

# **The Code of Criminal Procedure, 1989 (1933 A. D.)**

JAMMU & KASHMIR

India

## **The Code of Criminal Procedure, 1989 (1933 A. D.)**

### **Act 23 of 1989**

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The Code of Criminal Procedure, 1989 (1933 A. D.) Act No. 23 of 1989 [Sanctioned by His Highness the Maharaja Bahadur vide Notification No. 43-L/1989, dated 4th January, 1933/26th Poh, 1989. Published in Government Gazette dated 17th Kartik, 1990 and correction slip published in Government Gazette dated 18th Jeth, 1991.] An Act to Consolidate and Amend the Law Relating to Criminal Procedure. Whereas it is expedient to consolidate and amend the law relating to Criminal Procedure ; It is hereby enacted as follows :-

## **Part I – Preliminary**

### **Chapter I**

#### **1. Short title, commencement.**

(1) This Code may be called the Code of Criminal Procedure, and it shall come into force on the first day of Phagan, 1989. (2) Extent. - (a) It extends to the whole of Jammu and Kashmir State but in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now 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. (b) [ Repealed.] [Sub-section (2)(b) of section 1 deleted by Act X of 1996.]

#### **2. [ Deleted by Act X of 1996.]**

Repealed.]

### 3. Reference to Code of Criminal Procedure.

- In every enactment passed before this Code comes into force in which reference is made to, or to any Chapter or section of, the Code of Criminal Procedure, for the time being in force, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Chapter or section. (2) Expression in former enactments. - In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate." "Subordinate Magistrate, first class" and "Subordinate Magistrate second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-Divisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Session Judge."\* At present there is no Magistrate of the third class (Act XL of 1966).

### 4. Definitions.

(1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :-(a) "Advocate General", "Advocate General" includes also a Government Advocate or, where there is no Advocate General or Government Advocate, such officer as [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may, from time to time, appoint in this behalf. (b) "Bailable Offence", "Non-Bailable offence". - "Bailable offence" means an offence shown as bailable in the second Schedule, or which is made bailable by any other law for the time being in force ; and "non-bailable offence" means any other offence ; (c) "Charge", "Charge" includes any head of charge when the charge contains more heads than one ; (d) "Cognizable offence", "Cognizable case". - "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer may, in accordance with the second Schedule or under any law for the time being in force, arrest without warrant ; (e) "Complaint". - "complaint" means the 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 it does not include the report of a police-officer ; (f) [ "High Court". - High Court" means the highest Court of criminal appeal and revision in the Jammu and Kashmir State;] [Substituted by Notification 3-L/85 dated 6th August, 1928/23rd Sawan, 1985 published in Government Gazette dated 8th Bhadon, 1985.] (g) "Inquiry". - "Inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court ; (h) "Investigation". - "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". - judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath ; (j) "Non-cognizable offence", "Non-cognizable case". - "Non-cognizable offence" means an offence for, non-cognizable case means a case in, which a police officer may not arrest without warrant ; (k) "Offence". - "Offence" means any act or omission made punishable by any law for the time being in force ; it also includes any act in respect of which a complaint may be made under section 20 of

the Cattle-Trespass Act, 1977 ;(l)"Officer-in-charge of Police Station". - "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 Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] so direct, any other police officer so present ;(m)"Place". - "Police" includes also a house, building, tent and vessel;(n)"Pleader". - "Pleader" used with reference to any proceeding in any Court, means a pleader authorised under any law \*for the time being in force to practise in such Court, and includes (1) an advocate, a vakil [and an attorney] [The words 'and an attorney' were omitted by Schedule (1) of Consolidation Act but were restored by Notification 3-L/85 dated the 6th August, 1928 published in Government Gazette dated 8th Bhadon, 1985.] of the High Court so authorised, and (2) any other person appointed with the permission of the Court to act in such proceeding ;\*See Legal Practitioners Act, 1977 (XXII of 1977).(o)"Police station". - "Police station" means any post or place declared, generally or specially, by [the Government] [Substituted by Act VII of 2001 for 'His Highness'.] to be a police-station, and includes any local area specified by [the Government] [Substituted by Act VII of 2001 for 'His Highness'.] in this behalf;(p)"Public Prosecutor". - "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] in the High Court in the exercise of its original criminal jurisdiction ;(q)"Sub-Division". - "Sub-Division" means a sub-division of a district ;(r)"Summons case". - "summons case" means a case relating to an offence, and not being a warrant-case ; and(s)"Warrant-case". - "Warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding [two years] [Substituted by Act XXXVII of 1978 for 'one year', Section 2.].(2)Words referring to acts. - Words which refer to acts done, extend also to illegal omissions ; andWords to have same meaning as in Ranbir Penal Code. - All words and expressions used herein and defined in the Ranbir Penal Code and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

## 5. Trial of offences under Ranbir Penal Code.

(1)All offences under the Ranbir Penal Code shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained.(2)Trial of offence against other laws. - 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.

## **Part II – Constitution and Powers of Criminal Courts and Officers**

### **Chapter II**

### **The Constitution of Criminal Courts and Offices**

#### **A. - Classes of Criminal Courts**

#### **6. [ Classes of Criminal Courts. [Section 6 substituted by Act XL of 1966.]**

- Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the Jammu and Kashmir State, namely :-I. Courts of Session.II. Courts of Magistrates].A-1. Classes of Magistrates.

#### **6A. [ Classes of Magistrates. [Inserted by Act XL of 1966.]**

- There shall be the following classes of Magistrates, namely :-I. Judicial Magistrates.(1)Chief Judicial Magistrates.(2)Judicial Magistrates of the first class.(3)Judicial Magistrates of the second class.(4)Special Judicial Magistrates.II. Executive Magistrates.(1)District Magistrates.(2)Addl. District Magistrates.(3)Sub-Divisional Magistrates.(4)Executive Magistrates of the first class.(5)Executive magistrates of the second class.(6)Special Executive Magistrates].B. - Territorial Divisions.

