of any offence which includes, or amounts

to, theft or receiving stolen property, and it is proved that any

other person bought the stolen property from him without knowing or

having reason to believe that the same was stolen, and that any money

has on his arrest been taken out of the possession of the convicted

person, the Court may, on the application of such purchaser and on the

restitution of the stolen property to the person entitled to the

possession thereof, order that out of such money a sum not exceeding

the price paid by such purchaser be delivered to him.

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454.

Appeal against orders under section 452 or section 453.

454. Appeal against orders section 452 or section 453.(1) Any

person aggrieved by an order made by a Court under section 452 or

section 453, may appeal against it to the Court to which appeals

ordinarily lie from convictions by the former Court.

(2) On such appeal, the Appellate Court may direct the order to

be stayed pending disposal of the appeal, or may modify, alter or

annul the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be

exercised by a Court of appeal, confirmation or revision while dealing

with the case in which the order referred to in sub-section (1) was

made.

455.

Destruction of libellous and other matter.

455. Destruction of libellous and other matter. (1) On a

conviction under section 292, section 293, section 501 or section 502

of the Indian Penal Code (45 of 1860), the Court may order the

destruction of all the copies of the thing in respect of which the

conviction was had, and which are in the custody of the Court or remain

in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under section

272, section 273, section 274 or section 275 of the Indian Penal Code

(45 of 1860), order the food, drink, drug or medical preparation in

respect of which the conviction was had, to be destroyed.

456.

Power to restore possession of immovable property.

456. Power to restore possession of immovable property. (1) When

a person is convicted of an offence attended by criminal force or show

of force or by criminal intimidation, and it appears to the Court

that, by such force or show of force or intimidation, any person has

been dispossessed of any immovable property, the Court may, if it

thinks fit, order that possession of the same be restored to that

person after evicting by force, if necessary, any other person who may

be in possession of the property :

Provided that no such order shall be made by the Court more than

one month after the date of the conviction.

(2) Where the Court trying the offence has not made an order

under sub-section (1), the Court of appeal, confirmation or revision

may, if it thinks fit, make such order while disposing of the appeal,

reference or revision, as the case may be.

(3) Where an order has been made under sub-section (1), the provisions

of section 454 shall apply in relation thereto as they apply

in relation to an order under section 453.

(4) No order made under this section shall prejudice any right

or interest to or in such immovable property which any person may be

able to establish in a civil suit.

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457.

Procedure by police upon seizure of property.

457. Procedure by police upon seizure of property. (1) Whenever

the seizure of property by any police officer is reported to a

Magistrate under the provisions of this Code, and such property is not

produced before a Criminal Court during an inquiry or trial, the

Magistrate may make such order as he thinks fit respecting the

disposal of such property or the delivery of such property to the

person entitled to the possession thereof, or if such person cannot be

ascertained, respecting the custody and production of such property.

(2)If the person so entitled is known, the Magistrate may order

the property to be delivered to him on such conditions (if any) as the

Magistrate thinks fit and if such person is unknown, the Magistrate

may detain it and shall, in such case, issue a proclamation specifying

the articles of which such property consists, and requiring any person

who may have a claim thereto, to appear before him and establish his

claim within six months from the date of such proclamation.

458.

Procedure where no claimant appears within six months.

458. Procedure where no claimant appears within six months. (1)

If no person within such period establishes his claim to such

property, and if the person in whose possession such property was

found is unable to show that it was legally acquired by him, the

Magistrate may by order direct that such property shall be at the

disposal of the State Government and may be sold by that Government

and the proceeds of such sale shall be dealt with in such manner as

may be prescribed.

(2) An appeal shall lie against any such order to the Court to

which appeals ordinarily lie from convictions by the Magistrate.

459.

Power to sell perishable property.

459. Power to sell perishable property. If the person entitled to

the possession of such property is un-known or absent and the property

is subject to speedy and natural decay, or if the Magistrate to whom

its seizure is reported is of opinion that its sale would be for the

benefit of the owner, or that the value of such property is less than

ten rupees, the Magistrate may at any time direct it to be sold ; and

the provisions of sections 457 and 458 shall, as nearly as may be

practicable, apply to the net proceeds of such sale.

CHAP

IRREGULAR PROCEEDINGS.

CHAPTER XXXV

IRREGULAR PROCEEDINGS

460.

Irregularities which do not vitiate proceedings.

460. Irregularities which do not vitiate proceedings. If any

Magistrate not empowered by law to do any of the following things,

namely:-

(a) to issue a search-warrant under section 94;

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(b) to order, under section 155, the police to investigate

an offence;

(c) to hold an inquest under section 176;

(d) to issue process under section 187, for the

apprehension of a person within his local jurisdiction who

has committed an offence outside the limits of such

jurisdiction ;

(e) to take cognizance of an offence under clause (a) or

clause (b) of sub-section (1) of section 190 ;

(f) to make over a case under sub-section (2) of section

192;

(g) to tender a pardon under section 306 ;

(h) to recall a case and try it himself under section 410 ;

or

(i) to sell property under section 458 or section 459,

erroneously in good faith does that thing, his proceedings shall not

be set aside merely on the ground of his not being so empowered.

461.

Irregularities which vitiate proceedings.

461. Irregularities which vitiate proceedings. If any Magistrate,

not being empowered by law in this behalf, does any of the following

things, namely:-

(a) attaches and sells property under section 83;

(b) issues a search-warrant for a document, parcel or other

thing in the custody of a postal or telegraph authority;

(c) demands security to keep the peace;

(d) demands security for good behaviour;

(e) discharges a person lawfully bound to be of good

behaviour;

(f) cancels a bond to keep the peace ;

(g) makes an order for maintenance ;

(h) makes an order under section 133 as to a local nuisance;

(i) prohibits, under section 143, the repetition or

continuance of a public nuisance ;

(j) makes an order under Part C or Part D of Chapter X;

(k) takes cognizance of an offence under clause (c) of subsection

(1) of section 190

(l) tries an offender;

(m) tries an offender summarily;

(n) passes a sentence, under section 325, on proceedings

recorded by another Magistrate;

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(o) decides an appeal;

(p) calls, under section 397, for proceedings ; or

(q) revises an order passed under section 446, his

proceedings shall be void.

462.

Proceedings in wrong place.

462. Proceedings in wrong place. No finding, sentence or order of

any Criminal Court shall be set aside merely on the ground that the

inquiry, trial or other proceedings in the course of which it was

arrived at or passed, took place in a wrong sessions division,

district, sub-division or other local area, unless it appears that

such error has in fact occasioned a failure of justice.

463.

Non-compliance with provisions of section 164 or section 281.

463. Non-compliance with provisions of section 164 or section

281. (1) If any Court before which a confession or other statement of

an accused person recorded, or purporting to be recorded under section

164 or section 281, is tendered, or has been received, in evidence

finds that any of the provisions of either of such sections have not

been complied with by the Magistrate recording the statement, it may,

notwithstanding anything contained in section 91 of the Indian

Evidence Act, 1872 (1 of 1872), take evidence in regard to such noncompliance,

and may, if satisfied that such non-compliance has not injured

the accused in his defence on the merits and that he duly made

the statement recorded, admit such statement.

(2) The provisions of this section apply to Courts of appeal,

reference and revision.

464.

Effect of omission to frame, or absence of, or error in, charge.

464. Effect of omission to frame, or absence of, or error in,

charge. (1) No finding, sentence or order by a Court of competent

jurisdiction shall be deemed invalid merely on the ground that no

charge was framed or on the ground of any error, omission or

irregularity in the charge including any misjoinder of charges,

unless, in the opinion of the Court of appeal, confirmation or

revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal, confirmation or revision is of

opinion that a failure of justice has in fact been occasioned, it may-

(a) in the case of an omission to frame a charge, order

that a charge be framed and that the trial be recommended

from the point immediately after the framing of the charge ;

(b) in the case of an error, omission or irregularity in

the charge, direct a new trial to be had upon a charge framed

in whatever manner it thinks fit:

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Provided that if the Court is of opinion that the facts of the

case are such that no valid charge could be preferred against the

accused in respect of the facts proved, it shall quash the conviction.

465.

Finding or sentence when reversible by reason of error, omission

orirregularity.

465. Finding or sentence when reversible by reason of error,

omission irregularity. (1) Subject to the provisions hereinbefore

contained, no finding, sentence or order passed by a Court of

competent jurisdiction shall be reversed or altered by a Court of

appeal, confirmation or revision on account of any error, omission or

irregularity in the complaint, summons, warrant, proclamation, order,

judgment or other proceedings before or during trial or in any inquiry

or other proceedings under this Code, or any error, or irregularity in

any sanction for the prosecution, unless in the opinion of that Court,

a failure of justice has in fact been occasioned thereby.

(2) In determining whether any error, omission or irregularity in

any proceeding under this Code, or any error, or irregularity in any

sanction for the prosecution has occasioned a failure of justice, the

Court shall have regard to the fact whether the objection could and

should have been raised at an earlier stage in the proceedings.

466.

Defect or error not to make attachment unlawful.

466. Defect or error not to make attachment unlawful. No

attachment made under this Code shall be deemed unlawful, nor shall

any person making the same be deemed a trespasser, on account of any

defect or want of form in the summons, conviction, writ or attachment

or other proceedings relating thereto.

CHAP

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES.

CHAPTER XXXVI\*1

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES.

467.

Definitions.

467. Definitions. For the purposes of this Chapter, unless the

context otherwise requires, " period of limitation " means the period

specified in section 468 for taking cognizance of an offence.

468.

Bar to taking cognizance after lapse of the period of limitation.

468. Bar to taking cognizance after lapse of the period of

limitation. (1) Except as otherwise provided elsewhere in this Code,

no Court shall take cognizance of an offence of the category specified

in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) six months, if the offence is punishable with fine only

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1 Provisions of this Chapter shall not apply to certain economic

offences, see the Economic Offences (Inapplicability of Limitation)

Act, 1974 (12 of 1974), s. 2 end Sch.

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(b) one year, if the offence is punishable with

imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with

imprisonment for term exceeding one year but not exceeding

three years.

1\*[(3) For the purposes of this section, the period of limitation

in relation to offences which may be tried together, shall be

determined with reference to the offence which is punishable with the

more severe punishment or, as the case may be, the most severe

punishment.]

469.

Commencement of the period of limitation.

469. Commencement of the period of limitation. (1) The period of

limitation, in relation to an offender, shall commence,-

(a) on the date of the offence ; or

(b) where the commission of the offence was not known to

the person aggrieved by the offence or to any police officer,

the first day on which such offence comes to the knowledge of

such person or to any police officer, whichever is earlier ;

or

(c) where it is not known by whom the offence was

committed, the first day on which the identity of the

offender is known to the person aggrieved by the offence or

to the police officer making investigation into the offence,

whichever is earlier.

(2) In computing the said period, the day from which such period

is to be computed shall be excluded.

470.

Exclusion of time in certain cases.

470. Exclusion of time in certain cases. (1) In computing the

period of limitation, the time during which any person has been

prosecuting with due diligence another prosecution, whether in a Court

of first instance or in a Court of appeal or revision, against the

offender, shall be excluded :

Provided that no such exclusion shall be made unless the

prosecution relates to the same facts 'and is prosecuted in good faith

in a Court which from defect of jurisdiction or other cause of a like

nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an

offence has been stayed by an injunction or order, then, in computing

the period of limitation, the period of the continuance of the

injunction or order, the day on which it was issued or made, and the

day on which it was withdrawn, shall be excluded.

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1 Ins. by Act 45 of 1978, s. 33 (w.e.f. 12-12-1978).

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(3) Where notice of prosecution for an offence has been given,

or where, under any law for the time being in force, the previous

consent or sanction of the Government or any other authority is

required for the institution of any prosecution for an offence, then,

in computing the period of limitation, the period of such notice or,

as the case may be, the time required for obtaining such consent or

sanction shall be excluded.

Explanation.-In computing the time required for obtaining the

consent or sanction of the Government or any other authority, the date

on which the application was made for obtaining the consent or

sanction and the date of receipt of the order of the Government or

other authority shall both be excluded.

(4) In computing the period of limitation, the time during which

the offender-

(a) has been absent from India or from any territory

outside India which is under the administration of the

Central Government, or

(b) has avoided arrest by absconding or concealing himself,

shall be excluded.

471.

Exclusion of date on which Court is closed.

471. Exclusion of date on which Court is closed. Where the period

of limitation expires on a day when the Court is closed, the Court may

take cognizance on the day on which the Court reopens.

Explanation.-A Court shall be deemed to be closed on any day

within the meaning of this section, if, during its normal working

hours, it remains closed on that day.

472.

Continuing offence.

472. Continuing offence. In the case of a continuing offence, a

fresh period of limitation shall begin to run at every moment of the

time during which the offence continues.

473.

Extension of period of limitation in certain cases.

473. Extension of period of limitation in certain cases.

Notwithstanding anything contained in the foregoing provisions of this

Chapter, any Court may take cognizance of an offence after the expiry

of the period of limitation, if it is satisfied on the facts and in

the circumstances of the case that the delay has been properly

explained or that it is necessary so to do in the interests of

justice.

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CHAP

MISCELLANEOUS.

CHAPTER XXXVII

MISCELLANEOUS

474.

Trials before High Courts.

474. Trials before High Courts. When an offence is tried by the

High Court otherwise than under section 407, it shall, in the trial of

the offence, observe the same procedure as a Court of Session would

observe if it were trying the case.

475.

Delivery to commanding officers of persons liable to be tried

byCourt-martial.

475. Delivery to commanding officers of persons liable to be

tried by Court-martial. (1) The Central Government may make rules

consistent with this Code and the Army Act, 1950 (46 of 1950), the

Navy Act, 1957 (62 of 1957), and the Air Force Act, 1950 (45 of

1950), and any other law, relating to the Armed Forces of the Union,

for the time being in force, as to cases in which persons subject to

military, naval or air force law, or such other law, shall be tried by

a Court to which this Code applies or by a Court-martial; and when any

person is brought before a Magistrate and charged with an offence for

which he is liable to be tried either by a Court to which this Code

applies or by a Court-martial, such Magistrate shall have regard to

such rules, and shall in proper cases deliver him, together with a

statement of the offence of which he is accused, to the commanding

officer of the unit to which he belongs, or to the commanding officer

of the nearest military, naval or air force station, as the case may

be, for the purpose of being tried by a Court-martial.

Explanation.-In this section-

(a) "unit" includes a regiment, corps, ship, detachment,

group, battalion or company,

(b) "Court-martial" includes any tribunal with the powers

similar to those of a Court-martial constituted under the

relevant law applicable to the Armed Forces of the Union.

(2) Every Magistrate shall, on receiving a written application

for that purpose by the commanding officer of any unit or body of

soldiers, sailors or airmen stationed or employed at any such place,

use his utmost endeavours to apprehend and secure any person accused

of such offence.

(3) A High Court may, if it thinks fit, direct that a prisoner

detained in any jail situate within the State be brought before a

Court-martial for trial or to be examined touching any matter pending

before the Court-martial.

476.

Forms.

476. Forms. Subject to the power conferred by article 227 of the

Constitution, the forms set forth in the Second Schedule, with such

variations as the

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circumstances of each case require, may be used for the respective

purposes therein mentioned, and if used shall be sufficient.

477.

Power of High Court to make rules.

477. Power of High Court to make rules. (1) Every High Court may,

with the previous approval of the State Government, make rules-

(a) as to the persons who may be permitted to act as

petition-writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licences to such persons, the

conduct of business by them, and the scale of fees to be

charged by them ;

(c) providing a penalty for a contravention of any of the

rules so made and determining the authority by which such

contravention may be investigated and the penalties imposed;

(d) any other matter which is required to be, or may be,

prescribed.

(2) All rules made under this section shall be published in the

Official Gazette.

478.

Power to alter functions allocated to Executive Magistrates in certaincases.

478. Power to alter functions allocated to Executive Magistrates

in certain cases. 1\*[If the Legislative Assembly of a State by a

resolution so permits, the State Government may, after consultation

with the High Court, by notification, direct that references in

sections 108, 109,110, 145 and 147 to an Executive Magistrate shall be

construed as references to a Judicial Magistrate of the first class.]

479.

Case in which Judge or Magistrate is personally interested.

479. Case in which Judge or Magistrate is personally interested.

No Judge or Magistrate shall, except with the permission of the Court

to which an appeal lies from his Court, try or commit for trial any

case to or in which he is a party, or personally interested, and no

Judge or Magistrate shall hear an appeal from any judgment or order

passed or made by himself.

Explanation.-A Judge or Magistrate shall not be deemed to be a

party to, or personally interested in, any case by reason only that he

is concerned therein in a public capacity, or by reason only that he

has viewed the place in which an offence is alleged to have been

committed or any

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1 Subs. by Act 45 of 1978, S. 34, for "State Legislature" (w.e.f.

18-12-1978).

2 Subs. by S.34 ibid, for "requires" (w.e.f. 18.12-1978).

3 Subs. by Act 63 of 1980, s.8 (w.e.f. 23-09-1980).

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other place in which any other transaction material to the case is

alleged to have occurred and made an inquiry in connection with the

case.

480.

Practising pleader not to sit as Magistrate in certain Courts.

480. Practising pleader not to sit as Magistrate in certain

Courts. No pleader who practises in the Court of any Magistrate shall

sit as a Magistrate in that Court or in any Court within the local

jurisdiction of that Court.

481.

Public servant concerned in sale not to purchase or bid for property.

481. Public servant concerned in sale not to purchase or bid for

property. A public servant having any duty to perform in connection

with the sale of any property under this Code shall not purchase or

bid for the property.

482.

Saving of inherent powers of High Court.

482. Saving of inherent powers of High Court. Nothing in this

Code shall be deemed to limit or affect the inherent powers of the

High Court to make such orders as may be necessary to give effect to

any order under this Code, or to prevent abuse of the process of any

Court or otherwise to secure the ends of justice.

483.

Duty of High Court to exercise continuous superintendence over Courtsof

Judicial Magistrates.

483. Duty of High Court to exercise continuous superintendence

over Courts of Judicial Magistrates. Every High Court shall so

exercise its superintendence over the Courts of Judicial Magistrates

subordinate to it as to ensure that there is an expeditious and proper

disposal of cases by such Magistrates.

484.

Repeal and savings.

484. Repeal and savings. (1) The Code of Criminal Procedure,

1898 (5 of 1898), is hereby repealed.

(2) Notwithstanding such repeal,-

(a) if, immediately before the date on which this Code comes into

force, there is any appeal, application, trial, inquiry or investigation

pending, then, such appeal, application, trial, inquiry or

investigation shall be disposed of, continued, held or made, as the

case may be, in accordance with the provisions of the Code of Criminal

Procedure, 1898 (5 of 1898), as in force immediately before such

commencement, (hereinafter referred to as the Old Code), as if this

Code had not come into force :

Provided that every inquiry under Chapter XVIII of the Old Code,

which is pending at the commencement of this Code, shall be dealt with

and disposed of in accordance with the provisions of this Code;

1020

(b) all notifications published, proclamations issued, powers

conferred, forms prescribed, local jurisdictions defined, sentences

passed and orders, rules and appointments, not being appointments as

Special Magistrates, made under the Old Code and which are in force

immediately before the commencement of this Code shall be deemed,

respectively, to have been published, issued, conferred, prescribed,

defined, passed or made under the corresponding provisions of this

Code ;

(c) any sanction accorded or consent given under the Old Code in

pursuance of which no proceeding was commenced under that Code, shall

be deemed to have been accorded or given under the corresponding

provisions of this Code and proceedings may be commenced under this

Code in pursuance of such sanction or consent ;

(d) the provisions of the Old Code shall continue to apply in

relation to every prosecution against a Ruler within the meaning to

article 363 of the Constitution.

