

Petty Offence (Trial by Special Judicial Magistrates) Rules, 1997

PUNJAB

India

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Rule

PETTY-OFFENCE-TRIAL-BY-SPECIAL-JUDICIAL-MAGISTRATES-RULES of 1997

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Petty Offence (Trial by Special Judicial Magistrates) Rules, 1997Published vide Punjab Government Notification No. G.S.R. 41/C.A.2/74/Section 13/97, dated 11th September, 1997High Court of Punjab and Haryana at ChandigarhNo. G.S.R. 41/C.A.2/74/section 13/97. - In exercise of the powers conferred by the Section 13 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) Hon'ble the Chief Justice and Judges of Punjab and Haryana High Court at Chandigarh have made the following rules, namely :-

1. Short title extent and commencement.

(1)These Rules called are the Petty Offence (Trial by Special Judicial Magistrates) Rules, 1997.(2)They extend to U.T. Chandigarh.(3)They shall come into force from the date they are published in the official Gazette.

2. Definitions.

- In these rules, unless context otherwise requires :- (a)Code shall mean the Code of Criminal Procedure, 1973.(b)Offences shall have the same meaning as assigned to it in the Code.(c)Petty Offence. - (I) Petty Offence means the Offence listed in the following provisions :- (i)Section 320, Cr.P.C. Table I and II excluding offence under Sections 324, 325, 335, 344, 357, 379, 381, 406, 407, 408, 411, 414, 418, 419, 420, 429, 430, 451 and 494, 494 IPC.(ii)Section 160, 279, 294 and 336 of Indian Penal Code.(iii)All the offences under any Act which are publishable upto two years imprisonment.II. The Chief Justice may from time to time assign any other type of cases to be decided by the Special Judicial Magistrates.(d)Definition, given in Section 2 of the Code shall hold good for these rules.

3. Qualification.

- A person shall not be qualified for appointment as a Special Judicial Magistrate unless he -(a)has been a District Magistrate or Judicial Officer or;(b)has been IAS probationer or/HCS/PCS/(Executive Branch) or;(c)has for a period of not less than six months exercised the powers of a Sub-Divisional Magistrate; or(d)has for a period of not less than three years exercised the powers of an Executive Magistrate; or(e)has for at least three years been Advocate of a High Court before his entry into Government Service; or(f)has obtained a decree in law as specified in clause (c) of Sub- Section (i) of Section 24 of the Advocate Act, 1961 and worked for at least three years on a gazetted post, involving the exercise of Judicial functions.

4.

(i)The panel of suitable persons for appointment as Special Judicial Magistrate would be prepared by District and Sessions Judge of that Sessions Division in consultation with the District Magistrate.(ii)The panel of suitable persons prepared by the District and Sessions Judge shall be forwarded to the High Court.(iii)High Court shall appoint such persons as Special Judicial Magistrates who have been selected by the High Court from the panel forwarded by the District and Sessions Judge.(iv)Special Judicial Magistrate, shall exercise same powers as conferred by the Code on Judicial Magistrate Ist Class.

5.

(i)The Special Judicial Magistrate, before entering upon his office shall take oath as has been prescribed for the Judicial Magistrate. The oath shall be administered by the District and Sessions Judge where Special Judicial Magistrate is posted.(ii)Every Special Judicial Magistrate shall undergo training for one month with the District and Sessions Judge/Chief Judicial Magistrate of the District where he is posted. Provided that Chief Justice may exempt any such appointee from training.(iii)Special Judicial Magistrate shall be under the administrative control of District and Sessions Judge.

6.

(i)The term of the office of the Special Judicial Magistrate shall be one year which may be renewed by the High Court.(ii)Chief Justice by a Special order may provide for remuneration and other allowances of the Special Judicial Magistrate as well as of the staff.

7.

(i)The State Government shall provide court building to the Special Judicial Magistrate in consultation with the Chief Justice.(ii)Staff attached to the Court of Special Judicial Magistrate shall be appointed by the District and Sessions Judge as per Rules contained in the Chapter 18-A, High Court Rules and Order, Volume I.

8.

(i) All petty offence shall be tried by Special Judicial Magistrate unless the High Court directs otherwise. (ii) All the petty offences shall be tried in a summary way as procedure laid down in Section 260 of Code. (iii) When in the course of summary trial it appears to the Special Judicial Magistrate that the nature of the case is such that it is undesirable to try it summarily, he shall refer the case to Chief Judicial Magistrate for entrusting it to any Judicial Magistrate competent to decide the same.

9.

Special Judicial Magistrate, in relation to petty offences defined above, shall have the same powers as to bails and bonds as are provided in the code.

10.

The Chief Justice may, by special order, provide for orientation course for Special Judicial Magistrate and determine its duration, place, staff and its remuneration.

11.

Special Judicial Magistrate's qualification (Punjab and Haryana) Rules, 1977, shall stand repealed on the date these rules come into force.