#### **7. [ Sessions, Divisions and Districts. [Section 7 substituted by Act XL of 1996.]**

(1)The State of Jammu and Kashmir shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district or part of a district or consist of districts.(2)The Government, in consultation with the High Court, may alter the limits or the number of such divisions and districts.(3)the sessions, divisions and districts existing when the Jammu and Kashmir Separation of Judicial Functions Act, 1966, comes into force shall be sessions divisions and districts respectively unless and until they are so altered.](4)Omitted.

#### **8. Power to divide districts into sub-divisions.**

(1)[The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may divide any district into sub-divisions or make any portion of any such district a sub-division and may alter the limits of any sub-division.(2)Existing Sub-divisions maintained. - All existing sub-divisions which are now

usually put under the charge of a Magistrate shall be deemed to have been made under this Code.C.  
- Courts and Offices.

## 9. Courts of Sessions.

(1)[The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] shall establish a Court of Session for every sessions division and [in consultation with the High Court,] [Words inserted by Act XL of 1966.] appoint a Judge of such court.(2)[ The Government [in consultation with the High Court,] [Section 9(2) substituted by Act XLII of 1956.] may, by general or special order in the Government Gazette, direct at what place or places the Court of Session shall ordinarily hold its sitting ; 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 sitting at any other place in the sessions divisions, 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].(3)[The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may also [in consultation with the High Court] [Words inserted by Act XL of 1966.] appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.(4)A Sessions Judge of one session division may be appointed by [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] [in consultation with the High Court] [Words inserted by Act XL of 1966.] 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 either division as [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] [in consultation with the High Court] [Words inserted by Act XL of 1966.] may direct.(5)All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Code.

## 10. District Magistrate and Chief Judicial Magistrate.

(1)In every district [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] shall appoint [an executive Magistrate] [Substituted by Act XL of 1966 for 'Magistrate'.] of the first class, who shall be called the District Magistrate.[(1-a) In every district the High Court shall invest a Judicial

Magistrate of the first class with the powers of a Chief Judicial Magistrate under this Code or any other law for the time being in force.] [Sub-section (1-a) inserted by Act XL of 1966.](2)[ The Government may appoint one or more Executive magistrates of the first class to be Additional District Magistrates in a district and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any law for the time being in force, as the Government may direct.Explanation. - In its application to Sessions Division Poonch the words "Executive Magistrate" shall be substituted by the words "any Magistrate" till the Jammu and Kashmir Separation of Judicial and Executive Functions Act, 1966 is enforced in the said Sessions Division of Poonch] [Sub-section (2) of section 10 substituted by Act X of 1969.],(3)For the purposes of sections 192 sub-section (1), [ x x x ] [Words '407 sub-section (2)' omitted by Act XXVII of 1957.] and 528 sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.

## **11. Officers temporarily succeeding to vacancies in office of District Magistrate.**

- Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.], exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

## **12. [ Executive and Judicial Magistrates. [Section 12 substituted by Act XL of 1966]**

(1)The Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Executive Magistrates of the first or second class in any district, and the Government or the District Magistrate, subject to the control of the Government may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.(2)The High Court may confer on any person who is a member of the Judicial Service of the State the powers of any class of a Judicial Magistrate in any district ; and the High Court or the Chief Judicial Magistrate, subject to the control of the High Court, may, from time to time define local areas within which he may exercise all or any of the powers with which he may be invested under this Code.(3)The Government, in consultation with the High Court, may appoint as many persons, who are the members of the Civil Service of the State, as may be considered necessary, to be Judicial Magistrates in any district ; and may define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.(4)Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district],

### **13. Power to put Magistrate in charge of sub-division.**

(1)The [Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may place any [Executive Magistrate] [Section 12 substituted by Act XL of 1966.] of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.(2)Such Magistrates shall be called Sub-Divisional Magistrates.(3)Delegation of powers to District Magistrate. - The [Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may delegate its powers under this section to the District Magistrate.

### **14. [ Special Judicial Magistrates and Special Executive Magistrates. [Section 14 substituted by Act XL of 1966.]**

(1)The Government may, in consultation with the High Court, confer upon any person who holds or has held;any Judicial post under the State or possesses such other qualifications as may, in consultation with the High Court be specified in this behalf by the Government by notification in the Government Gazette, all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called special Judicial Magistrates and shall be appointed for such term as the Government may, in consultation with the High Court, by general or special order direct.(2)The Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the Government may, by general or special order, direct :Provided that no power shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing time and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force].[15 to 16. Omitted [Section 15, 16 omitted by Act XXXVII of 1978, Section 3.]].

### **17. [ Sub-ordination of Assistant Sessions Judges Judicial Magistrates [\*\*\*] [Section 17, 17-A and 17-B substituted by Act XL of 1966 for 'section 17'.] to sessions Judge and Chief Judicial Magistrate.**

(1)All Judicial Magistrates appointed under sub-sections (2) and (3) of section 12 and sub-section (1) of section 14 [\*\*\*] [Words and figures omitted by Act XXXVII of 1978, Section 4.], shall, subject to the control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate and he may,

from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches.(2)All Chief Judicial Magistrates shall be subordinate to the Sessions Judge.(3)All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.(4)The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and such Judge, or Magistrate shall have jurisdiction to deal with any such application.

### **17A. Subordination of Executive Magistrates.**

(1)All Executive Magistrates appointed under sub-section (1) of section 12, section 13 and sub-section (2) of section 14 shall be subordinate to the District Magistrate and every Executive Magistrate (other than a Sub-Divisional Magistrate) exercising powers in a sub-division 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 allocation of business to an Additional District Magistrate.

### **17B. Court inferior to the High Court and Court of Sessions.**

- Courts of sessions and Court of Judicial and Executive Magistrates shall be Criminal Courts inferior to the High Court and Courts of Judicial and Executive Magistrates shall be Criminal Courts inferior to the Court of Session].

### **18. to 25.**

Omitted.

### **26. [ [Section 26 omitted by Act X of 2010.]**

Omitted.]

### **27.**

Omitted.

## **Chapter III**

### **Powers of Courts**

A. Description of offences cognizable by each Court



## 28. Offences under Ranbir Penal Code.

- Subject to the other provisions of this Code any offence under the Ranbir Penal Code may be tried-(a)by the High Court ; or(b)by the Court of Session, or(c)by any other Court by which such offence is shown in the eighth column of the Second Schedule to be triable. Illustration A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt and offence triable by a Magistrate.