(3) Where the period prescribed for an application or other

proceeding under the Old Code had expired on or before the

commencement of this Code, nothing in this Code shall be construed as

enabling any such application to be made or proceeding to be commenced

under this Code by reason only of the fact that a longer period

therefor is prescribed by this Code or provisions are made in this

Code for the extension of time.

1021.

SCHE

CLASSIFICATION OF OFFENCES

THE FIRST SCHEDULE

CLASSIFICATION OF OFFENCES

EXPLANATORY NOTE.(1) In regard to offences under the Indian Penal

Code, the entries in the second and third columns against a section

the number of which is given in the first column are not intended as

the definition of, and the punishment prescribed for, the offence in

the Indian penal Code, but merely as indication of the substance of

the section.

(2)In this Schedule, (i) the expression "Magistrate of the first

class" and "Any Magistrate" include Metropolitan Magistrates but not

Executive Magistrates; (ii) the word "cognizable" stands for a "a

police officer may arrest without warrant"; and (iii) the word "noncogninzable"

stands for "a police officer shall not arrest without

warrant".

I.--OFFENCES UNDER THE INDIAN PENAL CODE

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Section Offence Punishment

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1 2 3

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CHAPTER V--ABETMENT

109 Abetment of any offence, if the act Same as for offence abetted

abetted is committed in consequence,

and where no express provision is made

for it is punishment.

110 Abetment of any offence, if the person Ditto

abetted does the act with a different

intention from that of the abettor.

111 Abetment of any offence, when Same as for offence

one act is abetted and a different intended to be abetted.

act is done; subject to the proviso.

113 Abetment of any offence, when an Same as for offence

effect is caused by the act abetted committed

different from that intended by the

abettor.

----------------------------------------------------------------------

Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

----------------------------------------------------------------------

4 5 6

----------------------------------------------------------------------

According as offence According as offence Court by which

abetted is cognizable abetted is bailable offence abetted

or non-cognizable. or non-bailable. is triable.

Ditto Ditto Ditto

Ditto Ditto Ditto

Ditto Ditto Ditto

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1022

----------------------------------------------------------------------

Section Offence Punishment

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1 2 3

----------------------------------------------------------------------

114 Abetment of any offence, if Same as for offence committed

abettor is present when offence

is committed.

115 Abetment of an offence, punishable Imprisonment for 7 years and

with death or imprisonment for fine.

life, if the offence be not

committed in consequence of the

abetment.

If an act which causes harm be Imprisonment for 14 years and

done in consequence of the fine.

abetment.

116 Abetment of an offence, punishable Imprisonment extending to a

with imprisonment, if the offence quarter part of the longest

be not committed in consequence term provided for the offence

of the abetment. or fire, or both.

If the abettor or the person abetted Imprisonment extending to half

be a public servant whose duty of the longest term provided

it is to prevent the offence. for the offence, or fine, or

or both.

117 Abetting the commission of an Imprisonment for 3 years, or

offence by the public or by more fine, or both.

than ten persons.

118 Concealing a design to commit an Imprisonment for 7 years and

offence punishable with death fine.

or imprisonment for life, if the

offence be committed.

If the offence be not committed Imprisonment for 3 years and

fine.

----------------------------------------------------------------------

Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

----------------------------------------------------------------------

4 5 6

----------------------------------------------------------------------

According as offence abetted According as offence Court by which

is cognizable or non-cognizable abetted is bailable offence abetted

or non-cognizable. or non-bailable. is triable.

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Ditto NOn-bailable Ditto.

Ditto Ditto Ditto.

Ditto According as offence Ditto.

abetted is bailable or

non-bailable.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Non-bailable Ditto.

Ditto Bailable Ditto.

----------------------------------------------------------------------

1023

119 A public servant concealing a Imprisonment extending to half

design to commit an offence of the longest term provided

which it is his duty to prevent, for the offence, or fine, or

if the offence be committed. both.

If the offence be punishable with Imprisonment for 10 years

death or imprisonment for life.

if the offence be not committed Imprisonment extending to a

quarter part of the longest

term provided for the offence,

or fine, or both.

120 Concealing a design to commit an Ditto

offence punishable with imprisonment,

if offence be committed.

If the offence be not committed Imprisonment extending to oneeighth

part of the longest

term provided for the offence

fine, or both.

Ditto According as offence abetted Ditto.

is bailable or non-bailable

Ditto non-bailable Ditto.

Ditto Bailable Ditto.

Ditto According as offence abetted Ditto.

is bailable or non-bailable.

Ditto Bailable Ditto.

CHAPTER VA-CRIMINAL CONSPIRACY

120B Criminal conspiracy Same as for abetment According as the

to commit an offence offence which is the offence which is

punishable with death, object of the consp- the object of

imprisonment for life iracy. conspiracy is coor

rigorous imprison- gnizable or nonment

for a term of two cognizable.

years or upwards.

Any other criminal consp- Imprisonment for 6 Non-cognizable

iracy. months, or fine, or

both.

According as offence which is object Court by which abetment

of conspiracy is bailable or non-bail- of the offence which is

able. the object of conspiracy

is triable.

Bailable Magistrate of the first

Class.

CHAPTER VI-OFFENCES AGAINST THE STATE

121 Waging or attempting to wage Death, or imprisonment for life

war or abetting the waging of and fine.

war, against the Government of

India.

Cognizable Non-bailable Court of Session.

1024

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Section Offence Punishment

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1 2 3

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121A Conspiring to commit certain Imprisonment for life, or improffences

against the State. sonment for 10 years and fine.

122 Collecting arms, etc., with Imprisonment for life, or imprthe

intention of waging war isonment for 10 years and fine.

against the Government of

India.

123 Concealing with intent to Imprisonment for 10 years and

facilitate a design to wage fine.

war.

124 Assaulting President, Governor,Imprisonment for 7 years and

etc., with intent to compel or fine.

restrain the exercise of any

lawful power.

124A Sedition Imprisonment for life and fine,

or imprisonment for 3 years and

fine, or fine.

125 Waging war against any Asiatic Imprisonment for life and fine,

power in alliance or at peace or imprisonment for 7 years

with the Government of India, and fine, or fine.

or abetting the waging of such

war.

126 Committing depredation on the Imprisonment for 7 years and

territories of any power in fine, and forfeiture of certain

alliance or at peace with the property.

Government of India.

127 Receiving property taken by Ditto

war or depredation mentioned

in sections 125 and 126.

128 Public servant voluntarily Imprisonment for life, or imprallowing

prisoner of State isonment for 10 years and fine.

or war in his custody to

escape.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

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1025

129 Public servant negligently suffering Simple imprisonment for 3

prisoner of State of war in his years and fine.

custody to escape.

130 Aiding escape of rescuring or har- Imprisonment for life, or

bouring, such prisoner, or offering imprisonment for 10 years

any resistance to the recapture of fine.

such prisoner.

CHAPTER VII--OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

131 Abetting mutiny, or attempting Imprisonment for life, or imprto

seduce an officer, soldier, isonment for 10 years and fine.

sailor or airman from his allegiance

or duty.

132 Abetment of mutiny, if mutiny Death, or imprisonment for life,

is committed in consequence or imprisonment for 10 years and

thereof. fine.

133 Abetment of an assault by an Imprisonment for 3 years and

officer, soldier, sailor or fine.

airman on his superior officer,

when in the execution of his office.

134 Abetment of such assault, if the Imprisonment for 7 years and

assault is committed. fine.

135 Abetment of the desertion of an Imprisonment for 2 years, or

officer, soldier, sailor or fine, or both.

airman.

136 Harbouring such an officer, Ditto

soldier, sailor or airman who

has deserted.

137 Deserter concealed on board Fine of 500 rupees

merchant vessel, through

negligence of master or

person in charge thereof.

Ditto Bailable Magistrate of the

first class.

Ditto Non-bailable Court of Session.

Cognizable Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Bailable Any Magistrate.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto .

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1026

Section Offence Cognizable or

non-cognizable

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1 2 3

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138 Abetment of act of in sub- Imprisonment for 6 months, Cognizable

ordination by an officer, or fine, or both.

soldier, sailor or airman,

if the offence be committed

in consequence.

140 Wearing the dress or car- Imprisonment for 3 months, Ditto

rying any token used by a or fine of 500 rupees, or

soldier, sailor or airman both.

with intent that it may be

believed that he is such a

soldier, sailor or airman.

----------------------------------------------------------------------

Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

----------------------------------------------------------------------

4 5 6

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Cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

CHAPTER VIII--OFFENCES AGAINST THE PUBLIC TRANQUILITY

143 Being member of an unlawful Imprisonment for 6 months, or

assembly. fine, or both.

144 Joining an unlawful assembly Imprisonment for 2 years, or fine,

armed with any deadly weapon. or both.

145 Joining or continuing in an Ditto

unlawful assembly, knowing

that it has been committed

to disperse.

147 Rioting Ditto

148 Rioting armed with a deadly Imprisonment for 3 years, or fine,

weapon. or both.

149 If an offence be committed by The same as for the offence

any member of an unlawful

assembly, every other member

of such assembly shall be guilty

of the offence.

Cognizable Bailable Any

Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

According as offence According as offence The Court by

is cognizable or is bailable or non- which the offence

non-cognizable. bailable. is triable.

1027

150 Hiring, engaging or employing The same as for a member of such

persons to take part in an un- assembly, and for any offence

lawfull assembly. committed by any member of such

assembly.

151 Knowingly joining or continuing Imprisonment for 6 months, or

in any assembly of five or more fine, or both.

persons after it has been commanded

to disperse.

152 Assaulting or obstructing Imprisonment for 3 year,

public servant when suppressing or fine, or both.

riot, etc.

153 Wantonly giving provocation Imprisonment for 1 year, or fine

with intent to cause riot, if or both.

rioting be committed.

If not committed Imprisonment for 6 months, or

fine, or both.

153A Promoting enmity between Imprisonment for 3 years , or

classes fine, or both.

Promoting enmity between Imprisonment for 5 years and

classes in place of worship, fine.

etc.

153B Imputations, assertions prej- Imprisonment for 3 years, or

udicial to national integration. fine, or both.

If committed in a place of Imprisonment for 5 years and

public worship, etc. fine.

154 Owner of occupier of land not Fine of 1,000 rupees

giving information of riot, etc.

155 Person for whose benefit or on Fine

whose behalf a riot takes place

not using all lawful means to

prevent it.

Cognizable Ditto Ditto.

Ditto Bailable Any Magistrate.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Any Magistrate.

Ditto Ditto Magistrate of the

first class.

Ditto Non-bailable Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Bailable Any Magistrate .

Ditto Ditto Ditto.

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1028

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Section Offence Punishment

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1 2 3

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156 Agent of owner or occupier for Fine

whose benefit a riot is

committed not using all lawful

means to prevent it .

157 Harbouring persons hired for an Imprisonment for 6 months, or

unlawful assembly. fine, or both.

158 Being hired to take part in an Ditto

unlawful assembly or riot.

Or to go armed Imprisonment for 2 years , or

fine or both.

160 Committing affray Imprisonment for one month, or

fine of 100 rupees, or both.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

----------------------------------------------------------------------

4 5 6

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Non-cognizable Bailable Any Magistrate.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

CHAPTER IX--OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161 Being or excepting to be Imprisonment for 3 years, or

a public servant, and taking a fine, or both.

gratification other than legal

remuneration in respect of an

official act.

162 Taking a gratification in order, Ditto

by corrupt or illegal means, to

influence a public servant.

163 Taking a gratification for the Simple imprisonment for 1 year

exercise of personal influence or fine, or both.

with a public servant.

164 Abetment by public servant of Imprisonment for 3 years, or

the offences defined in the last fine, or both.

two preceding clauses with reference

to himself.

Cognizable Non-bailable Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1029

165 Public servant obtaining Ditto

any valuable thing, without

consideration, from a person

concerned in any proceeding

or business transacted by

such public servant.

165A Punishment for abetment of Ditto

offences punishable under

section 161 or section 165.

166 Public servant disobeying a Simple imprisonment for 1 year, or

direction of the law with fine, or both.

intent to cause injury to

any person.

167 Public servant framing an Imprisonment for 3 years or

incorrect document with Cognizable fine, or both.

intent to cause injury.

168 Public servant unlawfully Simple imprisonment for 1 year,

engaging in trade. or fine, or both.

169 Public servant unlawfully Simple imprisonment for 2 years,

buying or bidding for or fine, or both and confiscation

property. of property, if purchased.

170 Personating a public servant Imprisonment for 2 years, or fine,

or both.

171 Wearing grab or carrying to- Imprisonment for 3 months, or

ken used by public servant fine 200 rupees, or both.

fraudulent intent.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Bailable Ditto.

Cognizable Ditto Ditto.

non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Non-bailable Any Magistrate.

Ditto Bailable Ditto.

CHAPTER IXA--OFFENCES RELATING TO ELECTIONS

171E Bribery Imprisonment for 1 years, or

fine, or both, or if treating

only, fine only.

171F Undue influence at an Imprisonment for one year, or

election fine, or both.

Personation at an Imprisonment for one year, or

election fine, or both.

Non-cognizable Bailable Magistrate of the

first class.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

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1030

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Section Offence Punishment

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1 2 3

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171G False statement in connection with Fine

an elections.

171H Illegal payments in connection Fine of 500 rupees

with elections.

171I Failure to keep election accounts. Ditto

----------------------------------------------------------------------

Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

----------------------------------------------------------------------

4 5 6

----------------------------------------------------------------------

Non-cognizable Bailable Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

CHAPTER X--CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172 Absconding to avoid service of Simple imprisonment for 1 month,

summons of other proceeding or fine of 500 rupees, or both.

from a public servant.

If summons or notice require Simple imprisonment for 6

attendance in person, etc., months, or fine or 1,000

in a Court of Justice. rupees, or both.

173 Preventing the service of the Simple imprisonment for 1 months,

affixing of any summons of noti- or fine of 500 rupees, or both.

ce, or the removal of it when

it has been affixed, or preventing

a proclamation.

If summons, etc., require atten- Simple imprisonment for 6 months

dance in person, etc., in a Court or fine of 1,000 rupees, or

of Justice. both.

174 Not obeying a legal order to Simple imprisonment for 1 month

attend at a certain place in or fine of 500 rupees, or both.

person or by agent, or departing

therefrom without authority.

If the order requires personal Simple imprisonment for 6

attendance, etc., in a Court of months, or fine or 1,000

Justice. rupees, or both.

Non-cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1031

175 internationally omitting to Simple imprisonment for 1 month,

produce a document to a public or fine of 500 rupees, or both.

servant by a person legally

bound to produce or deliver

such document.

If the document is required to Simple imprisonment for 6 months,

be produced in or delivered to or fine of 1,000 rupees, or both.

a Court of Justice.

176 Intentionally omitting to give Simple imprisonment for 1 month,

notice or information to a or fine, or 500 rupees, or both.

public servant by a person

legally bound to give such

notice or information.

If the notice or information Simple imprisonment for 6

required respects the commission months, or fine if 1,000

of an offence, etc. rupees, or both.

If the notice or information is Imprisonment for 6

required by an order passed under months, or fine of 1,000

sub-section (1) of section 356 rupees, or both.

of this Code.

177 Knowingly furnishing false in- Ditto

formation to a public servant.

If the information required res- Imprisonment for 2

pects the commission of an years, or fine,

offence, etc. or both.

178 Refusing oath when duly required Simple imprisonment for 6

to take oath by a public servant. months, or fine of 1,000

rupees, or both.

Non-Cognizable Bailable The court in which the

offence is committed,

subject to the provisions

of Chapter XXVI;

or, if not committed in

a Court, any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto The Court in which the

offence is committed,

subject to the provisions

of Chapter XXV. or

if not committed in a

Court, any Magistrate.

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1032

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Section Offence Punishment

----------------------------------------------------------------------

1 2 3

----------------------------------------------------------------------

179 Being legally bound to state Simple imprisonment for 6

truth and refusing to answer months, or fine of 1,000

questions. rupees, or both.

180. Refusing to sign a statement simple imprisonment for 3

made to a public servant months, or fine of 500

when legally required to do rupees, or both.

so.

181. Knowingly stating to a public Imprisonment for 3 years

servant on oath as true that and fine.

which is false.

182. Giving false information to Imprisonment for 6 months,

a public servant in order to or fine of 1,000 rupees, or

cause him to use his lawful both.

power to the injury or

annoyance of any person.

183. Resistance to the taking of Ditto

property by the lawful authority

of a public servant.

184. Obstructing of property off- Imprisonment for 1 month, or

ered for sale by authority fine of 500 rupees, or both.

of a public servant.

185. Bidding, by a person under a Imprisonment for 1 month, or

legal incapacity to purchase fine of 200 rupees, or both.

it, for property at a lawfully

authorised sale, or bidding

without intending to -

perform the obligations

incurred there by.

186. Obstructing public servant Imprisonment for 3 months, or

in discharge of his public fine of 500 rupees, or both.

functions.

----------------------------------------------------------------------

Cognizable or Bialable or By what court triable

Non-cognizable Non-bailable

----------------------------------------------------------------------

4 5 6

----------------------------------------------------------------------

Non-cognizable Bialable The Court in which the

offence is committed,

subject to the provisions

of Chapter XXV; or, if

not committed in a Court,

any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the first

class.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

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1033

187 Omission to assist public Simple imprisonment for 1

servant when bound by law month, or fine of 200 rupees,

to give such assistance. or both.

Wilfully neglecting to aid Simple imprisonment for 6

a public servant who demands months, or fine of 500 rupees,

aid in the execution of or both.

process, the prevention of

offences, etc.

188 Disobedience to an order Simple imprisonment for 1

lawfully-promulgated by a month, or fine of 200 rupees,

public servant, if such or both.

disobedience causes obstruction,

annoyance or injury

to persons lawfully

employed.

If such disobedience causes Imprisonment for 6 months, or

danger to human life,health fine if 1,000 rupees, or both.

or safety, etc.

189 Threatening a public servant Imprisonment for 2 years, or

with injury to him or one in fine, or both.

whom he is interested, to

induce him to do or forbear

to do any official act.

190 Threatening any person to Imprisonment for 1 year, or

induce him to refrain from fine, or both.

making a legal application

for protection from injury.

Non-Cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

CHAPTER XI-FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

193 Giving or fabricating Imprisonment for 7 years and

false evidence in a fine.

judicial proceeding.

Giving or fabricating false Imprisonment for 3 years and

evidence in any other case. fine.

194 Giving or fabricating false Imprisonment for life, or

evidence with intent to cause rigorous imprisonment for 10

any person to be convicted years and fine.

of a capital offence.

If innocent person be there- Death, or as above.

by convicted and executed.

Non-cognizable Bailable Magistrate of the first

class.

Ditto Ditto Any Magistrate.

Ditto Non-bailable court of session.

Ditto Ditto Ditto.

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1034

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Section Offence Punishment

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1 2 3

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195 Giving or fabricating false The same as for the offences.

evidence with intent to

procure conviction of an

offence punishable with

imprisonment for life or

with imprisonment for 7

years or upwards.

196 Using in a judicial The same as for giving or

proceeding evidence known fabricating false evidence.

to be false or fabricated.

197 Knowingly issuing or signing Ditto

a false certificate relating

to any fact of which such

certificate is by law admissible

in evidence.

198 Using as a true certificate Ditto

one known to be false in a

material point.

199 False statement made in any Ditto

declaration which is by law

receivable as evidence.

200 Using as true any such decl- Ditto.

aration known to be false.

201 Causing disappearance of Imprisonment for 7 years and

evidence of an offence comm- fine.

itted, giving false information

touching it to screen

the offender, if a capital

offence.