## 29. [ Offences under other laws. [Section 29 substituted by Act XL of 1956.]

- Subject to the other provisions of this Code any offence under any other law shall, when any court is mentioned in this behalf in such law, be tried by such court: Provided that if the Court so mentioned is a Court specified in column (1) of the Table below, such offence shall be tried by the Court of the Judicial Magistrate specified against it in column (2) thereof.

Name of Court specified in the law 1	Court by which triable 2
1. Chief Presidency Magistrate	
2. Presidency Magistrate	Chief Judicial Magistrate
3. District Magistrate	
4. Magistrate of the first class	Judicial Magistrate of the first class
5. Sub-Divisional Magistrate	
6. Magistrate of the second class	Judicial Magistrate of the second class.
7. Magistrate of the third class	
8. Magistrate (except where it occurs in any expression mentioned above)	Judicial Magistrate

(2) When no Court is so mentioned, it may be tried by the High Court or subject as aforesaid by any Court constituted under this Code by which such offence is shown to be triable in the sixth column of the Second Schedule under the heading offences against the laws.]

## 30. [ Offences punishable with imprisonment not exceeding seven years. [Section 30 substituted by Act XXXVII of 1978, Section 5.]

- Notwithstanding anything contained in section 28 or 29, a Chief Judicial Magistrate where there is no Chief Judicial Magistrate, the Additional District Magistrate shall have the powers to try as a Judicial Magistrate all offences not punishable with death or imprisonment for life or imprisonment for a term not exceeding seven years.] B. Sentences which may be passed by Courts of various classes

### 31. Sentences which High Court and Sessions may pass.

(1)The High Court may pass any sentence authorised by law. [x x x] [Certain words omitted by Act X of 2010.],(2)A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law, but any sentence of death or of life imprisonment passed by any such Judge shall be subject to confirmation by [the High Court] [Substituted by Act X of 2010 for 'His Highness'.],(3)An Assistant Sessions Judge may pass any sentence authorised by law, except a sentence of death or of life imprisonment, or of imprisonment for a term exceeding [ten years] [Substituted by Act XLII of 1956 for 'seven years'.].

### 32. Sentences which Magistrate may pass.

- The Courts of [Judicial Magistrate] [Substituted by ActXLII of 1956 for 'seven years'.] may pass the following sentences, namely:-

- |       |  |  |
|-------|--|--|
| (a)   | Courts of [Judicial Magistrates]<br>[Substituted by Act XL of<br>1966.]of the first class ;  | Imprisonment for a term not exceeding[three years]<br>[Substituted by Act XXXVII of 1978 for 'two years' and<br>two thousand rupees, Section 6.], includingsuch<br>solitary confinement as is authorised by law ;Fine<br>notexceeding[Five thousand rupees] [Substituted by<br>Act XXXVII of 1978 for 'two years' and two thousand<br>rupees, Section 6.]. [ ] [The word 'Whipping' omitted by<br>Act XXXVII of 1978.] |
| (b)   | Courts of [Judicial Magistrates]<br>[Substituted by Act XL of<br>1966.]of the first class ;  | Imprisonment for a term not exceeding[one year]<br>[Substituted by Act XXXVII of 1978 for 'six months'<br>and five hundred rupees, Section 6.], includingsuch<br>solitary confinement as is authorised by law ;Fine<br>notexceeding[One thousand rupees] [Substituted by<br>Act XXXVII of 1978 for 'six months' and five hundred<br>rupees, Section 6.]. [ ] [The word 'Whipping' omitted by<br>Act XXXVII of 1978.]   |
|       | [X X X X X X X X X X X X X X X<br>X X X X] [Words 'Whipping' (if<br>specially empowered)' were<br>omitted by Notification No.<br>9-L/83 published in<br>Government Gazette dated<br>18th Sawan, 1983.] |  |
| (c) [ | [Clause (C) Omitted.] [Clause (C) omitted<br>omitted XL XL of 1966.]<br>of 1966.]  |  |

(2)The Court of [any Judicial Magistrate] [Certain words omitted by X of 2010.] may pass any lawful sentence, combining any of the sentences which it is authorised by law to pass.(3)Omitted.

### **33. Power of Magistrates to sentence to imprisonment in default of fine.**

- The Court of [any Judicial Magistrate] [Certain words omitted by X of 2010.] may award such terms of imprisonment in default of payment of fine as is authorised by law in case of such default ;Provido as to certain cases. - Provided that-(a)the term is not in excess of the Magistrate's power under this Code ;(b)in any case decided [by a Judicial Magistrate] [Certain words omitted by X of 2010.] where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than an 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 32.

### **34. [ Higher powers of Chief Judicial Magistrate. [Section 34 substituted by Act XXXVII of 1978, Section 7.]**

- Notwithstanding anything contained in section 32, the Court of Chief Judicial Magistrate or where there is no Chief Judicial Magistrate the Additional District Magistrate may pass any sentence of death or of imprisonment for life or imprisonment for a term exceeding seven years.]

### **35. Sentence in cases of conviction of several offence at one trial.**

- 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 Ranbir Penal Code, 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 trial before a Higher Court ;Maximum term of punishment. - Provided as follows :-(a)in no case shall such person be sentenced to imprisonment for a longer period than fourteen years ;(b)if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.(3)For the purposes of appeal, the aggregate of consecutive sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.C. - Ordinary and additional Powers

### **36. Ordinary powers of Magistrates.**

- All District Magistrates [Chief Judicial Magistrates] [Inserted by Act XL of 1966.], Sub-Divisional Magistrates [and Judicial and Executive Magistrates other than Special Judicial Magistrates and Special Executive Magistrates] [Substituted by Act XL of 1966 for 'Magistrates of first, second and third classes'.] have the powers hereinafter respectively conferred upon them and specified in the Third Schedule. Such powers are called their "ordinary powers".

### **37. [ Additional powers conferrable on Magistrates. [Sections 37 and 38 substituted by Act XL of 1966.]**

- In addition to his ordinary powers-(a)the High Court may invest any Judicial Magistrate with any of the powers as specified in Part I (A) of the Fourth Schedule ;(b)a Chief Judicial Magistrate may invest any other Judicial Magistrate within his local jurisdiction with the powers specified in part I (B) of the Fourth Schedule ;(c)the Government may invest any Executive Magistrate with any of the powers as specified in part II (A) of the Fourth Schedule ; and(d)A District Magistrate may invest/any Executive Magistrate within his local jurisdiction with the powers specified in part II (B) of the Fourth Schedule.

### **38. Exercise of powers under section 37 by Chief Judicial or District Magistrate to be subject to control of High Court or Government.**

- The powers conferred on Chief Judicial Magistrate under clause (b) of section 37 shall be exercised subject to the control of the High Court and the powers on the District Magistrate under clause (d) of that section shall be exercised subject to the control of the Government].

### **38A. [ Powers on Judicial Magistrates to be conferred by the High Court. [Section 38-A inserted by Act XL of 1966.]**

- Whenever, under any provisions of this Code or of any law for the time bring in force relating to any of the matters in respect of which the State Legislature can make laws for the State either by itself or concurrently with the Parliament of India, any judicial powers are to be conferred on a Sessions Judge or an Additional or Assistant Sessions Judge or Chief Judicial Magistrate or any other Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall unless otherwise provided in such law, be made by the High Court.Explanation. - For the purposes of this section the question whether any powers are judicial shall be decided by the High Court and such decision shall be final.]D. - Conferment, Continuance and Cancellation of Powers.

### **39. Mode of conferring powers.**

(1)In conferring powers under this Code [the Government or the High Court, as the case may be,] [Substituted by Act XL of 1966.] may, by order, empower persons specially by name or in virtue of

their office 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 persons so empowered.

#### **40. Powers of officers appointed.**

- Whenever any persons holding an office in the service of [the State] [Substituted by Act XL of 1966.] who has been invested 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, he shall, unless [the Government or the High Court, as the case may be] [Substituted by Act XL of 1966.], otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

#### **41. Power may be cancelled.**

(1)The [Government] [Substituted by Act XV of 2004 for 'High Court'] [or the High Court, as the case may be,] [Words inserted by Act XL of 1966.] may withdraw all or any of the powers conferred under this Code or any person by it or by any officer subordinate to it.(2)[ Any powers conferred by the Chief Judicial Magistrate or District Magistrate may be withdrawn by him] [Sub-section (2) substituted by Act XL of 1966.].

### **Part III – General Provisions**

#### **Chapter IV**

#### **Aid and Information to the Magistrates, the Police and Persons Making Arrests**

#### **42. Public when to assist Magistrate 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 sum Magistrate or police officer authorised to arrest ;(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

#### **43. 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, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

#### **44. 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 Ranbir Penal Code namely 121, 121-A, 122, 123, 124, 124-A, 125, 126, 130, 143, 144, 145, 147, 148,, 302, 103, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, and 460, shall, in the absence of reasonable excuse, the burden of proving which 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 Jammu and Kashmir State which would constitute an offence if committed in Jammu and Kashmir State.

#### **45. Village, headmen, accountants, landholders and other bound to report certain matters.**

(1) Every village headman, village accountant, village watchman, village police-officer, owner or occupier in charge of land and the agent of any such owner or occupier in charge of the management of that land [and every member of a village panchayat, other than a Judicial panchayat (where such panchayat, by whatever name is called, is constituted under any law for the time being in force)] [Inserted by Act XLII of 1960.] and every officer employed in the collection of revenue, of rent of land on the part of Government or the Court of Wards forthwith communicate to the nearest Magistrate or to the officer-in-charge of the nearest police-station, whichever is the nearer, any information which he may possess respecting-(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent ;(b) the resort to any place within, on the passage through, such village of any person whom he knows, or reasonably suspects, to be 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, 144, 145, 147 or 148 of the Ranbir Penal Code ;(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 the Jammu and Kashmir State near such village any act which, if committed in the Jammu and Kashmir State, would be an offence punishable under any of the following sections of the Ranbir Penal Code, namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489-A, 489-B, 489-C, 489-D ;(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or the property respecting which the District Magistrate, by general or special order made with, the previous sanction of [the Government] [Substituted by Act VII of 2001 for 'His Highness'.] has directed him to communicate information. (2) In this section-(i) "village" includes village-lands ; and(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by [the Government] [Substituted by Act VII of 2001 for 'His Highness'.] in any part of

Jammu and Kashmir State in respect of any act which, if committed in Jammu and Kashmir State, would be punishable under any of the following section of the Ranbir Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 457, 450, 457, 458, 459 and 460.(3)Appointment of village-headman by District Magistrate or Sub-Divisional Magistrate in certain cases for purposes of this section. - Subject to rules in this behalf to be made by [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.], the District Magistrate or Sub-Divisional Magistrate may from time to time appoint one or more persons with his or their consent to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.

## **Chapter V**

### **Arrest, Escape and Retaking**

A. - Arrest generally

#### **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)Resisting endeavour to arrest. - 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 life imprisonment.

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

- 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] [Substituted by Act XLII of 1956 for 'the person residing'.] in, or being incharge 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.

#### **48. Procedure where ingress not obtainable.**

- If ingress to such place cannot be obtained under section 47, 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. Breaking open Zenana. - Provided that if any such place is an apartment in the actual occupancy of a woman (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 woman 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.

#### **49. Power to break open doors and windows for purposes of liberation.**

- 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.

#### **50. No unnecessary restraint.**

- The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

#### **50A. [ Person arrested to be informed of grounds of arrest and of right to bail. [Section 50-A inserted by Act XXXVII of 1978, Section 8.]**

(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 a 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 persons.**

- 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.

#### **52. Mode of searching women.**

- Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.



### **53. Power to seize offensive weapons.**

- The officer or other person making any arrest under this Code may take from 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.