----------------------------------------------------------------------

Cognizable or Bialable or By what court triable

Non-cognizable Non-bailable

----------------------------------------------------------------------

4 5 6

----------------------------------------------------------------------

Non-cognizable Non-bailable Court of Session.

Ditto According as offe- Court by which offence of

nce of giving such giving or fabricating

evidence is bailab- false evidence is triable.

le or non-bailable.

Ditto Bailable Court by which offence of

giving false evidence is

triable.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

According as the Ditto Court of Session.

offence in relation

to which disappearance

of evidence

is caused is cognizable

or non-cognizable.

----------------------------------------------------------------------

1035

If punishable with impris- Imprisonment for 3 years and

onment for life or impris- fine.

onment for 10 years.

If punishable with less than Imprisonment for a quarter of

10 years' imprisonment. the longest term provided for

the offence, or fine, or both.

202 Intentional omission to give Imprisonment for 6 months,

information of an offence by or fine, or both.

a person legally bound to

inform.

203 Giving false information res- Imprisonment for 2 years, or

pecting an offence committed. fine, or both.

204 Secreting or destroying any Ditto.

document to prevent its production

as evidence.

205 False personation for the pu- Imprisonment for 3 years, or

rpose of any act or proceed- fine, or both.

ing in a suit or criminal

prosecution, or for becoming

bail or security.

206 Fraudulent removal or conce- Imprisonment for 2 years, or

alment, etc., of property to fine, or both.

prevent its seizure as a forfeiture,

or in satisfaction,

of a fine under sentence, or

in execution of a decree.

207 Claiming property without Imprisonment for 2 years, or

right, or practising decep- fine, or both.

tion touching any right to

it, to prevent its being

taken as a forfeiture, or

in satisfaction of a fine

under sentence, or in execution

of a decree.

Non-cognizable Bailable Magistrate of the first

class.

Ditto Ditto Court by which the offence

is triable.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the first

class.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

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1036

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Section Offence Punishment

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1 2 3

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208 Fraudulently suffering a Imprisonment for 2 years, or

decree or to pass for a sum fine, or both.

not due, or suffering decree

to be executed after it has

been satisfied.

209 False claim in a Court of Imprisonment for 2 years and

Justice fine.

210 Fraudulently obtaining a Imprisonment for 2 years, or

decree for a sum not due, or fine, or both.

causing a decree to be executed

after it has been

satisfied.

211 False charge of offence made Ditto.

with intent to injure.

If offence charged be punis- Imprisonment for 7 years and

hable with imprisonment for fine.

7 years or upwards.

If offence charged be cap- Ditto

ital or punishable with

imprisonment for life.

212 Harbouring an offender,if Imprisonment for 5 years and

the offence be capital. fine.

If punishable with imprisonm- Imprisonment for 3 years and

ent for life or with impriso- fine.

nment for 10 years.

If punishable with imprisonm- Imprisonment for a quarter of

ent for 1 year and not for 10 the longest term, and of the

years. description, provided for the

offence, or fine, or both.

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Cognizable or bialable or By what court triable

Non-cognizable Non-bailable

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4 5 6

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Non-cognizable Bailable Magistrate of the first

class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Court of Session.

Cognizable Ditto Magistrate of the first

class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1037

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Section Offence Punishment

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1 2 3

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213 Taking gift, etc., to screen Imprisonment for 7 years and

an offender from punishment fine.

if the offence be capital.

If punishable with impriso- Imprisonment for 3 years and

nment for life or with imp- fine.

risonment for 10 years.

If punishable with impriso- Imprisonment for a quarter of

nment for less than 10 years. the longest term provided for

the offence, or fine, or both.

214 Offering gift or restoration Imprisonment for 7 years and

of property in consideration fine.

of screening offender if the

offence be capital.

If punishable with imprison- Imprisonment for 3 years and

ment for life or with impris- fine.

onment for 10 years.

If punishable with imprisonm- Imprisonment for a quarter of

ent for less than 10 years. the longest term provided for

the offence, or fine, or both.

215 Taking gift to help to reco- Imprisonment for 2 years, or

ver movable property of fine, or both.

which a person has been deprived

by an offence without

causing apprehension of

offender.

216 Harbouring an offender who Imprisonment for 7 years and

has escaped from custody, fine.

or whose apprehension has

been ordered, if the offence

be capital.

If punishable with impriso- Imprisonment for 3 years, with

nment for life or with imp- or without fine.

risonment for 10 years.

If punishable with impriso- Imprisonment for a quarter of

nment for 1 year and not the longest term provided for

for 10 years. the offence, or fine, or both.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

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1038

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Section Offence Punishment

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1 2 3

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216A Harbouring robbers or dacoits Rigorous imprisonment for 7

years and fine.

217 Public servant disobeying a Imprisonment for 2 years, or

direction of law with intent fine, or both.

to save person from punishment,

or property from

forfeiture.

218 Public servant framing an Imprisonment for 3 years, or

incorrect record or writing fine, or both.

with intent to save person

from punishment, or property

from forfeiture.

219 Public servant in a judicial Imprisonment for 7 years, or

proceeding corruptly making fine, or both.

and pronouncing an order,

report, verdict, or decision

which he knows to be

contrary to law.

220 Commitment for trial or Ditto

confinement by a person having

authority, who knows that he

is acting contrary to law.

221 Intentional omission to Imprisonment for 7 years, with

apprehend on the part of or without fine.

a public servant bound by

law to apprehend an offender,

if the offence be capital.

If punishable with imprisonm- Imprisonment for 3 years,

ent for life or imprisonment with or without fine.

for 10 years.

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Cognizable or bialable or By what court triable

Non-cognizable Non-bailable

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4 5 6

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Cognizable Bailable Magistrate of the first

class.

Non-cognizable Ditto Any Magistrate.

Cognizable Ditto Magistrate of the first

class.

Non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

According as the Ditto Ditto.

offence in relation

to which

such omission

has been made is

cognizable or

non-cognizable.

cognizable Ditto Ditto.

1039

If punishable with imprisonm- Imprisonment for 2 years, with

ment for less than 10 years. or without fine.

222 Intentional omission to app- Imprisonment for life, or imrehend

on the part of a pub- prisonment for 14 years, with

lic servant bound by law to or without fine.

apprehend person under sentence

of a Court of Justice

if under sentence of death.

If under sentence of impris- Imprisonment for 7 years,

onment 10 years, or upwards. with or without fine.

If under sentence of impris- Imprisonment for 3 years, or

onment for less than 10 fine, or both.

years or lawfully committed

to custody.

223 Escape from confinement negl- Simple imprisonment for 2

igently suffered by a public years, or fine, or both.

servant.

224 Resistance or obstruction by Imprisonment for 2 years, or

a person to his lawful appre- fine, or both.

hension.

225 Resistance or obstruction to Ditto

the lawful apprehension of

any person, or rescuing him

from lawful custody.

If charged with an offence Imprisonment for 3 years and

punishable with imprisonment fine.

for life or imprisonment for

10 years.

If charged with a capital Imprisonment for 7 years and

offence fine.

If the person is sentenced Ditto.

to imprisonment for life, or

imprisonment for 10 years,

or upwards.

Ditto Ditto Ditto.

Ditto Non-bailable Court of Session.

Ditto Ditto Magistrate of the first

class.

Ditto Bailable Ditto.

Non-cognizable Ditto Any Magistrate.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Non-bailable Magistrate of the first

class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1040

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Section Offence Punishment

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1 2 3

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If under sentence of death Imprisonment for life, or imprisonment

for 10 years and

fine.

225A Omission to apprehend, or

sufferance of escape on part

of public servant, in cases

not otherwise provided for :-

(a) in case of intentional Imprisonment for 3 years, or

omission or sufferance. fine, or both.

(b) in case of negligent Simple imprisonment for 2

omission or sufferance. years, or fine, or both.

225B Resistance or obstruction to Imprisonment for 6 months, or

lawful apprehension, or fine, or both.

escape or rescue in case not

otherwise provided for.

227 Violation of condition of re- Punishment of original sentenmission

of punishment. ce, or if part of punishment

has been undergone, the

residue.

228 Intentional insult or inter- Simple imprisonment for 6

ruption to a public servant months, or fine of 1,000

sitting in any stage of a rupees, or both.

judicial proceeding.

1\*228A Disclose of identity of the Imprisonment for 2 years and

victim of the certain fine.

offences, etc.

Printing or publication of Ditto

a proceeding without prior

permission of court.

229 Personation of a juror or Imprisonment for 2 years,

assessor. or fine; or both.

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Cognizable or bialable or By what court triable

Non-cognizable Non-bailable

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4 5 6

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Cognizable Non-bailable Court of Session.

Non-cognizable Bailable Magistrate of the first

class.

Ditto Ditto Any Magistrate.

Cognizable Ditto Ditto.

Ditto Non-bailable The Court by which the

original Offence was

triable.

Non-cognizable Bailable The Court in which the

offence is committed

subject to the provisions

of Chapter XXVI

Cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

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1\* Ins. by Act 43 of 1983, s.5.

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1041

CHAPTER XII-OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

231 Counterfeiting, or perfor- Imprisonment for 7 years and

ming any part of the fine.

process of counterfeiting,

coin.

232 Counterfeiting, or perfor- Imprisonment for life, or imming

any part for the process prisonment for 10 years and

of counterfeiting, coin. fine.

233 Making, buying or selling Imprisonment for 3 years and

instrument for the purpose fine.

of counterfeiting Indian coin.

234 Making, buying or selling Imprisonment for 7 years and

instrument of the purpose of fine.

counterfeiting Indian coin.

335 Possession of instrument or Imprisonment for 3 years and

material for the purpose of fine.

using the same for counterfeiting

coin,

If Indian coin. Imprisonment for 10 years and

fine.

336 Abetting, in India, the The punishment provided for

counterfeiting, out of India, abetting the counterfeiting

of coin. of such coin within India.

337 Import or export of counter- Imprisonment for 3 years and

feit coin, knowing the same fine.

to be counterfeit.

338 Import or export of counter- Imprisonment for life, or imfeit

of Indian coin, knowing prisonment for 10 years and

the same to be counterfeit. fine.

339 Having any counterfeit coin Imprisonment for 5 years and

known to be such when it came fine.

into possession, and delivering,

etc., the same to any

person.

Cognizable Non-bailable Magistrate of the first

class.

Ditto Ditto Court of Session.

Ditto Ditto Magistrate of the first

class.

Ditto Ditto Court of Session.

Ditto Ditto Magistrate of the first

class.

Ditto Ditto court of Session.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the first

class.

Ditto Ditto Court of Session.

Ditto Ditto Magistrate of the first

class.

1042

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Section Offence Punishment

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1 2 3

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240 Same with respect to Indian coin- Imprisonment for 10 years

and fine.

241 Knowingly delivering to another Imprisonment for 2 years,

any counterfeit coin as genuine, fine, or 10 times the

which, when first possessed, value of the coin countethe

deliverer did not know to rfeited, or both.

be counterfeit.

242 Possession of counterfeit coin by Imprisonment for 3 years

a person who knew it to be fine. and fine.

counterfeit when he became

possessed thereof.

243 Possession of Indian coin by a Imprisonment for 7 years

person who knew it to be fine. and fine.

counterfeit when he became

possessed thereof.

244 Person employed in a Mint Ditto

causing coin to be of a different

weight or composition

from that fixed by law.

245 Unlawfully taking from a Mint Ditto

any coining instrument.

246 Fraudulently diminishing the Imprisonment for 3 years

weight or altering the composi- and fine.

tion of Indian coin.

247 Fraudulently diminishing the Imprisonment for 7 years

weight or altering the composi- and fine.

tion of Indian coin.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Court of Session.

Ditto Ditto Any Magistrate.

Ditto Ditto Magistrate of the first

class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1043

248 Altering appearance of any coin Imprisonment for 3 years

with intent that it shall pass as and fine.

a coin of a different description.

249 Altering appearance of Indian Imprisonment for 7 years

coin with intent that it shall and fine.

pass as a coin of a different description.

250 Delivery to another of coin Imprisonment for 5 years

possessed with the knowledge and fine.

that it is altered.

251 Delivery of Indian coin possessed Imprisonment for 10 years

with the knowledge that it is and fine.

altered.

252 Possession of altered coin by a Imprisonment for 3 years

person who knew it to be and fine.

altered when he became

possessed thereof.

253 Possession of Indian coin by a Imprisonment for 5 years

person who knew it to be altered and fine.

when he became possessed

thereof.

254 Delivery to another of coin as Imprisonment for 2 years

genuine which, when first or fine, or 10 times the

possessed, the deliverer did not value of the coin.

know to be altered.

255 Counterfeiting a Government Imprisonment for life, or

stamp. imprisonment for 10 years

and fine.

256 Having possession of an instru- Imprisonment for 7 years

ment or material for the purpose and fine.

of counterfeiting a Government

stamp.

257 Making, buying or selling instru- Ditto

ment for the purpose of counterfeiting

a Government stamp.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Court of Session.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Ditto Ditto Court of Session.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

1044

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Section Offence Punishment

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1 2 3

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258 Sale of counterfeit Government Imprisonment for 7 years

Stamp. and fine.

259 Having possession of a counterfeit Ditto

Government stamp.

260 Using as genuine a Government Imprisonment for 7 years,

stamp known to be counterfeit. or fine, or both.

261 Effacing any writing from a Imprisonment for 3 years,

substance bearing a Government or fine or both.

stamp, or removing from a document

a stamp used for it, with intent

to cause a loss to Government.

262 Using a Government stamp Imprisonment for 2 years

known to have been before fine, or fine, or both.

used.

263 Erasure of mark denoting that Imprisonment for 3 years,

stamps have been used. or fine, or both.

263A Fictitious stamps Fine of 200 rupees

CHAPTER XIII-OFFENCES RELATING TO WEIGHTS AND MEASURES

264 Fraudulent use of false instrument Imprisonment for 1 year,

for weighing. or fine, or both.

265 Fraudulent use of false weight or Ditto

measure.

266 Being in possession of false Ditto

weight or measures for fraudulent,

use.

267 Making or selling false weights Ditto

or measures for fraudulent use.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Magistrate of the

first class.

Ditto Bailable Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Any Magistrate.

Non-cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Non-bailable Ditto.

1045

CHAPTER XIV- OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY,

CONVENIENCE, DECENCY AND MORALS

269 Negligently doing any act known Imprisonment for 6 months

to be likely to spread infection or fine, or both.

of any disease dangerous to life.

270 Malignantly doing any act known Imprisonment for 2 years,

to be likely to spread infection or fine, or both.

of any disease dangerous to life.

271 Knowingly disobeying any qua- Imprisonment for 6

rantine rule. months, or fine, or both.

272 Adulterating food or drink inten- Imprisonment for 6 month,

ded for sale, so as to make the or fine of 1,000 rupees,

same noxious. or both.

273 Selling any food or drink as food Ditto

and drink, knowing the same to

be noxious.

274 Adulterating any drug or medical Ditto

preparation intended for sale so

as to lesson its efficacy, or to

change its operation, or to make

it noxious.

275 Offering for sale or issuing from Ditto

a dispensary any drug or medical

preparation known to have been

adulterated.

276 Knowingly selling or issuing from Ditto

a dispensary any drug or medical

preparation as a different

drug or medical preparation.

277 Defiling the water of a public Imprisonment for 3

spring or reservior. months, of fine of 500

rupees, or both.

278 Making atmosphere noxious to Fine of 500 rupees

health.

Cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Non-cognizable Ditto Ditto.

1046

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Section Offence Punishment

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2 2 3

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279 Driving or riding on a public Imprisonment for 6 months

so rashly or negligently as to may or fine of 1,000 rupees,

endanger human life, etc. or both.

280 Navigating any vessel so rashly Imprisonment for 6

negligently as to endanger human months, or fine of 1,000

life, etc. rupees, or both.

281 Exhibition of a false light, mark Imprisonment for 7 years,

or buoy. or fine, or both.

282 Conveying for hire any person by Imprisonment for 6 months,

water, in a vessel in such a state or fine of 1,000 rupees,

so

or so loaded, as to endanger his or, both.

life.

283 Causing danger, obstruction or, Fine of 200 rupees

injury in any public way or line

of navigation.

284 Dealing with any poisonous sub- Imprisonment for 6 months

stance so as to endanger human or fine of 1,000 rupees,

life, etc. or both.

285 Dealing with fire or any combus- Ditto

tible matter so as to endanger

human life, etc.

286 So dealing with any explosive Ditto

substance.

287 So dealing with any machinery Ditto

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

1047

288 A person omitting to guard against Ditto

probable danger to human life

by the fall of any building over

which he has a right entitling

him to pull it down or repair it.

289 A person omitting to take order Ditto

with any animal in his possession,

so as to guard against

danger to human life, or of grievous

hurt, from such animal.

290 Committing a public nuisance Fine of 200 rupees

291 Continuance of nuisance after Simple imprisonment for 6

injunction to discontinue. months, or fine, or both.

292 Sale, etc., of obscene books, On first conviction, with

etc. imprisonment for 2

years, and with fine of

2,000 rupees, and, in the

event of second or

subsequent conviction,

with imprisonment for

five years and

and

with fine of 5,000

rupees.

293 Sale, etc., of obscene objects On first conviction, with

to young persons. imprisonment for 3 years,

and with fine of 2,000

rupees, and in the event

of second or subsequent

conviction, with imprisonment

for 7 years,

and with fine of 5,000

rupees.

294 Obscene songs Imprisonment for 3 months,

or fine, or both.

294A Keeping a lottery office Imprisonment for 6 months,

or fine, or both.

Publishing proposals relating to Fine of 1,000 rupees

lotteries.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Non-cognizable Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

1048

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Section Offence Punishment

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1 2 3

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CHAPTER XV - OFFENCES RELATING TO RELIGION

295 Destroying, damaging or defiling Imprisonment for 2 years,

a place of worship or sacred ob- or fine, or both.

ject with intent to insult the religion

of any class of persons.

295A Maliciously insulting the religion Imprisonment for 2 years,

or the religious beliefs of any or fine, or both.

class.

296 Causing a disturbance to an assem- Imprisonment for 1 year,

bly engaged in religious worship. or fine, or both.

297 Trespassing in place of worship or Ditto

sepulchre, disturbing funeral

with intention to wound the

feelings or to insult the religion

of any person, or offering indignity

to a human corpse.

298 Uttering any word or making any Ditto

sound in the hearing or making

any gesture, or placing any

object in the sight of any person,

with intention to wound his

religious feeling.

CHAPTER XVI-OFFENCES AFFECTING THE HUMAN BODY

302 Murder Death, or imprisonment

for life, and fine.

303 Murder by a person under Death

sentence of imprisonment for life.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Any Magistrate.

Ditto Ditto Magistrate of the

first class.

Ditto Bailable Any Magistrate.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Cognizable Non-bailable Court of Session.

Ditto Ditto Ditto.

1049

304 culpable homicide not amounting Imprisonment for life,

to murder, if act by which the or imprisonment for 10

death is caused is done with years and fine.

intention of causing death, etc.

If act is done with knowledge that it Imprisonment for 10 years,

is likely to cause death, but or fine, or both.

without any intention to cause

death, etc.

304A Causing death by rash or negli- Imprisonment for 2 years

fine,

gence act. or both.

1\*304B Dowry death Imprisonment of not less

than seven years but

which may extend to imprisonment

for life.

305 Abetment of suicide committed Death, or imprisonment

by child, or insane or for life, or imprisondelirious

person or an idiot, ment for 10 years and

or a person intoxicated. fine.

306 Abetting the commission of suicide Imprisonment for 10 yea

and fine.

307 Attempt to murder Ditto

If such act causes hurt t Imprisonment for life, or

to any person. imprisonment for 10 years

an fine.

Attempt by life-convict to murder, Death or imprisonment for

if hurt is caused. 10 years and fine.