### **53A. [ Examination of accused by medical practitioner at the request of police officer. [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]**

(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 necessary 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. The word, "Person" used in this sub-section applies only to those parts of the body the exposure of which would violate a woman's modesty. Explanation. - In this section and in sections 53B and 53C, -(a)"examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case;(b)"registered medical practitioner" means a medical practitioner who possesses any medical qualification as defined in clause (h) of section 2 of the Medical Council Act, 1956 and whose name has been entered in a State Medical Register.

### **53B. Examination of person accused of rape by medical practitioner.**

(1)When a person is arrested on a charge of committing an offence of rape or an attempt to commit an offence of rape and there are reasonable grounds for believing that his examination will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner within the radius of sixteen kilometres from the place where the offence has been committed by any other registered medical practitioner, acting at the request of a police officer not below the rank of a sub-inspector, and for any person acting in good faith in his arrested person and to use such force as is reasonably necessary for that purpose.(2)The registered medical practitioner conducting such examination shall, without delay, examine such person and prepare a report of his examination giving the following particulars, namely: -(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, if any, 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 report. (5) The registered medical practitioner shall, without delay, forward the report of the investigating officers, who shall forward it to the Magistrate referred to in section 173 of the Code as part of the documents referred to in clause (a) of sub-section (5) of that section.

### **53C. Examination of arrested person by medical officer.**

(1) When any person is arrested, he shall be examined by a medical officer in the service of Central or State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made: Provided that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner. (2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

### **53D. Identification of person arrested.**

- Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit: Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Medical Officer who shall take appropriate steps to ensure that such person identifies the person arrested using methods that the person is comfortable with: Provided further, that if the person identifying the person arrested is mentally or physically disabled, the identification process may be videographed.]

### **54. When police may arrest without warrant.**

- Any police-officer may, without an order from a Magistrate and without a warrant, arrest -first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or creditable information has been received, or a reasonable suspicion exists of his having been so concerned ;secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;thirdly, any person who has, been proclaimed as an offender either this Code or by order of a Government ;fourthly, any person 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 ;fifthly, any person who obstructs a police which in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ;sixthly,

any person reasonably suspected of being a deserted [x x x x] [Words from 'His Highness Army or' deleted by Act X of 2010.] from [any of the Armed Forces of the Union] [Substituted by Act XXXVII of 1978, Section 9.] [xxxx] [Certain words deleted by A.L.O. 2008.] ;seventhly, any person 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 Jammu and Kashmir State which, if committed in Jammu and Kashmir State 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 Jammu and Kashmir State ;eighthly, any released convict committing a breach of any rule made under section 565, sub-section (3) ; andninthly, any person for whose arrest a requisition 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.

## **55. Arrest of vagabonds, habitual robbers, etc.**

- Any officer-incharge of a police-station may, in like manner, arrest or cause to be arrested-(a)any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence ; or(b)any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself ; or(c)any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts of attempts to put persons in fear for injury.

## **56. Procedure when police officer deposes sub-ordinate to arrest without warrant.**

- When any officer-incharge of a police-station or any police officer making an investigation under Chapter XIV 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 to be made. 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.

## **57. 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 Judicial Magistrate having jurisdiction] [Substituted by Act XL of 1966 for 'Magistrate'.] if so required :Provided that if such person is not resident in Jammu and Kashmir State, the bond shall be secured by a surety or sureties resident in Jammu and Kashmir State.(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 [Judicial Magistrate] [Substituted by Act XL of 1966 for 'Magistrate'.] having jurisdiction.

## **58. 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 under this Chapter, pursue such person into any place of Jammu and Kashmir State.

## **59. Arrest by private persons and procedure on such arrest.**

- Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police officer, or, in the absence of a public 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 54, a police officer shall re-arrest him.(3)If there is reasons to believe that he has committed a non-cognizable 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 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

## **60. Person arrested to be taken before Magistrate or 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.

## **61. Persons 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, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

## **62. Police to report apprehensions.**

- Officers-in-Charge of police-stations shall report to the District Magistrates, 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.

## **63. 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 [Magistrate having jurisdiction] [Substituted by Act XL of 1966 for 'Magistrate'.].

## **64. Offence committed in Magistrate's presence.**

- When any offence is committed in the presence of a Magistrate within the local limits of his 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.

## **65. Arrest by or in presence of Magistrate.**

- Any Magistrate may at any time arrest or direct the arrest in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

## **66. Power, on escape, to pursue and retake.**

- 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 Jammu and Kashmir State.

## **67. Provisions of sections 47, 48 and 49 to apply to arrests under section 66.**

- The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, 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

## **68. Form of summons.**

(1) Every summons issued by a Court under this Code shall be in writing, in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct. (2) Summons by whom served. - Such summons shall be served by a police-officer, or subject to such rules as the High Court may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

## **69. Summons how served.**

(1) 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. (2) Signature of receipt for summons. - 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. (3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in Jammu and Kashmir State. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

## **70. Service when person 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 and the person with some the summons is so left shall, if so required by the serving officer, sign a receipt there-for on the back of the other duplicate.

## **71. Procedure when service cannot be effected as before provided.**

- If service in the manner mentioned in section 69 and 70 cannot by exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or home-stead in which the person summoned ordinarily reside ; and thereupon the summons shall be deemed to have been duly served.

## **72. Service on servant of [Central or State Government] [Substituted by Act XXXVII of 1978 for Government or of Railway Company', Section 10.].**

(1) Where the person summoned is in the active service of the [Central or State Government] [Substituted by Act XXXVII of 1978 for 'Government or of Railway Company', Section 10.], 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 manner provided by section 69, 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.

### **73. Service of summons outside local limits.**

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

### **74. Proof of service in such cases and when serving officer not present.**

(1)When a summons issued by a Court is served outside the local limits of its 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 manner provided by section 69 or section 70) 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.

### **74A. [ Service of summons on witness by post. [Section 74-A inserted by Act XXXVII of 1978, Section 11.]**

(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 acknowledgement 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 have been duly served.]B. - Warrant of Arrest,

### **75. Form of warrant of arrest.**

(1)Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, [ ] [Words omitted by Act XXXVII of 1978, Section 12.] and shall bear the seal of the Court.(2)Continuance of warrant of arrest. - Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

### **76. Court may direct security to be taken.**

(1)Any Court issuing a warrant for the arrest of any person may 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 ; and(c)the time at which he is to attend before the Court.(3)Recognizance to be forwarded. - Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

## **77. Warrants to whom directed.**

(1)A warrant of arrest shall ordinarily be directed to one or more police-officers, but any 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.Warrants to several persons. - (2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by anyone or more, of them.

## **78. Warrant may be directed to land-holders etc.**

- [(1) A District Magistrate or a Chief Judicial Magistrate or a Sub-Divisional Magistrate or a Judicial Magistrate of the first class may direct a warrant to any landholder, farmer or manager of land within the area of his jurisdiction for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit] [Sub-section (1) substituted by Act XL of 1966.](2)Such land-holder, farmer or manager 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, his land or farm, or the land 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 76.

## **79. Warrant directed to the 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.

## **80. 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.

## **81. Person arrested to be brought before Court without delay.**

- The police officer or other person executing a warrant of arrest shall (subject to the provision of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.



## **82. Where warrant may be executed.**

- A warrant of arrest may be executed at any place in Jammu and Kashmir State.

## **83. Warrant forwarded for execution outside jurisdiction.**

(1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police within the local limits of whose jurisdiction it is to be executed. (2) The Magistrate or District Superintendent to whom such warrant is so forwarded shall endorse his name thereon, and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction. (3) [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 86 to decide whether bail should or should not be granted to the person.] [Inserted by Act XXXVII of 1978, Section 13.]

## **84. 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 limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police officer not below the rank of an officer-in-charge of a 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 within such limits, 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 the local limits of whose 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 limits of the jurisdiction of the Court which issued it. (4) Omitted.

## **85. 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 twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or District Superintendent

## **86. Procedure by Magistrate before whom person arrested is brought.**

(1) Such Magistrate or District Superintendent 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 or District Superintendent, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security, required by such direction, the Magistrate or District Superintendent 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, subject to the provisions of section 497, be lawful for the Chief Judicial Magistrate or where there is no Chief Judicial Magistrate, the Additional District Magistrate or the Sessions Judge of (he District in which arrest is made on consideration of the information and the documents referred to in sub-section (3) of section 83, to release such person on bail.] [Inserted by Act XXXVII of 1978, Section 14.](2)Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.C. - Proclamation and Attachment.

## **87. 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 :-(a)it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;(b)sit 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 ; and(c)a copy thereof shall be affixed to some conspicuous part of the court-house.(3)A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

## **88. Attachment of property of person absconding.**

(1)The Court issuing a proclamation under section 87 may at any time order the attachment of any property, movable or immovable, or both belonging to the proclaimed person.(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 authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate [or Chief Judicial Magistrate] [Words 'of Chief Judicial Magistrate' inserted by Act XL of 1966.] 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 receiver ; or(c)by an order in writing prohibiting the delivery of such property to the proclaimed person or to anyone 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 Government, be made through the Collector of the district in 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 or delivery of property to the proclaimed person or to anyone on his behalf ; or(d)by all or any two of such methods, as the Court think 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 order XL of the Code of Civil Procedure. (6-a) If any claim is preferred to, or objection made to the attachment of, any property attached under this section 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 this section, 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. (6-b) Claims or objections under sub-section (6-a) 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 by a District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.] in accordance with the provisions of sub-section (2), in the Court of such Magistrate. (6-c) 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 District Magistrate, or any other Executive Magistrate, such Magistrate shall refer it to the Chief Judicial Magistrate who shall either dispose it of himself or make it over for disposal to any Judicial Magistrate of the first class subordinate to him, and such Judicial Magistrate shall have all the powers and jurisdiction in respect of such claim or objection as . . . if the order of attachment had been issued by such Judicial Magistrate and the claim or objection had been originally preferred or made before him.] [Proviso to sub-section (6-c) substituted Act XL of 1966.] (6-d) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6-a) 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. (6-e) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment. (7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of 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 sub-section (6-a) has been disposed of under that sub-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.

## **89. Restoration of attached property.**

- If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (7) of section 88, 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 residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.D. - Other Rules Regarding Processes

## **90. 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 [ ] [Words omitted by Act XXXVII of 1978, Section 15.], 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.

## **91. 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.

## **92. 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 so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

## **93. Provisions of this Chapter generally applicable to summons 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.E. - Special Rules regarding Processes in certain cases.

## **93A. [ Special rules regarding processes in certain cases. [Section 93-A inserted by Act II of 2011.]**

- [(1) In this section, the expression 'Internal Court' means any court in the State of Jammu and Kashmir and the expression 'External Court' means any Court in any other part of the territory of India].(2)Where an internal Court desires that a summons to or a warrant for the arrest of, an accused person issued by it shall be executed at any place within the local limits of the jurisdiction of an external Court, 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 such summons has been so served, the provision of section 74 shall apply in relation to such summons as if the presiding officer

of the external Court to whom it is sent were a Magistrate in the territories to which this Court extends.(3)Where an internal Court has received for service or execution a summons to, or a warrant for the arrest of an accused person issued by an external Court, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another internal Court for service or execution within the local limits of its jurisdiction; and where any such warrant of arrest has been so executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 85 and 86].(4)[ Where an internal Court desires that-(a)a summons to any person requiring him to attend and produce a document or other thing, or to produce it or(b)a search warrant,issued by it shall be served or executed at any place within the local limits of the jurisdiction of an external Court, 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.(5)Where an internal Court has received for service or execution-(a)a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or(b)a search warrant,issued by an external Court, it shall cause the same to be served or executed as if it were a summons or search warrant received by it from another internal Court for service or execution within the local limits of its jurisdiction; and where any such search warrant has been so executed the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 99] [Sub-sections (4) and (5) to section 93-A inserted by Act XVI of 1958.].

## **Chapter VII**

### **Processes to Compel the Production of Documents and other Movable Property and for the Discovery of Persons Wrongfully Confined**

A. - Summons to produce

#### **94. Summons to produce document for 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 proceedings under this Code by or before such Court or officer, such Court may issue a summons, or such officer 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 to affect the Evidence Act, 1977, sections, 123 and 124, or to apply to a letter, post card, telegram or other document or any parcel or thing in the custody of the postal or Telegraph authorities.