308 Attempt to commit culpable homi- Imprisonment for 3 years,

cide. or fine, or both.

If such act causes hurt to Imprisonment for 7 years,

any person. or fine, or both.

309 Attempt to commit suicide Simple imprisonment for 1

year, or fine, or both.

311 Being a thug Imprisonment for life and

fine.

312 Causing miscarriage Imprisonment for 3 years,

fine, or both.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Bailable Magistrate of the

first class.

Ditto Non-bailable Court of Session.

Ditto Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Bailable Any Magistrate.

Ditto Non-bailable Court of Session.

Non-cognizable Bailable Magistrate of the

first class.

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1\* Ins. by Act 43 of 1986, S. 11 (w.e.f. 19-11-1986).

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1050

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Section Offence Punishment

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1 2 3

If the woman be quick with child Imprisonment for 7 years

and fine.

313 Causing miscarriage without wo- Imprisonment for life, or

man's consent. imprisonment for 10 years

fine.

314 Death caused by an act done with Imprisonment for 10 years

intent to cause miscarriage. and fine.

If act done without woman's con- Imprisonment for life, or

sent. as above.

315 Act done with intent to prevent Imprisonment for 10 years

a child being born alive, or to or fine, or both.

cause it to die after its birth.

316 Causing death of a quick unborn Imprisonment for 10 years

child by an act amounting to and fine.

culpable homicide.

317 Exposure of a child under 12 years Imprisonment for 7 years,

of age by parent or person or fine, or both.

having care of it with intention

of wholly abandoning it.

318 Concealment of birth by secret Imprisonment for 2 years,

disposal of dead body. fine, or both.

323 Voluntarily causing hurt Imprisonment for 1 year, or

fine of 1,000 rupees,

or both.

324 Voluntarily causing hurt by dan- Imprisonment for 3 years,

gerous weapons or means. or fine, or both.

325 Voluntarily causing grievous hurt Imprisonment for 7 years

and fine.

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Cognizable of or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

Non-cognizable Bailable Magistrate of the

first class.

Cognizable Non-bailable court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Bailable Magistrate of the

first class.

Ditto Ditto Ditto.

Non-cognizable Ditto Any Magistrate.

Cognizable Ditto Ditto

Ditto Ditto Ditto.

1051

326 Voluntarily causing grievous Imprisonment for life, or

hurt by dangerous weapons or imprisonment for 10 years

means. and fine.

327 Voluntarily causing hurt to Imprisonment for 10 years

extort property or a valuable and fine.

security, or to constrain to

do anything which is illegal

or which may facilitate the commission

of an offence.

328 Administering stupefying drug Ditto.

with intent to cause hurt, etc.

329 Voluntarily causing grievous Imprisonment for life, or

hurt to export property or imprisonment for 10 years

a valuable security, or to con- and fine.

strain to do anything which

is illegal, or which may facilitate

the commission of an

offence.

330 Voluntarily causing hurt Imprisonment for 7 years

to extort confession or and fine.

information, or to compel restoration

of property, etc.

331 Voluntarily causing grievous Imprisonment for 10 years

hurt to extort confession or and fine.

information, or to compel restoration

of property, etc.

332 Voluntarily causing hurt to deter Imprisonment for 3 years,

public servant from his duty. or fine, or both.

333 Voluntarily causing grievous Imprisonment for 10 years

hurt to deter public servant and fine.

from his duty.

334 Voluntarily causing hurt on Imprisonment for 1 month,

grave and sudden provocation, or fine of 500 rupees,

not intending to hurt any other or both.

than the person who gave the

provocation.

Ditto Non-bailable Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Court of Session.

Ditto Ditto Ditto.

Ditto Bailable Magistrate of the

first class.

Ditto Non-bailable Court of Session.

Ditto Bailable Magistrate of the

first class.

Ditto Non-bailable Court of Session.

non-cognizable Bailable Any Magistrate.

1052

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Section Offence Punishment

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1 2 3

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335 Causing grievous hurt on grave Imprisonment for 4 years,

and sudden provocation, not or fine of 2,000 rupees,

intending to hurt any other or both.

than the person who gave the

provocation.

336 Doing any act which endangers Imprisonment for 3 months,

human life or the personal safety or fine of 250 rupees,

of others. or both.

337 Causing hurt by an act which Imprisonment for 6 months,

endangers human life, etc. or fine of 500 rupees,

or both.

338 Causing grievous hurt by an act Imprisonment for 2 years,

which endangers human life, or fine of 1,000 rupees,

etc. or both.

341 Wrongfully restraining any person Simple imprisonment for 1

month, or fine of 500

rupees, or both.

342 Wrongfully confining any person Imprisonment for 1 year,

fine of 1,000 rupees, or

both.

343 Wrongfully confining for 3 or Imprisonment for 2

more days. years,or fine, or both.

344 Wrongfully confining for 10 or Imprisonment for 3 years

and more days. and fine.

345 Keeping any person in wrongful Imprisonment for 2 years,

confinement, knowing that a writ in addition to imprisonmhas

been issued for his liberation. ent under any other section.

346 Wrongful confinement in secret Ditto

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Bailable Magistrate of the first

class.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

1053

347 Wrongful confinement for the Imprisonment for 3 years

purpose of extorting property, and fine.

or constraining to an illegal

act, etc.

348 Wrongful confinement for the Ditto

purpose of extorting confession

or information, or of compelling

restoration of property, etc.

352 Assault or use of criminal force Imprisonment for 3 months,

otherwise than on grave pro- fine of 500 rupees, or

vocation. both.

353 Assault or use of criminal force Imprisonment for 2 years,

to

to deter a public servant from or fine, or both.

discharge of his duty.

354 Assault or use of criminal force Ditto

to a woman with intent to

outrage her modesty.

355 Assault or criminal force with Ditto

intent to dishonour a person,

otherwise than on grave and

sudden provocation.

356 Assault or criminal force in Ditto

attempt to commit theft of

property worn or carried by a

person.

357 Assault or use of criminal Imprisonment for 1 year,

force in attempt wrongfully or fine of 1,000 rupees,

to confine a person. or both.

358 Assault or use of criminal fo- Simple imprisonment for

rce on grave and sudden provocation. one month, or fine of

200 rupees, or both.

363 Kidnapping Imprisonment for 7 years

and fine.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Cognizable Ditto Magistrate of the

first class.

1054

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Section Offence Punishment

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1 2 3

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363A Kidnapping or obtaining the cus- Imprisonment for 10 years

tody of a minor in order that and fine.

such minor may be employed or used

for purposes of begging.

Maiming a minor in order that Imprisonment for life and

such minor may be employed or fine

used for purposes of begging.

364 Kidnapping or abducting in order Imprisonment for life, or

to murder. rigorous imprisonment for

10 years and fine.

1\*364A Kidnapping for ransom, etc Death, or imprisonment

for life, and fine.

365 Kidnapping or abducting with in- Imprisonment for 7 years

tent secretly and wrongfully to and fine.

confine a person.

366 Kidnapping or abducting a woman Imprisonment for 10 years

to compel her marriage or to fine.

cause her defilement, etc.

366A Procuration of minor girl Ditto

366B Importation of girl from foreign Ditto

country.

367 Kidnapping or abducting in order Ditto

to subject a person to grievous

hurt, slavery, etc.

368 Concealing or keeping in confine- Punishment for kidnapping

ment a kidnapped person. or abduction.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Magistrate of the

first class.

Ditto Ditto Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Court by which the

kidnapping or

abduction is triable.

1055

369 Kidnapping or abducting a child Imprisonment for 7 years

with intent to take property and fine.

from the person of such child.

370 Buying or disposing of any person Ditto

as a slave.

371 Habitual dealing in slaves Imprisonment for life, or

imprisonment for 10 years

and fine.

372 Selling or letting to hire a minor Imprisonment for 10 years

for purposes of prostitution, and fine.

etc.

373 Buying or obtaining possession of Ditto

a minor for the same purposes.

374 Unlawful compulsory labour Imprisonment for 1 year,

or fine, or both.

376 Rape Imprisonment for life or

imprisonment for ten

years and fine.

Intercourse by a man with his Imprisonment for two yeawife

not being under twelve years rs or fine or both.

of age.

376A Intercourse by a man with his wife Imprisonment for two yeaduring

separation. rs and fine.

376B Intercourse by public servant Imprisonment for five

with woman in his custody. years and fine.

376C Intercourse by superintendent Ditto

of jail, remand home, etc.

376D Intercourse by manager, etc., of Ditto

a hospital with any woman in that

hospital.

377 Unnatural offences Ditto

CHAPTER XVII-OFFENCES AGAINST PROPERTY

379 Theft Imprisonment for 3 years,

or fine, or both.

380 Theft in a building, tent or Imprisonment for 7 years

vessel and fine.

Ditto Ditto Magistrate of the

first class.

Non-cognizable Bailable Ditto.

Cognizable Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Bailable Any Magistrate.

Cognizable Non-bailable Court of Session.

Non-cognizable Bailable Ditto.

Ditto Ditto Ditto.

Cognizable (but no arrest Ditto.

shall be made

without a warrant

or without an order

of a Magistrate).

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Non-bailable Any Magistrate.

Ditto Ditto Ditto.

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1 Subs. by Act 43 of 1983, s.5.

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1056

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Section Offence Punishment

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1 2 3

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381 Theft by clerk or servant of pro- Imprisonment for 7 years

perty in possession of master or fine.

employer.

382 Theft, after preparation having Rigorous imprisonment for

been made for causing death, or 10 years and fine.

hurt, or restraint, or fear of

death, or of hurt, or of restraint,

in order to the committing

of such theft, or to retiring

after committing it, or to retaining

property taken by it.

384 Extortion Imprisonment for 3 years,

or fine, or both.

385 Putting or attempting to put in Imprisonment for 2 years,

fear of injury, in order to com- or fine, or both.

mit extortion.

386 Extortion by putting a person in Imprisonment for 10 years

fear of death or grievous hurt. and fine.

387 Putting or attempting to put a Imprisonment for 7 years

person in fear of death or grie- and fine.

vous hurt in order to commit

extortion.

388 Extortion by threat of accusation Imprisonment for 10 years

of an offence punishable with and fine.

death, imprisonment for life, or

imprisonment for 10 years.

If the offence threatened be an Imprisonment for life

unnatural offence.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Any Magistrate

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Any Magistrate.

Ditto Bailable Ditto.

Ditto Non-bailable Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Bailable Ditto.

Ditto Ditto Ditto.

1057

389 Putting a person in fear of ac- Imprisonment for 10

cusation of an offence punisha- years and fine.

ble with death, imprisonment for

life, or imprisonment for 10

years in order to commit extortion.

If the offence be an unnatural Imprisonment for life.

offence.

392 Robbery Rigorous imprisonment for

10 years and fine.

If committed on the highway Rigorous imprisonment for

between sunset and sunrise. 14 years and fine.

393 Attempt to commit robbery Rigorous imprisonment for

7 years and fine.

394 Person voluntarily causing hurt Imprisonment for life or

in committing or attempting to Rigorous imprisonment for

commit robbery, or any other 10 years and fine.

person jointly concerned in such

robbery.

395 Dacoity Ditto.

396 Murder in dacoity Death, imprisonment for

life, or rigorous imprisonment

for 10 years and

fine.

397 Robbery or dacoity with attempt Rigorous imprisonment for

to cause death or grievous hurt. not less than 7 years.

398 Attempt to commit robbery or Ditto.

dacoity when armed with deadly

weapon.

399 Making preparation to commit Rigorous imprisonment for

dacoity. 10 years and fine.

400 Belonging to a gang of persons Imprisonment for life, or

associated for the purpose of rigorous imprisonment for

habitually committing dacoity. 10 years and fine.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Non-bailable Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Court of Session.

Ditto Ditto Ditto

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1058

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Section Offence Punishment

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1 2 3

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401 Belonging to a wandering gang of Rigorous imprisonment for

persons associated for the pur- 7 years and fine.

pose of habitually committing

thefts.

402 Being one Of five or more persons Ditto.

assembled for the purpose of

committing dacoity.

403 Dishonest misappropriation of Imprisonment for 2 years,

movable property, or convert- or fine, or both.

ing it to one's own use.

404 Dishonest misappropriation of Imprisonment for 3 years

property, knowing that it was and fine.

in possession of a deceased

person at his death, and that

it has not since been in the

possession of any person legally

entitled to it.

If by clerk or person employed Imprisonment for 7 years

by deceased. and fine.

406 Criminal breach of trust Imprisonment for 3 years,

or fine, or both.

407 Criminal breach of trust by a Imprisonment for 7 years

carrier, wharfinger, etc. and fine.

408 Criminal breach of trust by a Ditto.

clerk or servant.

409 Criminal breach of trust by public Imprisonment for life, or

servant or by banker, merchant imprisonment for 10 years

or agent, etc. and fine.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Magistrate of the first

class.

Ditto Ditto Court of Session.

Non-cognizable Bailable Any Magistrate.

Ditto Ditto Magistrate of the

first class'

Ditto Ditto Ditto.

Cognizable Non-bailable Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1059

411 Dishonestly receiving stolen pro- Imprisonment for 3 years,

perty knowing it to be stolen. or fine, or both.

412 Dishonestly receiving stolen pro- Imprisonment for life, or

perty knowing that it was rigorous imprisonment for

obtained by dacoity. 10 years and fine.

413 Habitually dealing in stolen pro- Imprisonment for life, or

perty. imprisonment for 10 years

and fine.

414 Assisting in concealment or dis- Imprisonment for 3 years,

posal of stolen property, or fine, or both.

knowing it to be stolen.

417 Cheating Imprisonment for 1 year,

or fine, or both.

418 Cheating a person whose interest Imprisonment for 3 years,

the offender was bound, either or fine, or both.

by law or by legal contract, to

protect.

419 Cheating by personation Ditto

420 Cheating and thereby dishonestly Imprisonment for 7 years

inducing delivery of property, and fine.

or the making, alteration or

destruction of a valuable security.

421 Fraudulent removal or conceal- Imprisonment for 2 years,

ment of property, etc., to or fine, or both.

prevent distribution among

creditors.

422 Fraudulently preventing from Ditto.

being made available for his

creditors a debt or demand due

to the offender.

423 Fraudulent execution of deed of Ditto.

transfer containing a false statement

of consideration.

Ditto Ditto Any Magistrate.

Ditto Ditto Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Non-cognizable Bailable Ditto.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Non-bailable Magistrate of the

first class.

Non-cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1060

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Section Offence Punishment

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1 2 3

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424 Fraudulent removal or conceal- Imprisonment for 2 years,

ment of property, of himself or or fine, or both.

any other person or assisting in

the doing thereof, or dishonestly

releasing any demand or claim

to which he is entitled.

426 Mischief Imprisonment for 3

months, or fine, or both.

427 Mischief, and thereby causing Imprisonment for 2 years,

damage to the amount of 50 or fine, or both.

rupees or upwards.

428 Mischief of by killing,poisoning, Ditto

maiming or rendering useless

any animal of the value of 10

rupees or upwards.

429 Mischief by killing, poisoning, Imprisonment for 5 years,

maiming or rendering useless or fine, or both.

any elephant, camel, horse, etc.,

whatever may be its value, or

any other animal of the value

of 50 rupees or upwards.

430 Mischief by causing diminution Ditto.

of supply of water for agricultural

purposes, etc.

431 Mischief by injury to public Ditto.

road, bridge, navigable river,

or navigable channel, and

rendering it impassable or less

safe for travelling or conveying

property.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Non-congnizable Bialable Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1061

432 Mischief by causing inundation Ditto

or obstruction to public drainage

attended with damage.

433 Mischief by destroying or moving Imprisonment for 7 years,

or rendering less useful a light- or fine, or both.

house or sea-mark, or by exhibiting

false lights.

434 Mischief by destroying or moving, Imprisonment for 1 years,

etc., a landmark fixed by public or fine, or both.

authority.

435 Mischief by fire or explosive Imprisonment for 7 years

substance with intent to cause and fine.

damage to an amount of 100

rupees or upwards, or, in case

of agricultural produce, 10 rupees

or upwards.

436 Mischief by fire or explosive Imprisonment for life,

substance with intent to destroy or imprisonment for 10

a house, etc. years and fine.

437 Mischief with intent to destroy or Imprisonment for 10 years

make unsafe a decked vessel or and fine.

a vessel of 20 tonnes burden.

438 The mischief described in the last Imprisonment for life,

section when committed by fire or imprisonment for 10

or any explosive substance. years, and fine.

439 Running vessel ashore with intent Imprisonment for 10 years

to commit theft, etc. and fine.

440 Mischief committed after prepara- Imprisonment for 5 years

tion made for causing death, or and fine.

hurt, etc.

447 Criminal trespass Imprisonment for 3

months, or fine of 500

rupees, or both.

448 House-trespass Imprisonment for one year,

or fine of 1,000 rupees,

or both.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Any Magistrate.

Cognizable] Ditto Magistrate of the

first class.

Ditto Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Bailable Magistrate of the first

class.

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

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1062.

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Section Offence Punishment

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1 2 3

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449 House-trespass in order to the Imprisonment for life, or

commission of an offence puni- rigorous imprisonment for

shable with death. 10 years and fine.

450 House-trespass in order to the Imprisonment for 10 years

commission of an offence puni- and fine.

shable with imprisonment for

life,

451 House-trespass in order to the Imprisonment for 2 years

commission of an offence puni- and fine.

shable with imprisonment.

If the offence is theft Imprisonment for 7 years

and fine.

452 House-trespass, having made pre- Imprisonment for 7 years

paration for causing hurt, and fine.

assault, etc.

453 Lurking house-trespass or house- Imprisonment for 2 years

breaking. and fine.

454 Lurking house-trespass or house- Imprisonment for 3 years

breaking in order to the com- and fine.

mission of an offence punishable

with imprisonment.

If the offence be theft Imprisonment for 10 years

and fine.

455 Lurking house-trespass or house- Ditto

breaking after preparation made

for causing hurt, assault, etc.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Cognizable Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Bailable Any Magistrate.

Ditto Non-bailable Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

1063

456 Lurking house-trespass or house- Imprisonment for 3 years

breaking by night. and fine.

457 Lurking house-trespass or house- Imprisonment for 5 years

breaking by night in order to and fine.

the commission of an offence

punishable with imprisonment.

If the offence is theft Imprisonment for 14 years

and fine.

458 Lurking house-trespass or house- Imprisonment for 14 years

breaking by night,after pre- and fine.

paration made for causing hurt,

etc.

459 Grievous hurt caused whilst com- Imprisonment for life, or

mitting lurking house-trespass imprisonment for 10 years

or house breaking. and fine.

460 Death or grievous hurt caused by Ditto.

one of several persons jointly

concerned in house-breaking by

night, etc.

461 Dishonestly breaking open or Imprisonment for 2 years,

unfastening any closed recep- or fine, or both.

tacle containing or supposed to

contain property.

462 Being entrusted with any closed Imprisonment for 3 years,

receptacle containing or sup- or fine, or both.

posed to contain any property,

and fraudulently opening the

same.

CHAPTER XVIII-OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

465 Forgery Imprisonment for 2 years,

or fine, or both.

Ditto Ditto Any Magistrate.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Court of Session.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Ditto Bailable Ditto.

Non-cognizable Bailable Magistrate of the

first class.

1064

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Section Offence Punishment

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1 2 3

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466 Forgery of a record of a Court of Imprisonment for 7 years

Justice or of a Registrar of and fine.

Births, etc., kept by a public

servant.

467 Forgery of a valuable security, Imprisonment for life, or

will, or authority to make or imprisonment for 10 years

transfer any valuable security, and fine.

or to receive any money, etc.

When the valuable security is a Ditto.

promissory note of the Central

Government.

468 Forgery for the purpose of Imprisonment for 7 years

cheating. and fine.

469 Forgery for the purpose of harm- Imprisonment for 3 years

ing the reputation of any person and fine.

or knowing that it is likely to be

used for that purpose.

471 Using as genuine a forged docu- Punishment for forgery of

ment which is known to be such document.

forged.

When the forged document is a Ditto.

promissory note of the Central

Government.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Non-cognizable Non-bailable Magistrate of he first

class.

Ditto Ditto Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Bailable Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

1065

472 Making or counterfeiting a seal, Imprisonment for life, or

plate, etc., with intent to com- imprisonment for 7 years

mit a forgery punishable under and fine.

section 467 of the Indian Penal

Code, or possessing with like

intent any such seal, plate, etc.,

knowing the same to be counterfeit.

473 Making or counterfeiting a seal, Imprisonment for 7 years

plate, etc., with intent to com- and fine.

mit a forgery punishable otherwise

than under section 467 of the

Indian Penal Code, or possessing

with like intent any such seal,

plate, etc., knowing the same to be

counterfeit.

474 Having possession of a document, Ditto.

knowing it to be forged, with

intent to use it as genuine; if

the document is one of the description

mentioned in section 466 of

the Indian Penal Code.

If the document is one of the Imprisonment for life, or

description mentioned in section imprisonment for 7 years

467 of the Indian Penal Code. and fine.

475 Counterfeiting a device or mark Ditto.

used for authenticating documents

described in section 467 of the

Indian Penal Code, or possessing

counterfeit marked material.

476 Counterfeiting a device or mark Imprisonment for 7 years

used for authenticating documents and fine.

other than those described in

section 467 of the Indian penal

Code, or possessing counterfeit

marked material.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Non-cognizable Ditto Ditto.

Ditto Ditto Ditto.

Ditto Non-bailable Ditto.

1066

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Section Offence Punishment

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1 2 3

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477 Fraudulently destroying or de- Imprisonment for life, or

facing, or attempting to destroy imprisonment for 7 years

or deface, or secreting a will, and fine.

etc.

477A Falsification of accounts Imprisonment for 7 years,

or fine, or both.

482 Using a false property with Imprisonment for 1 year,

intent or injure any or fine, or both.

person.

483 Counterfeiting a property mark Imprisonment for 2 years,

used by another, with intent to or fine, or both.

cause damage or injury.

484 Counterfeiting property mark Imprisonment for 3 years

used by a public servant, or any and fine.

mark used by him to denote the

manufacture, quality, etc., of

any property.

485 Fraudulently making or having Imprisonment for 3 years,

possession of any die, plate or or fine, or both.

other instrument for counterfeiting

any public or private

property mark.

486 Knowingly selling goods marked Imprisonment for 1 year,

with a counterfeit property or fine, or both.

mark.

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Non-cognizable Non-bailable Magistrate of the

first class.

Ditto Bailable Ditto

Ditto Ditto Any Magistrate.

Ditto Ditto Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

1067

487 Fraudulently making a false Imprisonment for 3 years,

mark upon any package or or fine, or both.

receptacle containing goods,

with intent to cause it to be

believed that it contains goods

which it does not contain, etc.

488 Making use of any such false mark Ditto

489 Removing, destroying or defacing Imprisonment for 1 year,

property mark with intent to or fine, or both.

cause injury.

489A counterfeiting currency-notes or Imprisonment for life, or

bank-notes. imprisonment for 10 years

and fine.

489B Using as genuine forged or coun- Ditto

terfeit currency-notes or banknotes.

489C Possession of forged or counter- Imprisonment for 7 years,

feit or currency-notes or bank- or fine, or both .

notes.

489D Making or possessing machinery, Imprisonment for life, or

instrument or material for forg- imprisonment for 10 years

ing or counterfeiting currency- and fine.

notes or bank-notes.

489E Making or using documents Fine of 100 rupees

resembling currency-notes or

bank-notes.

On refusal to disclose the name Fine of 200 rupees.

and address of the printer.

CHAPTER XIX-CRIMINAL BREACH OF CONTRACTS OF SERVICE

491 Being bound to attend on or Imprisonment for 3

supply the wants of a person months, or fine of 200

who is helpless from youth, rupees or both.

unsoundness of mind or disease,

and voluntarily omitting to do so.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Cognizable Non-bailable Court of Session.

Ditto Ditto Ditto.

Ditto Bailable Ditto.

Ditto Non-bailable Ditto.

Non-cognizable Bailable Any Magistrate.

Ditto Ditto Ditto.

Non-cognizable Bailable Any Magistrate.

1068.

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Section Offence Punishment

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1 2 3

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1\*CHAPTER XX-OFFENCES RELATING TO MARRIAGE.

493 A man by deceit causing a woman Imprisonment for 10 years

not lawfully married to him to and fine.

believe that she is lawfully

married to him and to cohabit

with him in that belief.

494 Marrying again during the life- Imprisonment for 7 years

time of a husband or wife. and fine.

495 Same offence with concealment of Imprisonment for 10 years

the former marriage from the and fine.

Person with whom subsequent

marriage is contracted.

496 A person with fraudulent inten- Imprisonment for 7 years

tion going through the ceremony and fine.

of being married, knowing that

he is not thereby lawfully

married.

497 Adultery Imprisonment for 5 years,

or fine, or both.

498 Enticing or taking away or detain- Imprisonment for 2 years,

ing with a criminal intent a or fine, or both.

married woman.

498A Punishment for Imprisonment for Cognizable if information

subjecting a three years and relating to the commissmarried

woman fine. ion of the offence is

to cruelty. given to an officer in

charge of a police station

by the person aggrieved

by the offence or

by any person related

to her by blood, marriage

or adoption or if there

is no such relative, by

any public servant belonging

to such class or

category as may be notified

by the State

Government in this behalf

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Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Non-cognizable Non-bailable Magistrate of the first

class.

Ditto Bailable Ditto.

Ditto Ditto Ditto

Ditto Ditto Ditto.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Ditto Non-bailable Magistrate of the first

class.

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1 Ins. by Act 46 of 1983, s.6.

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1069

CHAPTER XXI-DEFAMATION

500 Defamation against the President Simple Imprisonment for 2

or the Vice-President or the years, or fine, or both.

Governor of a State or Administrator

of a Union territory or a

Minister in respect of his conduct

in the discharge of his public

functions when instituted upon

a complaint made by the Public

Prosecutor.

Defamation in any other case Ditto

501 (a) Printing or engraving matter Ditto

knowing it to be defamatory

against the President of the Vice-

President or the Governor of a

State or Administrator of a

Union territory or a Minister

in respect of his conduct in the

discharge of his public functions

when instituted upon a complaint

made by the Public

Prosecutor.

(b) Printing or engraving matter Ditto

knowing it to be defamatory, in

any other case.

502 (a) Sale of printed or engraved Ditto

substance containing defamatory

matter, knowing it to

contain such matter against the

President or the Vice-President

or the Governor of a State or

Administrator of a Union territory

or a Minister in respect of

his conduct in the discharge of

his public functions when instituted

upon a complaint made

by the Public Prosecutor.

Non-cognizable Bailable Court of Session.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Court of Session.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Court of Session.

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Section Offence Punishment

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1 2 3

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(b) Sale of printed or engraved Simple imprisonment for 2

substance containing defamatory years, or fine, or both.

matter, knowing it to contain

such matter in any other case.

CHAPTER XXII-CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

504 Insult intended to provoke breach Imprisonment for 2 years,

of the peace. or fine, or both.

505 False statement. rumour, etc., Imprisonment for 3 years,

circulated witH intent to cause or fine, or both.

mutiny or offence against the

public peace.

False statement,rumour, etc.,with Ditto

intent to create enmity, hatred

or ill-will between different

classes.

False statement, rumour, etc., Imprisonment for 5 years

made in place of worship etc., and fine.

with intent to create enmity,

hatred or ill-will.

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Cognizable or bailable or By what

non-cognizable non-bailable Court triable

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4 5 6

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Non-cognizable Bialable Magistrate of the

first class.

Non-cognizable Bailable Any Magistrate.

Ditto Non-bailable Ditto.

Cognizable Ditto Ditto.

Ditto Ditto Ditto.

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506 Criminal intimidation Imprisonment for 2 years,

or fine, or both.

If threat be to cause death or Imprisonment for 7 years,

grievous hurt, etc. or fine, or both.

507 Criminal intimidation by anony- Imprisonment for 2 years,

mous communication or having in addition to the punishment

taken precaution to conceal under above section.

whence the threat comes.

508 Act caused by inducing a person Imprisonment for 1 year,

to believe that he will be or fine, or both.

rendered an object of Divine

displeasure.

509 Uttering any word or making any Simple imprisonment for 1

gesture intended to insult the year, or fine, or both.

modesty of a woman, etc.

510 Appearing in a public place, etc., Simple imprisonment for

in a state of intoxication, and 24 hours, or fine of 10

causing annoyance to any person. rupees, or both.

person.

CHAPTER XXIII-ATTEMPTS TO COMMIT OFFENCES.

511 Attempting to commit offences Imprisonment for life or

punishable with imprisonment imprisonment not exceedfor

life or imprisonment, and in ing half of the longest

such attempt doing any act term provided for the

towards the commission of the offence, or fine, or

offence. both.

Non-cognizable Bailable Ditto.

Ditto Ditto Magistrate of the

first class.

Ditto Ditto Ditto.

Ditto Ditto Any Magistrate.

Cognizable Ditto Ditto.

Non-cognizable Ditto Ditto.

According as the According as the The Court by which the

offence is cognizable offence attempted offence attempted is

or non-cognizable. by the offender is triable.

bailable or not.

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II.-CLASSIFICATION OF OFFENCE AGAINST OTHER LAWS

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Offence Cognizable or Bailable or By what

non-cognizable non-bailable Court triable

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If punishable with Cognizable Non-bailable Court of

death, imprisonment Session.

for life or imprisonment

for more than

7 years.

If punishable with Ditto Ditto Magistrate of

imprisonment for 3 the first

years and upwards class.

but not more than

7 years.

If punishable with Non-cognizable Bailable Any

imprisonment for less Magistrate.

than 3 years or with

fine only.

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SCHE

(See section 476)

THE SECOND SCHEDULE

(See section 476)

FORM No. 1

SUMMONS TO AN ACCUSED PERSON

(See section 61)

To (name of accused) of (address).

WHEREAS your attendance is necessary to answer to a charge of

(state shortly the offence charged), you are hereby required to appear

in person (or by pleader, as the case may be) before the (Magistrate)

of, on the day of. Herein fail not.

Dated, this day of, 19.

(Seal of the Court) (Signature)

FORM No. 2

WARRANT OF ARREST

(See section 70)

To (name and designation of the person or persons who is or are to

execute the warrant).

WHEREAS (name of accused) of (address) stands charged with the

offence of (state the offence), you are hereby directed to arrest the

said

, and to produce him before me. Herein fail not.

Dated, this day of, 19.

(Sea of the Court) (Signature)

(See section 71)

This warrant may be endorsed as follows:-

If the said shall give bail himself in the sum of rupees with

one surety in the sum of rupees (or two sureties each

in the sum of rupees) to attend before me on the day of and to

continue so to attend until otherwise directed by me, he may be

released.

Dated, this day of, 19. (Seal of the Court) (Signature)

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(The Second Schedule.)

FORM No. 3

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT

(See section 81)

I, (name), of being brought before the District Magistrate of (or as

the case may be) under a warrant issued to compel my appearance to

answer to the charge of , do hereby bind myself to attend in the court

of on the day of next, to answer to the said charge, and to continue

so to attend until otherwise directed by the Court ; and, in case of

my making default herein, I bind myself to forfeit, to Government, the

sum of rupees .

Dated, this day of , 19.

(Signature)

I do hereby declare myself surety for the above-named of , that he

shall attend before in the Court of on the day of next,

to answer to the charge on which he has been arrested, and shall

continue so to attend until otherwise directed by the Court; and, in

case of his making default therein, I bind myself to forfeit, to

Government, the sum of rupees .

Dated, this day of , 19.

(Signature)

FORM No. 4

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

(See section 82)

WHEREAS complaint has been made before me that (name, description and

address) has committed (or is suspected to have committed) the offence

of , punishable under section of the Indian Penal Code, and it has

been returned to a warrant of arrest thereupon issued that the said

(name) cannot be found, and whereas It has been shown to my

satisfaction that the said (name) has absconded (or is concealing

himself to avoid the service of the said warrant) ;

Proclamation is hereby made that the said of is required to appear at

(place) before this Court (or before me) to answer the said complaint

on the day of .

Dated, this day of, 19.

(Seal of the Court) (Signaturey)

1075

(The Second Schedule)

FORM No. 5

PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

(See sections 82, 87 and 90)

WHEREAS complaint has been made before me that (name, description and

address) has committed (or is suspected to have committed) the offence

of (mention the offence concisely) and a warrant has been issued to

compel the attendance of (name, description and address of the witness

before this Court to be examined touching the matter of the said

complaint; and whereas it has been returned to the said warrant that

the said (name of witness) cannot be served, and it has been shown to

my satisfaction that he has absconded (or is concealing himself to

avoid the service of the said warrant) ;

Proclamation is hereby made that the said (name) is required to appear

at (place) before the Court of on the day of next at o'clock, to be

examined touching the offence complained of.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 6

ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

(See section 83)

To the Officer in charge of the police station at

WHEREAS a warrant has been duly issued to compel the attendance

of(name, description and address) to testify concerning a complaint

pending before this Court, and it has been returned to the said

warrant that it cannot be served; and whereas it has been shown to

my satisfaction that he has absconded (or is concealing himself to

avoid the service of the said warrant) ; and thereupon a Proclamation

has been or is being duly issued and published requiring the said to

appear and give evidence at the time and place mentioned therein;

This is to authorise and require you to attach by seizure the movable

property belonging to the said to the value of rupees

which you may find within the District of and to hold the

said property under attachment pending the further order of this

Court, and to return this warrant with an endorsement certifying the

manner of its execution.

Dated, this day of , 19.

(Seal of the Court) (Signature)

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(The Second Schedule.)

FORM No. 7

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(See section 83)

To (name and designation of the person or persons who is or are to

execute the warrant).

WHEREAS complaint has been made before me that (name, description

and address) has committed (or is suspected to have committed) the

offence of punishable under section of the Indian Penal Code, and it

has been returned to a warrant of arrest thereupon issued that the

said (name) cannot be found; and whereas it has been shown to my

satisfaction that the said (name) has absconded (or is concealing

himself to avoid the service of the said warrant) and thereupon a

Proclamation has been or is being duly issued and published requiring

the said to appear to answer the said charge within day; and whereas

the said is possessed of the following property,

other than land paying revenue to Government, in the Village (or

town), of , in the District of , viz., and an order has been made for

the attachment thereof;

You are hereby required to attach the said property in the manner

specified in clause (a), or clause (c), or both\*, of sub-section (2)

of section 83, and to hold the same under attachment pending further

order of this Court, and to return this warrant with an endorsement

certifying the manner of its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

\*Strike out the one which is not applicable, depending on the nature

of the property to be attached.

FORM No. 8

ORDER AUTHORISING AN ATTACHMENT BY THE DISTRICT MAGISTRATE

OR COLLECTOR

(See section 83)

To the District Magistrate/Collector of the District of

WHEREAS complaint has been made before me that (name, description

and address) has committed (or is suspected to have committed) the

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(The Second Schedule)

offence of , punishable under section of the Indian Penal

Code, and it has been returned to a warrant of arrest thereupon issued

that the said (name) cannot be found; and whereas it has been shown to

my satisfaction that the said (name) has absconded (or is concealing

himself to avoid the service of the said warrant) and thereupon a

Proclamation has been or is being duly issued and published requiring

the said (name) to appear to answer the said charge within days ; and

whereas the said is possessed of certain land paying revenue to

Government in the village (or town) of in the District of;

You are hereby authorised and requested to cause the said land to be

attached, in the manner specified in clause (a), or clause (c), or

both\*, of sub-section (4) of section 83, and to be held under

attachment pending the further order of this Court, and to certify

without delay what you may have done in pursuance of this order.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

\*Strike out the one which is not desired.

FORM No. 9

WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(See section 87)

To (name and designation of the police officer or other person or

persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name and description

of accused) of (address) has (or is suspected to have)

committed the -offence of (mention the offence concisely), and it

appears likely that ,(name and description of witness) can give

evidence concerning the said complaint, and whereas I have good and

sufficient reason to believe that he will not attend as a witness on

the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (name of

witness), and on the day of to bring him before this Court, to be

examined touching the offence complained of.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

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(The Second Schedule)

FORM No. 10

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

(See section 93)

To (name and designation of the police officer or other person or

persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made)

before me of the commission (or suspected commission) of the offence

of (mention the offence concisely), and it has been made to appear to

me that the production of (specify the thing clearly) is essential to

the inquiry now being made (or about to be made) into the said offence

(or suspected offence) ;

This is to authorise and require you to search for the said (the

thing specified) in the (describe the house or place or part thereof

to which the search is to be confined), and, if found, to produce the

same forthwith before this Court, returning this warrant, with an

endorsement certifying what you have done under it, immediately upon

its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 11

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(See section 94)

To (name and designation of a police officer above the rank of a

constable).

WHEREAS information has been laid before me, and on due inquiry

thereupon had, I have been led to believe that the (describe the house

or other place) is used as a place for the deposit (or sale) of stolen

property (or it for either of the other purposes expressed in the

section, state the purpose in the words of the section);

This is to authorise and require you to enter the said house (or

other place) with such assistance as shall be required, and to use, if

necessary, reasonable force for that purpose, and to search every part

of the said house (or other place, or if the search is to be confined

to a part, specify the part clearly), and to seize and take possession

of any property (or documents, or stamps, or seals, or coins, or

obscene objects, as the case may be) (add, when the case requires it)

and also of any instruments and

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(The Second Schedule)

materials which you may reasonably believe to be kept for the manufacture

of forged documents, or counterfeit stamps, or false seals or

counterfeit coins or counterfeit currency notes (as the case may be),

and forthwith to bring before this Court such of the said things as

may be taken possession of, returning this warrant, with an

endorsement certifying what you have done under it, immediately upon

its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 12

BOND TO KEEP THE PLACE

(See sections 106 and 107)

WHEREAS I, (name), Inhabitant of (place), have been called upon

to enter into a bond to keep the peace for the term of or until the

completion of the inquiry in the matter of now pending in the Court of

, I hereby bind myself not to commit a breach of the peace, or do any

act that may probably occasion a breach of the peace, during the said

term or until the completion of the said inquiry and, in case of my

making default therein, I hereby bind myself to forfeit to Government

the sum of rupees

Dated, this day of , 19.

(Signature)

FORM No. 13

BOND FOR GOOD BEHAVIOUR

(See sections 108, 109 and 110)

WHEAREAS I, (name), inhabitant of (place), have been called upon

to enter into a bond to be of good behaviour to Government and all the

citizens of India for the term of (state the period) or until the

completion of the inquiry in the matter of now pending in the Court of

I hereby bind myself to be of good behaviour to Government and all the

citizens of India during the said term or until the completion of the

said inquiry; and,, in case of my making default therein, I hereby

bind myself to forfeit to Government the sum of rupees

Dated, this day of , 19.

(Signature)

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(The Second Schedule)

(Where a bond with sureties is to be executed, add .

We do hereby declare ourselves sureties for the above-named that he

will be of good behaviour to Government and all the citizens of India

during the said term or until the completion of the said inquiry; and,

in case of his making default therein, we bind ourselves, jointly and

severally, to forfeit to Government the sum of rupees

Dated, this day of , 19.