## **95. Procedure as to letters and telegrams.**

(1) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, [Chief Judicial Magistrate] [Inserted by Act XL of 1966.] High Court or Court of Session, 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 authorities as the case may be to deliver such document, parcel or thing to such person as such magistrate or Court directs. (2) If any such document parcel or thing is in the opinion of any other Magistrate of District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District magistrate, [Chief Judicial Magistrate] [Inserted by Act XL of 1966.] or Court. B. - Search-warrants.

## **96. When search-warrant may be issued.**

(1) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (1) has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition, or where such document or thing is, not known to the Court to be in the possession of any person, or 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) Nothing herein contained shall authorise any Magistrate other than a District Magistrate [Chief Judicial Magistrate] [Inserted by Act XL of 1966.] to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

## **97. Power to restrict warrant.**

- 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.

## **98. Search of house suspected to contain stolen property, forged documents, etc.**

- If a District Magistrate, [Chief Judicial Magistrate,] [Inserted by Act XL of 1966.] 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 or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging, or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for going, are kept or deposit in any place. [or if a District Magistrate, [Chief Judicial Magistrate] [Inserted by Notification No. S-L/83 published in

Government Gazette dated 19th Bhadon, 1983.] Sub-Divisional Magistrate upon information and after such inquiry, as he thinks necessary, has reason to believe that any place used for the deposit sale, manufacture or production of any obscene object such as is referred to in section 292 of the Ranbir Penal Code or that any such obscene objects are kept or deposited in any place,] he may by his warrant authorise any police-officer above the rank of a constable-(a) to enter with such assistance as may be required, such place ; and (b) to search the same in manner specified in the warrant ; and (c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials or of any such obscene objects as aforesaid ; and (d) convey such property, documents, seals, stamps, coins, instruments or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety ; and (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 manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials, or such obscene objects knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging, or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported.

## **99. Disposal of things found in search beyond jurisdiction.**

- When, in the execution of a search-warrant at any place beyond the local limits of the 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.

## **99A. Power to declare certain publications forfeited and to issue search warrants for the same.**

(1) Where-(a) any newspaper, or book as defined in the Press and Publications Act No. 1 of 1989 ; or (b) any document ; wherever printed, appears to [the Government] [Substituted by Act III of 2000 for certain words.] to contain any seditious matter or any matter which promoted or is intended to promote feelings of enmity or hatred between different classes of the State Subjects or which is deliberately and maliciously intended to outrage the religious feelings of any such class, by insulting the religion or the religious beliefs of that class, that is to say, any matter the publication of which is punishable under sections [124-A] [Substituted by Act III of 2000 for '121'.] 153-A & 295-A of Ranbir Penal Code, [the Government may, by notification in the Government Gazette, stating the grounds of their opinion] [Substituted by Act III of 2000 for certain words.] 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 the Government, and thereupon any police officer may seize the same, wherever found in Jammu and Kashmir State, 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.(2)In sub-section (1) "document" includes also any painting, drawing or photograph or other visible representation.

### **99B. Application to High Court to set aside order of forfeiture.**

- Any person having any interest in any newspaper, book or other document in respect of which an order of forfeiture has been made under section 99-A, may, within two months from the date of such order on the apply to the High Court to set aside such order on the ground that the newspaper, or the book or other document in respect of which the order was made did not contain any seditious of other matter of such a nature as is referred to in subsection (1) of section 99-A.

### **99C. Hearing by Special Bench.**

- Every such application shall be. heard and determined by a Special Bench of the High Court composed of three Judges.

### **99D. Order of Special Bench setting aside forfeiture.**

(1)On respect of the application, the Special Bench 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 seditious of other matter of such a nature as referred to in sub-section (1) of section 99-A, set aside the order of forfeiture.(2)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.

### **99E. Evidence to prove nature or tendency of newspapers.**

- On the hearing of any such application with reference or any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature of tendency if the words signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.

### **99F. Procedure in High Court.**

- The High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon and until such rules are framed, the practice of the Court in proceedings other than suits and appeals shall apply, so far as may be practicable to such applications.



## **99G. Jurisdiction barred.**

- No order passed or action taken under section 99-A shall be called in question in any Court otherwise than in accordance with the provisions of section 99-B.C. - Discovery of persons wrongfully confined.

## **100. Search for persons wrongfully confined.**

- If any Magistrate of the first class or Sub-Divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he 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.D. - General provisions relating to searches.

## **101. Direction, etc., of search-warrants.**

- The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98, section 99-A or section 100.

## **102. 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 manner provided by section 48.(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. If such person is a woman, the directions of section 52 shall be observed.

## **103. Search to be made in presence of witnesses.**

(1)Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.(2)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.Occupant of place searched may attend. - (3) 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 [x x x] [Omitted words 'at his request' by Act XLII of 1956.](4)When any person is searched under section 102, sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person [x x x] [Omitted words 'at his request' by Act XLII of 1956.](5)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 Ranbir penal Code.E. - Miscellaneous.

#### **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. 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.

### **Part IV – Prevention of Offences**

#### **Chapter VIII**

#### **Security for Keeping the Peace and for Good Behaviour**

A. - Security for keeping the peace on conviction

#### **106. Security for keeping the peace on conviction.**

(1)Whenever any person accused of any offence punishable under Chapter VIII of the Ranbir Panel Code, other than an offence punishable under section 143, section 149, section 153-A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before the High Court, Court of Session, [Court of Chief Judicial Magistrate] [Substituted by Act XL of 1966.] or any other [Judicial Magistrate] [Substituted by Act XL of 1966.] of the first class.and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace.such Court may, at the time of passing sentence on such person, order him to execute a bond for a such proportionate to his means with or without sureties for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.(2)If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.(3)Any order under this section may also be made by an Appellate Court [x x x] [Omitted by Act XXXVII of 1957.] or by the High Court when exercising its powers of revision.B. - Security for keeping the peace on other cases and security for good behaviour

## **107. Security for keeping the peace in other cases.**

(1)Whenever a District Magistrate, Sub-Divisional Magistrate or [Executive Magistrate of the first class] [Substituted by Act XL of 1966.] is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do not any wrongful act that may probably occasion a breach of the peace, or disturb tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may in manner hereinafter provided. Such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.(2)[ Proceeding under this section may be taken before any Magistrate empowered to proceed under sub-section (1) when either the place where the breach of the peace or disturbance is apprehended is within the local limits of such Magistrate's jurisdiction or there is within such limits 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 limits] [Section 107 (2) substituted by Act XLII of 1956.].(3)Procedure of Magistrate not empowered to act under sub-section (1). - When any Magistrate not empowered to proceed under sub-section (1) has reason to believe 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 that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.(4)A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter.