(Signature)

FORM No. 14

SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(See section 113)

To of

WHEREAS it has been made to appear to me by credible information that

(state the substance of the information), and that you are likely to

commit a breach of the peace (or by which act a breach of the peace

will probably be occasioned), you are hereby required to attend in

person (or by a duly authorised agent) at the office of the Magistrate

of on the

day of 19 , at ten o'clock in the forenoon, to show

cause why you should not be required to enter into a bond for rupees

[when sureties are required, add, and also to give security by the

bond of one (or two, as the case may be) surety (or sureties) in the

sum of rupees (each if more than one)], that you will keep the peace

for the term of .

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 15

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

(See section 122)

To the Officer in charge of the Jail at

WHEREAS (name and address) appeared before me in person (or by

his authorised agent) on the day of in obedience to a summons calling

upon him to show cause why he should not enter into a

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(The Second Schedule.)

bond for rupees with one surety (or a bond with two sureties each

in rupees ), that he, the said (name), would keep the peace for the

period of months; and whereas an order was then made requiring the

said (name) to enter into and find such security (state the security

ordered when it differs from that mentioned in the summons), and he

has failed to comply with the said order;

This is to authorise and require you to receive the said (name)

into your custody, together with this warrant, and him safely to keep

in the said Jail for the said period of (term of imprisonment) unless

he shall in the meantime be lawfully ordered to be released, and to

return this warrant with an endorsement certifying the manner of its

execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 16

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY

FOR GOOD BEHAVIOUR

(See section 122)

To the Officer in charge of the Jail at

WHEREAS it has been made to appear to me that (name and

description) has been concealing his presence within the district, of

and that there is reason to believe that he is doing so with a view to

committing a cognizable offence ;

or

WHEREAS evidence of the general character of (name and

description) has been adduced before me and recorded, from which it

appears that he is an habitual robber (or house-breaker, etc., as the

case may be) ;

And whereas an order has been recorded stating the same and requiring

the said (name) to furnish security for his good behaviour for the

term of (state the period) by entering into a bond with one surety (or

two or more sureties, as the case may be), himself for rupees and

the said surety (or each of the said sureties) for rupees , and the

said (name) has failed to comply with the said order and for such

default has been adjudged imprisonment for (state the term) unless the

said security be sooner furnished ;

This is to authorise and require you to receive the said (name) into

your custody, together with this warrant and him safely to keep in the

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(The Second Schedule)

Jail, or if he is already in prison, be detained therein, for the said

period of (term of imprisonment) unless he shall in the meantime be

lawfully ordered to be released, and to return this warrant with an

endorsement certifying the manner of its execution.

Dated, this day of , 19.

(Seal of the Court) (Signature)

FORM No. 17

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See sections 122 and 123)

(or other officer in whose

To the Officer in charge of the Jail at

custody the person is).

WHEREAS (name and description of prisoner) was committed to your

custody under warrant of the Court, dated the day of 19; and has

since duly given under section of the Code of Criminal Procedure,

1973.

or

WHEREAS (name and description of prisoner) was committed to your

custody under warrant of the Court, dated the day of 19 and there have

appeared to me sufficient grounds for the opinion that he can be

released without hazard to the community ;

This is to authorise and require you forthwith to discharge the

said (name) from your custody unless he is liable to be detained for

some other cause.

Dated, this day of , 19.

(Seal of the Court) (Signature)

FORM No. 18

WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(See section 125)

To the Officer in charge of the Jail at

WHEREAS (name, description and address) has been proved before me

to be possessed of sufficient means to maintain his wife (name) [or

his

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child (name) or his father or mother (name), who is by reason of

(state the reason) unable to maintain herself (or himself)] and to

have neglected (or refused) to do so, and an order has been duly made

requiring the said (name) to allow to his said wife (or child or

father or mother) for maintenance the monthly sum of rupees ; and

whereas it has been further proved that the said (name) in wilful

disregard of the said order has failed to pay rupees, being the amount

of the allowance for the month (or months) of ;

And thereupon an order was made adjudging him to undergo imprisonment

in the said Jail for the period of;

This is to authorise and require you to receive the said (name)

into your custody in the said Jail, together with this warrant, and

there carry the said order into execution according to law, returning

this warrant with an endorsement certifying the manner of its

execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 19

WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY ATTACHMENT

AND SALE

(See section 125)

To (name and designation of the police officer or other person to

execute the warrant).

WHEREAS an order has been duly made requiring (name) to allow to

his said wife (or child or father or mother) for maintenance the

monthly sum of rupees , and whereas the said (name) in wilful

disregard of the said order has failed to pay rupees, being the amount

of the allowance for the month (or months) of ;

This is to authorise and require you to attach any movable

property belonging to the said (name) which may be found within the

district of , and if within (state the number of days or hours

allowed) next after such attachment the said sum shall not be paid (or

forthwith), to sell the movable property attached, or so much thereof

as shall be sufficient to satisfy the said sum, returning this

warrant, with an endorsement certifying what you have done under it,

immediately upon its execution.

Dated, this day of, 19. (Seal of the Court) (Signature)

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(The Second Schedule)

FORM No. 20

ORDER FOR THE REMOVAL OF NUISANCES

(See section 133)

To (name, description and address).

WHEREAS it has been made to appear to me that you have caused an

obstruction (or nuisance) to persons using the public roadway (or

other public place) which, etc., (describe the road or public place),

by, etc., (state what it is that causes the obstruction or nuisance),

and that such obstruction (or nuisance) still exists ;

or

WHEREAS it has been made to appear to me that you are carrying

on, as owner, or manager, the trade or occupation of (state the

particular trade or occupation and the place where it is carried on),

and that the same is injurious to the public health (or comfort) by

reason (state briefly in what manner the injurious effects are

caused), and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner

(or are in possession of or have the control over) a certain tank (or

well or excavation) adjacent to the pubic way (describe the

thoroughfare), and that the safety of the public is endangered by

reason of the said tank (or well or excavation) being without a fence

(or insecurely fenced);

or

WHEREAS, etc., etc., (as the case may be);

I do hereby direct and require you within (state the time allowed)

(state what is required to be done to abate the nuisance) or to appear

at in the Court of on the day of next,

and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (state the time allowed) to

cease carrying on the said trade or occupation at the said place, and

not

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(The Second Schedule)

again to carry on the same, or to remove the said trade from the place

where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (state the time

allowed) to put up a sufficient fence (state the kind of fence and the

part to be fenced) ; or to appear, etc. ;

or

I do hereby direct and require you, etc., etc., (as the case may be).

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 21

MAGISTRATE'S NOTICE AND PEREMPTORY ORDER

(See section 141)

To (name, description and address).

I HEREBY give you notice that it has been found that the order issued

on the day of requiring you (state substantially

the requisition in the order) is reasonable and proper. Such order

has been made absolute, and I hereby direct and require you to obey

the said order within (state the time allowed), on peril of the

penalty provided by the Indian Penal Code for disobedience thereto.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 22

INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY

(See section 142)

To (name. description and address).

WHEREAS the inquiry into the conditional order issued by me on

the day of , 19 , is pending, and it has been made to appear

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(The Second Schedule)

to me that the nuisance mentioned in the said order is attended with

such imminent danger or injury of a serious kind to the public as to

render necessary immediate measures to prevent such danger or injury,

I do hereby, under the provisions of section 142 of the Code of

Criminal Procedure, 1973, direct and enjoin you forthwith to (state

plainly what is required to be done as a temporary safeguard), pending

the result of the inquiry.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 23

MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE

(See section 143)

To (name, description and address).

WHEREAS it has been made to appear to me that, etc. (state the

proper recital, guided by Form No. 20 or Form No. 24, as the case may

be) ;

I do hereby strictly order and enjoin you not to repeat or

continue, the said nuisance.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 24

MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(See section 144)

To (name, description and address).

WHEREAS it has been made to appear to me that you are in

possession (or have the management) of (describe clearly the

property), and that, in digging a drain on the said land, you are

about to throw or place a portion of the earth and stones dug-up upon

the adjoining public road, so as to occasion risk of obstruction to

persons using the road;

or

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(The Second Schedule)

WHEREAS it has been made to appear to me that you and a number of

other persons (mention the class of persons) are about to meet and

proceed in a procession along the public street, etc., (as the case

may be) and that such procession is likely to lead to a riot or an

affray;

or

WHEREAS, etc., etc., (as the case may be);

I do hereby order you not to place or permit to be placed any of

the earth or stones dug from land on any part of the said road;

or

I do hereby prohibit the procession passing along the said

street, and strictly warn and enjoin you not to take any part in such

procession (or as the case recited may require).

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 25

MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF

LAND, ETC., IN DISPUTE

(See section 145)

It appears to me, on the grounds duly recorded, that a dispute,

likely to induce a breach of the peace, existed between (describe the

parties by name and residence, or residence only if the dispute be

between bodies of villagers) concerning certain (state concisely the

subject of dispute), situate within my local jurisdiction, all the

said parties were called upon to give in a written statement of their

respective claims as to the fact of actual possession of the said (the

subject of dispute), and being satisfied by due inquiry had thereupon,

without reference to the merits of the claim of either of the said

parties to the legal right of possession, that the claim of actual

possession by the said (name or names or description) is true ; I do

decide and declare that he is (or they are) in possession of the said

(the subject of dispute) and entitled to retain such possession until

ousted by due course of law, and do strictly forbid any disturbance of

his (or their) possession in the meantime.

Dated, this day of, 19.

(Seal of the Court)

(Signature)

1088

(The Second Schedule.)

FORM No. 26

WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION

OF LAND, ETC.

(See section 146)

To the Officer in charge of the police station at (or, To the

Collector of).

WHEREAS it has been made to appear to me that a dispute likely to

induce a breach of the peace existed between (describe the parties

concerned by name and residence, or residence only if the dispute be

between bodies of villagers) concerning certain (state concisely the

subject of dispute) situate within the limits of my jurisdiction, and

the said parties were thereupon duly called upon to state in writing

their respective claims as to the fact of actual possession of the

said (the subject of dispute), and whereas, upon due inquiry into the

said claims, I have decided that neither of the said parties was in

possession of the said (the subject of dispute) (or I am unable to

satisfy myself as to which of the said parties was in possession as

aforesaid) ;

This is to authorise and require you to attach the said (the

subject of dispute) by taking and keeping possession thereof, and to

hold the same under attachment until the decree or order of a

competent Court determining the rights of the parties, or the claim to

possession, shall have been obtained, and to return this warrant with

an endorsement certifying the manner of its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 27

MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER

(See section 147)

A DISPUTE having arisen concerning the right of use of (state

concisely the subject by dispute) situate within my local

jurisdiction, the possession of which land (or water) is claimed

exclusively by (describe the person or persons), and it appears to me,

on due inquiry into the same, that the said land (or water) has been

open to the enjoyment of such use by the public (or if by an

individual or a class of persons, describe him or them) and (if the

use can be enjoyed throughout the year) that the said use has been

enjoyed within three months of the institution of the said inquiry (or

if the use is enjoyable only at a particular season, say, "during the

last of the seasons at which the same is capable of being enjoyed");

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(The Second Schedule)

I do order that the said (the claimant or claimants of

possession) or any one in their interest, shall not take (or retain)

possession of the said land (or water) to the exclusion of the

enjoyment of the right of use aforesaid, until he (or they) shall

obtain the decree or order of a Competent Court adjudging him (or

them) to be entitled to exclusive possession.

Dated, this day of , 19 .

(Seat of the court)

(Signature)

FORM No. 28

BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE OFFICER

(See section 169)

I, (name), of, being charged with the offence of, and after inquiry

required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to

appear when required, do hereby bind myself to appear at , in the

Court of , on the day of next (or on

such day as I may hereafter be required to attend) to answer further

to the said charge, and in case of my making default herein, I bind

myself to forfeit to Government, the sum of rupees

Dated, this day of , 19.

(Signature)

I hereby declare myself (or we jointly and severally declare

ourselves and each of us) surety (or sureties) for the above said

(name) that he shall attend at in the Court of , on the

day of next (or on such day as he may hereafter be required to

attend), further to answer to the charge pending against him, and, in

case of his making default therein, I hereby bind myself (or we

hereby bind ourselves) to forfeit to Government the sum of rupees .

Dated, this day of , 19.

(Signature)

1088B

FORM No. 29

BOND TO PROSECUTE OR GIVE EVIDENCE

(See section 170)

I, (name), of (place) , do hereby bind myself to attend at in

the Court of at o'clock on the day of next and then and there to

prosecute (or to prosecute and give evidence) (or to give evidence) in

the matter of a charge of against one A. B., and, in case of

making default herein, I bind myself to forfeit to Government the sum

of rupees .

Dated, this day of , 19.

(Signature)

FORM No. 30

SPECIAL SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

(See section 206)

To

(Name of the accused)

of (address)

WHEREAS your attendance is necessary to answer a charge of a

petty offence (state shortly the offence charged), you are hereby

required to appear in person (or by pleader) before (Magistrate) of on

the day of 19 , or if you desire to plead guilty to the charge without

appearing before the Magistrate, to transmit before the aforesaid date

the plea of guilty in writing and the sum of rupees as fine, or if you

desire to appear by pleader and to plead guilty through such pleader,

to authorise such pleader in writing to make such a plea of guilty on

your behalf and to pay the fine through such pleader. Herein fail

not.

Dated, this day of , 19.

(Seal of the Court) (Signature)

(Note.-The amount of fine specified in this summons shall not

exceed one hundred rupees.)

1088C

(The Second Schedule)

FORM No. 31

NOTICE OF COMMITMENT BY MAGISTRATE TO PUBLIC PROSECUTOR

(See section 209)

The Magistrate of hereby gives notice that he has committed one

for trial at the next Sessions ; and the Magistrate hereby instructs

the Public Prosecutor to conduct the prosecution of the said case.

The charge against the accused is that, etc. (state the offence as in

the charge).

Dated, this day of , 19.

(Seal of the Court)

(Signature),

FORM No. 32

CHARGES

(See sections 211, 212 and 213)

I. CHARGES WITH ONE HEAD

(1) (a) 1, (name and office of Magistrate, etc.), hereby charge

you (name of accused person) as follows :-

(b) On section 121. that you, on or about the day of, at, waged

war against the Government of India and thereby committed an offence

punishable under section 121 of the Indian Penal Code, and within the

cognizance of this Court.

(c) And I hereby direct that you be tried by this Court on the

said charge.

(Signature and Seal of the Magistrate) [To be substituted for (b)] :-

(2) On section 124. That you, on or about the day of, at , with

the intention of inducing the President of India [or, as the case may

be, the Governor of (name of State)] to refrain from exercising a

lawful power as such President (or, as the case may be, the Governor),

assaulted President (or, as the case may be, the Governor), and

thereby committed -an offence punishable under section 124 of the

Indian Penal Code, and within the cognizance of this Court.

(3)On section 161. That you, being a public servant in the Department,

directly accepted from (state the name) for another party (state the

name) gratification other than legal remuneration, as a motive for

forbearing to do an official act, and thereby committed an offence

punish-

1088D

(The Second Schedule.)

able under section 161 of the Indian Penal Code, and within the

cognizance of this Court.

(4) That you, on or about the day of , at ,

did (or omitted to do, as the case may be) , such conduct being

contrary to the provisions of Act , section , and

known by you to be prejudicial to , and thereby committed an offence

punishable under section 166 (On section 166.) of the Indian Penal

Cod, and within the cognizance of this Court.

(5) That you, on or about the day of , at , in

the course of the trial of before , stated in

evidence that " " which statement you either knew or believed

to be false, or did not believe to be true, and thereby committed an

offence punishable under section 193 (On section 193.) of the Indian

Penal Code, and within the cognizance of this Court.

(6) That you, on or about the day of , at , committed

culpable homicide not amounting to murder, causing the death of ,

and thereby committed an offence punishable under section 304 (On

section 304.) of the Indian Penal Code, and within the cognizance of

this Court.

(7) That you, on or about the day of , at ,

abetted the commission of suicide by A.B., a person in a state of

intoxication, and thereby committed an offence punishable under

section 306 (On section 306.) of the Indian Penal Code, and within the

cognizance of this Court.

(8) That you, on or about the day of , at ,

voluntarily caused grievous hurt to , and thereby committed an

offence punishable under section 325 (On section 325.) of the Indian

Penal Code, and within the cognizance of this Court.

(9) That you, on or about the day of , at , robbed

(state the name), and thereby committed an offence punishable under

section 392 (On section 392.) of the Indian Penal Code, and within the

cognizance of this Court.

(10) That you, on or about the day of , at ,

committed dacoity, an offence punishable under section 395 of the

Indian Penal Code, and within the cognizance of this Court.

II. CHARGES WITH TWO OR MORE HEADS

(1) (a) I, (name and office of Magistrate, etc.), hereby charge

you (name of accused person) as follows :---

(b) On section 241. First---That you, on or about the day of, at,

knowing a coin to be counterfeit, delivered the same to another

person.

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(The Second Schedule.)

by name, A.B., as genuine, and thereby committed an offence punishable

under section 241 of the Indian Penal Code, and within the cognizance

of the Court of Session.

Secondly--That you, on or about the of day of;

at , knowing a coin to be counterfeit attempted to induce another

person, by name, A.B., to receive it as genuine, and thereby committed

an offence punishable under section 241 of the Indian Penal Code, and

within the congnizance of the Court of Session.

(c)And I hereby direct that you be tried by the said Court on the said

charge.

(Signature and seal of the Magistrate)

[To be substituted for (b)] :-

(2) On section and 302 and 304 First-That you, on or about the .

day of,

at , committed murder by causing the death ofand 3 thereby

committed an offence punishable under section 302 of the Indian 3

Penal Code, and within the cognizance of the Court of Session.

Secondly-That you, on or about the day of , at, by causing the

death of, committed culpable homicide not amounting to murder, and

thereby committed an offence punishable under ,section 304 of the

Indian Penal Code, and within the cognizance of the Court of Session.

(3) On sections 379 an 362. First-That you, on or about the day

of, at, committed theft, and thereby committed an offence punishable

under section 379 of the Indian Penal Code, and within the cognizance

of the Court of Session.

Secondly-That you, on or about the day of, at, committed theft,

having made preparation for causing death to a person in order to the

committing of such theft, and thereby committed an offence punishable

under section 382 of the Indian Penal Code, and within the cognizance

of the Court of Session.

Thirdly-That you, on or about the day of, at, committed theft,

having made preparation for causing restraint to a person in order to

the effecting of your escape after the committing of such theft, and

thereby committed an offence punishable under section 382 of the

Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly-That you, on or about the day of, at, committed theft,

having made preparation for causing fear of hurt to a

1088F

(The Second Schedule.)

person in order to the retaining of property taken by such theft an

thereby committed an offence punishable under section 382 of the India

Penal Code, and within the cognizance of the Court of Session.

(4) Alernative charge on sectin 193. That you, on or about the

day of, at, in the course of the inquiry into, before, stated in evidence

that" and that you, on or about the day of at in the course of the

trial of before stated in the evidence that one of which statements

you either knew or believed to be false, or did not believeto be true,

and thereby committed an offence punishable under section 193 of the

Indian Penal Code, and within the cognizance of the Court of Session.

(In cases tried by Magistrates substitute "within my cognizance", for

" within the cognizance of the Court of Session".)

III. CHARGES F0R THEFT AFTER PREVIOUS CONVICTION

I, (name and office of Magistrate, etc.), hereby charge you (name

of accused person) as follows :-

That you, on or about the day of at committed theft, and thereby

committed an offence punishable under section 379 of the Indian Penal

Code, and within the cognizance of the Court of Session (or

Magistrate, as the case may be).

And you, the said (name of accused), stand further charged that

you, before the committing of the said offence, that is to say, on the

day of , had been convicted by the (state Court by which conviction

was had) at of an offence punishable under Chapter XVII of the Indian

Penal Code with imprisonment for a term of three years, that is to

say, the offence of house-breaking by night (describe the offence in

the words used in the section under which the accused was convicted),

which conviction is still in full force and effect, and that you are

thereby liable to enhanced punishment under section 75 of the Indian

Penal Code.

And I hereby direct that you be tried, etc.

FORM No. 33

SUMMONS TO WITNESS

(See sections 61 and 244)

To of .

WHEREAS complaint has been made before me that (name of the accused)

of (address) has or is suspected to have committed the offence

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(The Second Schedule.)

of (state the offence concisely with time and place), and it appears

to me that you are likely to give material evidence or to produce any

document or other thing for the prosecution ;

You are hereby summoned to appear before this Court on the day of

next at ten o'clock in the forenoon, to produce such document or thing

or to testify what you know concerning the matter of the said

complaint, and not to depart thence without leave of the Court;and you

are hereby warned that, if you shall without just excuse neglect or

refuse to appear on the said date, a warrant will be issued to compel

your attendance.

Dated, this day of , 19.

(Seat of the Court) (Signature)

FORM No. 34

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE

IF PASSED BY A 1 [COURT]

2[(See sections 235, 248 and 255)]

To the Officer in charge of the Jail at .

WHEREAS on the day of , (name of prisoner), the

(1st, 2nd, 3rd, as the case may be) prisoner in case No. of the

Calendar for 19 , was convicted before me (name and official

designation) of the offence of (mention the offence or offences

concisely) under section (or sections) of the Indian Penal Code (or of

Act),and was sentenced to (state the punishment fully and distinctly);

This is to authorise and require you to receive the said

(prisoner's name) into your custody in the said Jail, together with

this warrant, and thereby carry the aforesaid sentence into execution

according to law.

Dated, this day of , 19.

(Seal of the Court) (Signature)

FORM No. 35

WARRANT OF IMPRISONMENT ON FAILURE TO PAY COMPENSATION

(See section 250)

To the Officer in charge of the Jail at .

WHEREAS (name and description) has brought against (name and des

cription of the accused person) the complaint that (mention it

concisely)

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1 Subs. by Act 45 of 1978, s. 35, for "Magistrate" (w.e.f. 18-12-

1978).

2 Subs. by s. 35, ibid., for "(see sections 248 and 255)" (w.e.f.

18-12-1978).

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1088H

(The Second Schedule.)

and the same has been dismissed on the ground that there was no

reasonable ground for making the accusation against the said (name)

and the order of dismissal awards payment by the said (name of

complainant) of the sum of rupees as compensation; and whereas the

said sum has not been paid and an order has been made for his Simple

imprisonment in jail for the period of days, unless the aforesaid sum

be sooner paid;

This is to authorise and require you to receive the said (name)

into your custody,together with this warrant, and him safely to keep

in the said Jail for the said period of (term of imprisonment),

subject to the provisions of section 69 of the Indian Penal Code,

unless the said sum be sooner paid, and on the receipt thereof,

forthwith to set him at liberty, returning this warrant with an

endorsement certifying the manner of its execution.

Dated, this day of , 19.

(Seal of the Court) (Signature)

FORM No. 36

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR

ANSWERING TO CHARGE OF OFFENCE

(See section 267)

To the Officer in charge of the Jail at

WHEREAS the attendance of (name of prisoner) at present confined

detained in the above-mentioned prison, is required in this Court to

answer to a charge of (state shortly the offence charged) or for the

purpose of a proceeding (state shortly the particulars of the

proceeding);

You are hereby required to produce the said under safe and sure

conduct before this Court on the day of 19, by A.M. there to answer to

the said charge, or for the purpose of the said proceeding, and after

this Court has dispensed with his further attendance, cause him to be

conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of

this order and deliver to him the attached copy thereof.

Dated, this day of , 19.

(Seal of the Court) (Signature)

Countersigned.

(Seal) (Signature)

1088I

(The Second Schedule.)

FORM No. 37

ORDER REQUIRING IN COURT OF PERSON IN PRISON FOR GIVING EVIDENCE

(See section 267)

To the Officer in charge of the Jail at .

WHEREAS complaint has been made before this Court that (name Of

the accused) of has committed the offence of (state offence concisely

with time and place) and it appears that (name of prisoner) at present

confined/detained in the above-mentioned prison, is likely to give

material evidence for the prosecution/defence ;

You are hereby required to produce the said under safe and sure

conduct before this Court at on the day of,

19 , by A.M. there to give evidence in the matter now pending

before this Court, and after this Court has dispensed with his further

attendance, cause him to be conveyed under safe and sure conduct back

to the said prison.

And you are further required to inform the said of the contents

of this order and deliver to him the attached copy thereof.

Dated, this day of , 19.

(Seal of the Court) (Signature)

Countersigned.

(Seal) (Signature)

FORM No. 38

WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT

WHEN A FINE IS IMPOSED

(See section 345)

To the Officer in charge of the Jail at .

WHEREAS at a Court held before me on this day (name and

description of the offender) in the presence (or view) of the Court

committed wilful contempt ;

And whereas for such contempt the said (name of the offender) has

been adjudged by the Court to pay a fine of rupees, or in default

1088J

(The Second Schedule.)

to suffer simple imprisonment for the period of (state the number of

months or days) ;

This is to authorise and require you to receive the said (name of

offender) into your custody, together with this warrant, and him

safely to keep in the said Jail for the said period of (term of

imprisonment),unless the said fine be sooner paid; and, on the receipt

thereof, forthwith to set him at liberty, returning this warrant with

an endorsement certifying the manner of its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 39

MAGISTRATE'S OR JUDGE'S WARRANT' OF COMMITMENT OF WITNESS

REFUSING TO ANSWER OR TO PRODUCE DOCUMENT

(See section 349)

To (name and designation of officer of Court).

WHEREAS (name and description), being summoned (or brought before

this Court) as a witness and this day required to give evidence on an

inquiry into an alleged offence, refused to answer a certain question

(or certain questions) put to him touching the said alleged offence,

and duly recorded, or having been called upon to produce any document

has refused to produce such document, without alleging any just excuse

for such refusal, and for his refusal has been ordered to be detained

in custody for (term of detention adjudged) ;

This is to authorise and require you to take the said (name) into

custody, and him safely to keep in your custody for the period of

days, unless in the meantime he shall consent to be examined and to

answer the questions asked of him, or to produce the document called

for from him, and on the last of the said days, or forthwith on such

consent being known, to bring him before this Court to be dealt with

according to law, returning this warrant with an endorsement

certifying the manner of its execution.

Dated, this day of, 19.

(Seat of the Court) (Signature)

1088K

(The Second Schedule.)

FORM NO. 40

WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

(See section 366)

To the Officer in charge of the Jail at .

WHEREAS at the Session held before me on the day of, 19, (name of

prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case

No. of the Calendar for 19 at the said Session, was

duly convicted of the offence of culpable homicide amounting to murder

under section of the Indian Penal Code, and sentenced to death,

subject to the confirmation of the said sentence by the Court of;

This is to authorise and require you to receive the said

(prisoner's name) into your custody in the said Jail, together with

this warrant, and him there safely to keep until you shall receive the

further warrant or order of this Court, carrying into effect the order

of the said Court.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 41

WARRANT AFTER A COMMUTATION OF A SENTENCE

1[(See sections 386, 413 and 416)]

To the Officer in charge of the Jail at

WHEREAS at a Session held on the day of, 19, (name of prisoner),

the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the

Calendar for 19 at the said Session, was convicted of the offence of ,

punishable under section of the Indian Penal Code, and sentenced to ,

and was thereupon committed to your custody; and whereas by the order

of the Court of (a duplicate of which is hereunto annexed)

the punishment adjudged by the said sentence hag been commuted to the

punishment of imprisonment for life;

This is to authorise and require you safely to keep the said

(prisoner's name) in your custody in the said Jail, as by law is

required, until he shall be delivered over by you to the proper

authority and custody for the

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1 Subs. by Act 45 of 1978, s. 35, for " (See Section 386) (w. e. f.

18-12-1878).

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1088L

(The Second Schedule.)

purpose of his undergoing the punishment of imprisonment for life

under the said order,

or

If the mitigated sentence is one of imprisonment, say, after the words

" custody in the said Jail", "and there to carry into execution the

punishment of imprisonment under the said order according to law".

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 42

WARRANT OF EXECUTION OF A SENTENCE OF DEATH

1[(See sections 413 and 414)]

To the Officer in charge of the Jail at .

WHEREAS (name of prisoner), the (1st, 2nd, 3rd, as the case may

be) prisoner in case No. of the Calendar for 19 at the Session

held before me on the day of , 19 , has been by a warrant

of the Court, dated the day of , committed to your custody

under sentence of death; and whereas the order of the High Court

at confirming the said sentence has been received by this Court;

This is to authorise and require you to carry the said sentence

into execution by causing the said to be hanged by the neck until he

be dead, at (time and place of execution), and to return this warrant

to the Court with an endorsement certifying that the sentence has been

executed.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 43

WARRANT TO LEVY A FINE BY ATTACHMENT AND SALE

(See section 421)

To (name and designation of the police officer or other person or

persons who is or are to execute the warrant).

WHEREAS (name and description of the offender) was on the day of,

, 19 , convicted before me of the offence of (mention the

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1 Subs. by Act 45 of 1978, s. 35 for "(see section 414)" w.e.f. 18-12-

1978).

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1088M

(The Second Schedule.)

offence concisely), and sentenced to pay a fine of rupees and whereas

the said (name), although required to pay the said fine, has not paid

the same or any part thereof :

This is to authorise and require you to attach any movable

property belonging to the said (name), which may be found within the

district of ; and, if within (state the number of days or hours

allowed) next after such attachment the said sum shall not be paid (or

forthwith), to sell the movable property attached, or so much thereof

as shall be sufficient to satisfy the said fine, returning this

warrant, with an endorsement certifying what you have done under it,

immediately upon its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 44

WARRANT FOR RECOVERY OF FINE

(See section 421)

To the Collector of the district of .

WHEREAS (name, address and description of the offender) was

on the day of , 19 , convicted before me of the offence of

(mention the offence concisely), and sentenced to pay a fine of rupees

; and

WHEREAS the said (name), although required to pay the said fine,

has not paid the same or any part thereof ;

You are hereby authorised and requested to realise the amount of

the said fine as arrears of land revenue from the movable or immovable

property, or both, of the said (name) and to certify without delay

what you may have done in pursuance of this order.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

1[FORM NO. 44A

BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE

(See section 424 (1) (b)]

WHEREAS I, (name), inhabitant of (place), have been sentenced to

pay a fine of rupees and in default of payment thereof to undergo

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1 Ins. by Act 45 of 1978, s. 35 (w.e.f. 18-12-1978).

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1088N

(The Second Schedule.)

imprisonment for ; and whereas the Court has been pleased to order my

release on condition of my executing a bond for by appearance on the

following date (or dates), namely :-

I hereby bind myself to appear before the Court of at

o'clock on the following date (or dates), namely:-

and, in case of making default herein, I bind myself to forfeit to

Government the sum of rupees .

Dated, this day of , 19.

(Signature)

WHERE A BOND WITH SURETIES IS TO BE EXECUTED, ADDWe

do hereby declare ourselves sureties for the above-named that

he will appear before the Court of on the following date (or dates),

namely:-

and, in case of his making default therein, we bind ourselves jointly

and severally to forfeit to Government the sum of rupees .

(Signature)

FORM No. 45

BOND AND BAIL-BOND FOR ATTENDANCE BEFORE OFFICER IN CHARGE OF

POLICE STATION OR COURT

[See sections 436, 437, 438(3) and 441]

I, (name), of (place), having been arrested or detained without

warrant by the Officer in charge of police station (or having been

brought before the Court of ), charged with the offence of

, and required to give security for my attendance before such Officer

or Court on condition that I shall attend such Officer or Court on

every day on which any investigation or trial is held with regard to

such charge, and in case of my making default herein, I bind myself to

forfeit to Government the sum of rupees .

Dated, this day of , 19.

(Signature)

I hereby declare myself (or we jointly and severally declare ourselves

and each of us) surety (or sureties) for the above said (name) that he

shall attend the Officer in charge of police station or the Court of

on every day on which any investigation into the charge is made

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(The Second Schedule.)

or any trial on such charge is held, that he shall be, and appear,

before such Officer or Court for the purpose of such investigation or

to answer the charge against him (as the case may be), and, in case of

his making default herein, I hereby bind myself (or we, hereby bind

ourselves) to forfeit to Government the sum of rupees .

Dated, this day of , 19.

(Signature)

FORM No. 46

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See section 442)

To the Officer in charge of the Jail at

(or other officer in whose custody the person is)

WHEREAS (name and description of prisoner) was committed to your

custody under warrant of this Court, dated the 'day of, and has since

with his surety (or sureties) duly executed a bond under Section 441

of the Code of Criminal Procedure ;

This is to authorise and require you forthwith to discharge the

said (name) from your custody, unless he is liable to be detained for

some other matter.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

[FORM No. 47

WARRANT OF ATTACHMENT TO ENFORCE A BOND

(See section 446)

To the Police Officer-in-charge of the police station at

WHEREAS (name, description and address of person) has failed to

appear on (mention the occasion) pursuant to his recognizance, and has

by default forfeited to Government the sum of rupees (the penalty in

the bond) ; and whereas the said (name of person) has, on due notice

to him, failed to pay the said sum or show any sufficient cause why

payment should not be enforced against him;

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1 Ins. by Act 45 of 1978, s. 35 (w.e.f. 18-12-1978).

----------------------------------------------------------------------

1088P

(The Second Schedule.)

This is to authorise and require you to attach any movable

property of the said (name) that you may find within the district of

by seizure and detention, and, if the said amount be not paid within

days to sell the property so attached or so much of it as may be

sufficient to realise the amount aforesaid, and to make return of what

you have done under this warrant immediately upon its execution.

Dated, this day of , 19.

(Signature)

FORM No. 48

NOTICE TO SURETY ON BREACH OF A BOND

(See section 446)

To of .

WHEREAS on the day of , 19 , you became surety for

(name) of(place) that he should appear before this Court on the day of

and bound yourself in default thereof to forfeit the sum of rupees to

Government; and whereas the said (name) has failed to appear before

this Court and by reason of such default you have forfeited the

aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause,

within days from this date, why payment of the said sum should not be

enforced against you.

Dated, this day of , 19.

(Seal of the Court) (Signature)

FORM No. 49

NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 446)

To of .

WHEREAS on the day of , 19, you became surely by a

bond for (name) of (place) that he would be of good behaviour for the

period of and bound yourself in default thereof to forfeit the sum

of rupees to Government; and Whereas the said (name) has been

1088Q

(The Second Schedule.)

convicted of the offence of (mention the offence concisely) committed

since you became such surety, whereby your security bond has become

forfeited ;

You are hereby required to pay the said penalty of rupees or to

show cause within days why it should not be paid.

Dated, this day of , 19.

(Seal of the Court) (Signature)

FORM No. 50

WARRANT OF ATTACHMENT AGAINST A SURETY

(See section 446)

To of .

WHEREAS (name, description and address) has bound himself as

surety for the appearance of (mention the condition of the bond) and

the said (name) has made default, and thereby forfeited to Government

the sum of rupees (the penalty in the bond) ;

This is to authorise and require you to attach any movable

property of the said (name) which you may find within the district of,

by seizure and detention; and, if the said amount be not paid within

days, to sell the property so attached, or so much of it as may be

sufficient to realise the amount aforesaid, and make return of what

you have done under this warrant immediately upon its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 51

WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON

ADMITTED TO BAIL

(See section 446)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS (name and description of surety) has bound himself as a

surety for the appearance of (state the condition of the bond) and the

said (name) has therein made default whereby the penalty mentioned

1088R

(The Second Schedule.)

in the said bond has been forfeited to Government; and whereas the

said (name of surety) has, on due notice to him, failed to pay the

said sum or show any sufficient cause why payment should not be

enforced against him, and the same cannot be recovered by attachment

and sale of his movable property, and an order has been made for his

imprisonment in the Civil Jail for (specify the period) ;

This is to authorise and require you, the said Superintendent (or

Keeper) to receive the said (name) into your custody with the warrant

and to keep him safely in the said Jail for the said (term of

imprisonment), and to return this warrant with an endorsement

certifying the manner of its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 52

NOTICE TO THE PRINCIPAL OF FORFEITURE OF BOND TO KEEP THE PEACE

(See section 446)

To (name, description and address) .

WHEREAS on the day of, 19, you entered into a bond not to commit,

etc., (as in the bond), and proof of the forfeiture of the same has

been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees or

to show cause before me within days why payment of the same should not

be enforced against you.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 53

WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND To

KEEP THE PEACE

(See section 446)

To (name and designation of police officer),at the police station of

WHEREAS (name and description) did, on the day of , 19, enter

into a bond for the sum of rupees binding himself not

1086S

(The Second Schedule.)

to commit a breach of the peace, etc., (as in the bond), and proof of

the forfeiture of the said bond has been given before me and duly

recorded; and whereas notice has been given to the said (name) calling

upon him to show cause why the said sum should not be paid, and he has

failed to do so or to pay the said sum ;

This is to authorise and require you to attach by seizure movable

,property belonging to the said (name) to the value of rupees, which

you may find within the district of, and, if the said sum be not paid

within , to sell the property so attached, or so much of it as may be

sufficient to realise the same ; and to make return of what you have

done under this warrant immediately upon its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 54

WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE

(See section 446)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS proof has been given before me and duly recorded that

(name and description) has committed a breach of the bond entered into

by him to keep the peace, whereby he has forfeited to Government the

sum of rupees ; and whereas the said (name) has failed to pay the said

sum or to show cause why the said sum should not be paid, although

duly called upon to do so, and payment thereof cannot be enforced by

attachment of his movable property, and an order has been made for the

imprisonment of the said (name) in the Civil Jail for the period of

(term of imprisonment) ;

This is to authorise and require you, the said Superintendent (or

Keeper) of the said Civil Jail to receive the said (name) into your

custody, together with this warrant, and to keep him safely in the

said Jail for the said period of (term of imprisonment), and to return

this warrant with an endorsement certifying the manner of its

execution.

Dated, this day of 19.

(Seal of the Court) (Signature)

1088T

(The Second Schedule.)

FORM No. 55

WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD)

BEHAVIOUR

(See section 446)

To the police officer in charge of the police station at .

WHEREAS (name, description and address) did, on the day of, 19,

give security by bond in the sum of rupees for the good behaviour of

(name, etc., of the principal), and proof has been given before me and

duly recorded of the commission by the said (name) of the offence of

whereby the said bond has been forfeited; and whereas notice has been

given to the said (name) calling upon him to show cause why the said

sum should not be paid, and he has failed to do so or to pay the said

sum ;

This is to authorise and require you to attach by seizure movable

property belonging to the said (name) to the value of rupees which you

may find within the district of, and, if the said sum be not paid

within to sell the property so attached, or so much of it as may be

sufficient to realise the same, and to make return of what you have

done under this warrant immediately upon its execution.

Dated, this day of , 19.

(Seal of the Court)

(Signature)

FORM No. 56

WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 446)

To the Superintendent (or Keeper) of the Civil Jail at .

WHEREAS (name, description and address) did, on the day of, 19 ,

give security by bond in the sum of rupees for the good behaviour of

(name, etc., of the principal) and proof of the breach of the said

bond has been given before me and duly recorded, whereby the said

(name) has forfeited to Government the sum of rupees, and

1088U

(The Second Schedule.)

whereas he has failed to pay the said sum or to show cause why the

said sum should not be paid although duly called upon to do so, and

payment thereof cannot be enforced by attachment of his movable

property, and an order has been made for the imprisonment of the said

(name) in the Civil Jail for the period of (term of imprisonment) ;

This is to authorise and require you, the Superintendent ( or

Keeper), to receive the said (name) into your custody, together with

this warrant, and to keep him safely in the said Jail for the said

period of (term of imprisonment), returning this warrant with an

endorsement certifying the manner of its execution.

Dated, this day of, 19.

(Seal of the Court) (Signature).]

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2001

ACT NO. 50 OF 2001

[24th September, 2001.]

An Act further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-second Year of the Republic

of India as follows:-

1.

Short title.

1. Short title.-This Act may be called the Code of Criminal Procedure

(Amendment) Act, 2001.

2.

Amendment of section 125.

2. Amendment of section 125.-In the Code of Criminal Procedure, 1973

(2 of 1974) (hereinafter referred to as the principal Act), in section

125,-

(i) in sub-section (1),-

(a) the words "not exceeding five hundred rupees in the whole," shall

be omitted;

(b) after the proviso and before the Explanation, the following

provisos shall be inserted, namely:-

"Provided further that the Magistrate may, during the pendency of the

proceeding regarding monthly allowance for the maintenance under this

sub-section, order such person to make a monthly allowance for the

interim maintenance of his wife or such child, ather or mother, and

the expenses of such proceeding which the Magistrate considers

reasonable, and to pay the same to such person as the Magistrate may

from time to time direct:

Provided also that an application for the monthly allowance for the

interim maintenance and expenses for proceeding under the second

proviso shall, as far as possible, be disposed of within sixty days

from the date of the service of notice of the applica ion to such

person.";

(ii) for sub-section (2), the following sub-section shall be

substituted, namely:-

"(2) Any such allowance for the maintenance or interim maintenance and

expenses for proceeding shall be payable from the date of the order,

or, if so ordered, from the date of the application for maintenance or

interim maintenance and expenses of proceed ng, as the case may be.";

(iii) in sub-sections (3) and (4), for the word "allowance", wherever

it occurs, the words ''allowance for the maintenance or the interim

maintenance and expenses of proceeding, as the case may be," shall be

substituted.

3.

Amendment of section 127.

3. Amendment of section 127.-In section 127 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be

substituted, namely:-

"(1) On proof of a change in the circumstances of any person,

receiving, under section 125 a monthly allowance for the maintenance

or interim maintenance, or ordered under the same section to pay a

monthly allowance for the maintenance, or interim mainte ance, to his

wife, child, father or mother, as the case may be, the Magistrate may

make such alteration, as he thinks fit, in the allowance for the

maintenance or the interim maintenance, as the case may be.";

(ii) in sub-section (3), in clause (c), for the word "maintenance",

the words ''maintenance or interim maintenance, as the case may be,"

shall be substituted;

(iii) in sub-section (4),-

(a) for the words "monthly allowance has been ordered", the words

"monthly allowance for the maintenance and interim maintenance or any

of them has been ordered'' shall be substituted;

(b) for the words "as monthly allowance in pursuance of", the words

"as monthly allowance for the maintenance and interim maintenance or

any of them, as the case may be, in pursuance of'' shall be

substituted.

4.

Amendment of section 128.

4. Amendment of section 128.-In section 128 of the principal Act,-

(i) for the word "maintenance", the words "maintenance or interim

maintenance and expenses of proceeding, as the case may be," shall be

substituted;

(ii) for the words "whom the allowance", the words "whom the allowance

for the maintenance or the allowance for the interim maintenance and

expenses of proceeding, as the case may be," shall be substituted;

(iii) for the words "allowance due", the words "allowance, or as the

case may be, expenses, due" shall be substituted.

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THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2005

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NO. 25 OF 2005

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[23rd June, 2005.]

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An Act further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

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1.

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Short title and commencement.

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1. Short title and commencement.-(1) This Act may be called the Code of Criminal Procedure (Amen

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central

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2.

%

Amendment of section 20.

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2. Amendment of section 20.-In section 20 of the Code of Criminal Procedure, 1973 (2 of 1974) (h

"(4A) The State Government may, by general or special order and subject to such control and dire

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3.

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Amendment of section 24.

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3. Amendment of section 24.-In section 24 of the principal Act, in sub-section (6), after the p

'Explanation.-For the purposes of this sub-section,-

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the func

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4.

%

Insertion of new section 25A.

!

4. Insertion of new section 25A.-In Chapter II of the principal Act, after section 25, the follo

"25A. Directorate of Prosecution.-(1) The State Government may establish a Directorate of Prosec

(2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director

(3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall f

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointe

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointe

(7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecut

(8) The provisions of this section shall not apply to the Advocate General for the State while p

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5.

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Amendment of section 29.

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5. Amendment of section 29.-In section 29 of the principal Act,-

(a) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" sh

(b) in sub-section (3), for the words "one thousand rupees", the words "five thousand rupees" sh

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6.

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Amendment of section 46.

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6. Amendment of section 46.-In section 46 of the principal Act, after sub-section (3), the follo

"(4) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunri

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7.

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Insertion of new section 50A.

!

7. Insertion of new section 50A.-After section 50 of the principal Act, the following section sh

"50A. Obligation of person making arrest to inform about the arrest, etc., to a nominated person

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as s

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to sati

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8.

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Amendment of section 53.

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8. Amendment of section 53.-In section 53 of the principal Act, for the Explanation, the followi

'Explanation.-In this section and in sections 53A and 54,-

(a) "examination" shall include the examination of blood, blood stains, semen, swabs in case of

(b) "registered medical practitioner" means a medical practitioner who possesses any medical qua

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9.

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Insertion of new section 53A.

!

9. Insertion of new section 53A.-After section 53 of the principal Act, the following section sh

"53A. Examination of person accused of rape by medical practitioner.-(1) When a person is arrest

(2) The registered medical practitioner conducting such examination shall, without delay, examin

(i) the name and address of the accused and of the person by whom he was brought,

(ii) the age of the accused,

(iii) marks of injury, if any, on the person of the accused,

(iv) the description of material taken from the person of the accused for DNA profiling, and

(v) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The exact time of commencement and completion of the examination shall also be noted in the

(5) The registered medical practitioner shall, without delay, forward the report to the investig

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10.

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Amendment of section 54.

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10. Amendment of section 54.-Section 54 of the principal Act shall be renumbered as sub-section

"(2) Where an examination is made under sub-section (1), a copy of the report of such examinatio

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11.

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Insertion of new section 54A.

!

11. Insertion of new section 54A.-After section 54 of the principal Act, the following section s

"54A. Identification of person arrested.-Where a person is arrested on a charge of committing an

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12.

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Amendment of section 82.

!

12. Amendment of section 82.-In section 82 of the principal Act, after sub-section (3), the foll

"(4) Where a proclamation published under sub-section (1) is in respect of a person accused of a

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court un

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13.

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Amendment of section 102.

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13. Amendment of section 102.-In section 102 of the principal Act,-

(a) in sub-section (3), after the words "transported to the Court", the words "or where there is

(b) after sub-section (3), the following proviso shall be added at the end, namely:-

"Provided that where the property seized under sub-section (1) is subject to speedy and natural

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14.

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Amendment of section 110.

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14. Amendment of section 110.-In section 110 of the principal Act, in clause (f), in sub-clause

(i) in item (g), the word "or" shall be omitted;

(ii) after item (g), the following item shall be inserted, namely:-

"(h) the Foreigners Act, 1946 (31 of 1946); or".

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15.

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Amendment of section 122.

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15. Amendment of section 122.-In section 122 of the principal Act, in sub-section (1), in clause

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16.

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Insertion of new section 144A.

!

16. Insertion of new section 144A.-In Chapter X of the principal Act, under sub-heading "C.-Urge

'144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.-(

(2) A public notice issued or an order made under this section may be directed to a particular p

(3) No public notice issued or an order made under this section shall remain in force for more t

(4) The State Government may, if it considers necessary so to do for the preservation of public

(5) The State Government may, subject to such control and directions as it may deem fit to impos

Explanation.-The word "arms" shall have the meaning assigned to it in section 153AA of the India

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17.

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Insertion of new section 164A.

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17. Insertion of new section 164A.-After section 164 of the principal Act, the following section

'164A. Medical examination of the victim of rape.-(1) Where, during the stage when an offence of

(2) The registered medical practitioner, to whom such woman is sent, shall, without delay, exami

(i) the name and address of the woman and of the person by whom she was brought;

(ii) the age of the woman;

(iii) the description of material taken from the person of the woman for DNA profiling;

(iv) marks of injury, if any, on the person of the woman;

(v) general mental condition of the woman; and

(vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competen

(5) The exact time of commencement and completion of the examination shall also be noted in the

(6) The registered medical practitioner shall, without delay forward the report to the investiga

(7) Nothing in this section shall be construed as rendering lawful any examination without the c

Explanation.-For the purposes of this section, "examination" and "registered medical practitione

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18.

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Amendment of section 176.

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18. Amendment of section 176.-In section 176 of the principal Act,-

(i) in sub-section (1), the words "where any person dies while in the custody of the police or"

(ii) after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) Where,-

(a) any person dies or disappears, or

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised by

(iii) after sub-section (4), before the Explanation, the following sub-section shall be inserted

"(5) The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police of

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19.

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Amendment of section 202.

!

19. Amendment of section 202.-In section 202 of the principal Act, in sub-section (1), after the

"and shall, in a case where the accused is residing at a place beyond the area in which he exerc

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20.

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Amendment of section 206.

!

20. Amendment of section 206.-In section 206 of the principal Act, in sub-section (1),-

(a) in the opening paragraph, after the words and figures "under section 260", the words and fig

(b) in the proviso, for the words "one hundred rupees", the words "one thousand rupees" shall be

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21.

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Amendment of section 223.

!

21. Amendment of section 223.-In section 223 of the principal Act, in the proviso,-

(a) for the word "Magistrate", the words "Magistrate or Court of Session" shall be substituted;

(b) for the words "if he is satisfied", the words "if he or it is satisfied" shall be substitute

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22.

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Amendment of section 228.

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22. Amendment of section 228.-In section 228 of the principal Act, in sub-section (1), in clause

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23.

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Amendment of section 260.

!

23. Amendment of section 260.-In section 260 of the principal Act, in sub-section (1),-

(a) for the words "two hundred rupees", wherever they occur, the words "two thousand rupees" sha

(b) in clause (vi), for the words "criminal intimidation", the words "criminal intimidation puni

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24.

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Insertion of new section 291A.

!

24. Insertion of new section 291A.-After section 291 of the principal Act, the following section

"291A. Identification report of Magistrate.-(1) Any document purporting to be a report of identi

Provided that where such report contains a statement of any suspect or witness to which the prov

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or of the

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25.

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Amendment of section 292.

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25. Amendment of section 292.-In section 292 of the principal Act,-

(a) in sub-section (1), after the words "the Mint", the words "or of the Currency Note Press or

(b) in sub-section (3), for the words "the Master of the Mint, or the India Security Press", the

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26.

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Amendment of section 293.

!

26. Amendment of section 293.-In section 293 of the principal Act, in sub-section (4),-

(a) for clause (b), the following clause shall be substituted, namely:-

"(b) the Chief Controller of Explosives;";

(b) after clause (f), the following clause shall be added, namely:-

"(g) any other Government scientific expert specified, by notification, by the Central Governmen

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27.

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Insertion of new section 311A.

!

27. Insertion of new section 311A.-After section 311 of the principal Act, the following section

"311A. Power of Magistrate to order person to give specimen signatures or handwriting.-If a Magi

Provided that no order shall be made under this section unless the person has at some time been

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28.

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Amendment of section 320.

!

28. Amendment of section 320.-In section 320 of the principal Act, in the Table under sub-sectio

(a) the words "Voluntarily causing hurt by dangerous weapons or means" in column 1 and the entri

(b) in column 3, for the word "Ditto", against the entry relating to section 325, the words "The

(c) in column 1, for the words "two hundred and fifty rupees", wherever they occur, the words "t

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29.

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Amendment of section 356.

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29. Amendment of section 356.-In section 356 of the principal Act, in sub-section (1),-

(a) after the words, figures and letter "or section 489D", the words, figures and brackets "or

(b) after the word and figures "Chapter XII", the words and figures "or Chapter XVI" shall be in

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30.

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Amendment of section 358.

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30. Amendment of section 358.-In section 358 of the principal Act, in sub-sections (1) and (2),

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31.

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Amendment of section 377.

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31. Amendment of section 377.-In section 377 of the principal Act,-

(a) in sub-sections (1) and (2), for the words "an appeal to the High Court against the sentence

"an appeal against the sentence on the ground of its inadequacy-

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court";

(b) in sub-section (3), for the words "the High Court", the words "the Court of Session or, as

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32.

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Amendment of section 378.

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32. Amendment of section 378.-In section 378 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-section

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to

(ii) in sub-section (2), for the portion beginning with the words "the Central Government may" a

"the Central Government may, subject to the provisions of sub-section (3), also direct the Publi

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a c

(b) to the High Court from an original or appellate order of an acquittal passed by any Court ot

(iii) in sub-section (3), for the words "No appeal", the words "No appeal to the High Court" sha

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33.

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Amendment of section 389.

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33. Amendment of section 389.-In section 389 of the principal Act, to sub-section (1), the follo

"Provided that the Appellate Court shall, before releasing on bail or on his own bond a convicte

Provided further that in cases where a convicted person is released on bail it shall be open to

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34.

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Amendment of section 428.

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34. Amendment of section 428.-To section 428 of the principal Act, the following proviso shall b

"Provided that in cases referred to in section 433A, such period of detention shall be set off a

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35.

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Amendment of section 436.

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35. Amendment of section 436.-In section 436 of the principal Act, in sub-section (1),-

(a) in the first proviso, for the words "may, instead of taking bail", the words "may, and shall

(b) after the first proviso, the following Explanation shall be inserted, namely:-

"Explanation.-Where a person is unable to give bail within a week of the date of his arrest, it

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36.

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Insertion of new section 436A.

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36. Insertion of new section 436A.-After section 436 of the principal Act, the following section

"436A. Maximum period for which an undertrial prisoner can be detained.-Where a person has, duri

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded

Provided further that no such person shall in any case be detained during the period of investig

Explanation.-In computing the period of detention under this section for granting bail, the peri

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37.

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Amendment of section 437.

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37. Amendment of section 437.-In section 437 of the principal Act,-

(i) in sub-section (1),-

(a) in clause (ii), for the words "a non-bailable and cognizable offence", the words "a cognizab

(b) after the third proviso, the following proviso shall be inserted, namely:-

"Provided also that no person shall, if the offence alleged to have been committed by him is pun

(ii) in sub-section (3), for the portion beginning with the words "the Court may impose" and end

"the Court shall impose the conditions,-

(a) that such person shall attend in accordance with the conditions of the bond executed under t

(b) that such person shall not commit an offence similar to the offence of which he is accused,

(c) that such person shall not directly or indirectly make any inducement, threat or promise to

and may also impose, in the interests of justice, such other conditions as it considers necessar

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38.

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Amendment of section 438.

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38. Amendment of section 438.-In section 438 of the principal Act, for sub-section (1), the foll

"(1) Where any person has reason to believe that he may be arrested on accusation of having comm

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergo

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant

either reject the application forthwith or issue an interim order for the grant of anticipatory

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed

(1A) Where the Court grants an interim order under sub-section (1), it shall forthwith cause a n

(1B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of

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39.

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Insertion of new section 441A.

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39. Insertion of new section 441A.-After section 441 of the principal Act, the following section

"441A. Declaration by sureties.-Every person standing surety to an accused person for his releas

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40.

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Amendment of section 446.

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40. Amendment of section 446.-In section 446 of the principal Act, in sub-section (3), for the w

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41.

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Amendment of section 459.

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41. Amendment of section 459.-In section 459 of the principal Act, for the words "less than ten

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42.

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Amendment of the First Schedule.

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42. Amendment of the First Schedule.-In the First Schedule to the principal Act, under the headi

(a) after the entries relating to section 153A, the following entries shall be inserted, namely:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1 2 3 4 5 6

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

"153AA Knowingly carrying Imprisonment Ditto Ditto Any Magistrate.";

arms in any procession for 6 months

or organising or holding and fine of

taking part in any mass 2,000 rupees

drill or mass training

with arms

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(b) in the 6th column, in the entries relating to section 153B, for the word "Ditto", the words

(c) after the entries relating to section 174, the following entries shall be inserted, namely:-

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1 2 3 4 5 6

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

"174A Failure to appear at speci- Imprisonment Cogniz- Non-bail- Magistrate of

fied place and specified for 3 years, able able the first time as

Clamation published under or with both

sub-section (1) of section

82 of this Code

In a case where declaration Imprisonment Ditto Ditto Ditto.";

Has been made under sub- for 7 years

Section (4) of section 82 and fine

of this Code pronouncing a

person as proclaimed offender

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(d) in the entries relating to section 175,-

(i) in the 4th column, for the word "Ditto", the word "Non-cognizable";

(ii) in the 5th column, for the word "Ditto", the word "Bailable",

shall be substituted;

(e) after the entries relating to section 229, the following entries shall be inserted, namely:-

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1 2 3 4 5 6

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

"229A Failure by person rel- Imprisonment for Cogniz- Non-bail- Any

easedon bail or bond to 1 year, or fine, able able Magistrate.";

appear in Court or both

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(f) in the 5th column, in the entries relating to-

(i) section 274, for the word "Ditto", the word "Non-bailable" shall be substituted;

(ii) section 275, for the word "Ditto", the word "Bailable" shall be substituted;

(iii) section 324, for the word "Ditto", the word "Non-bailable" shall be substituted;

(iv) section 325, for the word "Ditto", the word "Bailable" shall be substituted;

(v) section 332, for the word "Bailable", the word "Ditto" shall be substituted;

(vi) section 333, for the word "Non-bailable", the word "Ditto" shall be substituted;

(vii) section 353, for the word "Ditto", the word "Non-bailable" shall be substituted;

(viii) section 354, for the word "Ditto", the word "Bailable" shall be substituted.

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43.

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Amendment of the Second Schedule.

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43. Amendment of the Second Schedule.-In the Second Schedule to the principal Act, in Form No. 4

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44.

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Amendment of Act 45 of 1860.

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44. Amendment of Act 45 of 1860.-In the Indian Penal Code,-

(a) after section 153A, the following section shall be inserted, namely:-

'153AA. Punishment for knowingly carrying arms in any procession or organizing, or holding or ta

Explanation.-"Arms" means articles of any description designed or adapted as weapons for offence

(b) after section 174, the following section shall be inserted, namely:-

"174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.-Whoever f

(c) after section 229, the following section shall be inserted, namely:-

"229A. Failure by person released on bail or bond to appear in Court.-Whoever, having been charg

Explanation.-The punishment under this section is-

(a) in addition to the punishment to which the offender would be liable on a conviction for the

(b) without prejudice to the power of the Court to order forfeiture of the bond.".

T. K. VISWANATHAN,

Secy. to the Govt. of India.

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THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) AMENDING ACT, 2006

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No. 25 of 2006

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[2nd June, 2006.]

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An Act further to amend the Code of Criminal Procedure (Amendment) Act, 2005.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

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1.

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Short title.

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1. Short title. - This Act may be called the Code of Criminal Procedure (Amendment) Amending Act

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2.

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Amendment of section 1 of Act 25 of 2005.

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2. Amendment of section 1 of Act 25 of 2005.-In the Code of Criminal Procedure (Amendment) Act,

after the words “by notification in the Official Gazette, appoint”, the words

“; and different dates may be appointed for different provisions of this Act” shall be inserted

K.N. CHATURVEDI,

Secy. to the Govt. of India.

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