## **108. Security for good behaviour from persons disseminating seditious matter.**

- Whenever a District Magistrate or [Executive, Magistrate of the first class] [Substituted by Act XL of 1966.] specially empowered by the [Government] [Substituted by Act XV of 2004 for 'His Court'.] in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits either orally or in writing, or in any other manner intentionally disseminates or attempts to disseminate or in any way abets the dissemination of,-(a)any seditious matter, that is to say, any matter the publication of which is punishable under section 124-A of the Ranbir Penal Code ; or(b)any matter the publication of which is punishable under section 153-A of the Ranbir Penal Code ; or(c)any matter concerning a Judge which amounts to criminal intimidation or defamation under the Ranbir Penal Code ;Such Magistrate, if in his opinion there is sufficient ground for proceeding, may (in 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 to fix.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 Publications Act, 1989, with reference to any matter contained in such publication except by the order or under the authority of [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197,

218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] of some other or under the authority of [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] or some officer empowered by it in this behalf.

#### **108A. [ [Section 108-A omitted by Act XXV of 2011.]**

Omitted.]

#### **109. [ Security for good behaviour from Suspected persons. [Section 109 substituted by Act XXXVII of 1978, Section 16.]**

- Wherever a District Magistrate, Sub-Divisional Magistrate or Executive Magistrate of the First Class receives information that there is within the local jurisdiction of such Magistrate a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, 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 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.**

- Whenever a District Magistrate or Sub-Divisional Magistrate or an [Executive Magistrate of the first class] [Substituted by Act XI of 1966.] specially empowered in this behalf by the [Government] [Substituted by Act XV of 2004 for 'High Court'.] receives information that any person within the local limits of his jurisdiction-(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 Ranbir Penal Code, or under section 489-A, section 489- B, Section 489-C or section 489-D of that Code, or] [Clause (d) substituted by Notification 14-L 183, published in Government Gazette dated 20th Bhadon, 1983.](e)habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or(ee)[ habitually commits, or attempts to commit, or abets the commission of- [Clause (ee) inserted by Act XXXVII of 1978, Section 17.](i)any offence under one or more of the following Acts, namely-(a)the Jammu and Kashmir Employees Provident Funds Act, 1961 ;(b)the Drugs and Cosmetics Act, 1940 ;(c)the Foreign Exchange Regulation Act, 1973 ;(d)the Prevention of Food Adulteration Act, 1954 ;(e)the Essential Commodities Act, 1955 :(f)the Protection of Civil Rights Act, 1955 ;(g)the Customs Act, 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](f)is so desperate and dangerous as to render his being at large without security hazardous to the community. Such Magistrate may, in 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 to fix.

## **111.**

Omitted.

## **112. 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.

## **113. 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 so desires, the substance thereof shall be explained to him.

## **114. Summons or warrant in case of person not so present.**

- If such person is not present in Court, the Magistrate shall issue 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.

## **115. Copy of order under section 112 to accompany summons or warrant.**

- Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, 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.

## **116. 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, and may permit him to appear by a pleader.

## **117. Inquiry as to truth of information.**

(1) When an order under section 112 has been read or explained under section 113 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 summon or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take, 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 trials and recording evidence in summons cases] [Section 117 (2) substituted by Act XLII of 1956.]. (3) Pending 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 112 has been made 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 110, shall be directed to execute a bond for maintaining good behaviour ; and (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 112. (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 within 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 such proceedings shall in no case continue beyond a period of one year : Provided further 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.] [Sub-sections (6) and (7) added by Act XXXV of 1978, Section 18.]

## **118. 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 Magistrate shall make an order accordingly : Provided - first, that 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 112 ; secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the

case and shall not be excessive :thirdly, that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

### **119. Discharge of person informed against.**

- If on an inquiry under section 117, 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.C. - Proceedings, in all cases subsequent to order to furnish security

### **120. 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 118, 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.

### **121. 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.

### **122. 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 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.(2)Such Magistrate shall, before holding 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.

## **123. Imprisonment in default of security.**

(1) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he 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. Proceedings when to be laid before Court of Session. - (2) When such persons 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. (3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case 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. (3-a) If security has been required in the course of the same proceedings from two or more persons in respect of anyone 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. (3-b) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3-a) 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. (4) 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. Kind of imprisonment. - (5) Imprisonment for failure to give security for keeping the peace shall be simple. (6) 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.

## **124. Power to release persons imprisoned for failing to give security.**

(1) Whenever the District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.] 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. (2) Whenever any person has been imprisoned for failing to give security under this Chapter, the District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.] may (unless the order has been made by some Court superior to his own) 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 Government] [Substituted by Act VII of 2001 for 'His Highness'.] may prescribe the



conditions upon which a conditional discharge may be made.(5)If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.] 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 District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.].Unless such person then 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 District Magistrate [or Chief Judicial Magistrate] may remand such person to prison to undergo such un-expired portion.A person remanded to prison under this sub-section 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 portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

## **125. Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.**

(1)The District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.] 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 order of any Court in his district not superior to his Court.

## **126. Discharge of sureties.**

(1)Any surety for the peaceable conduct for good behaviour of another person may at any time apply [to the Court by which an order was made to give security] [Inserted by Act XL of 1966.] to cancel any bond executed under this Chapter within the local limits of his jurisdiction.(2)[ On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it] [Inserted by Act XL of 1966.].

## **126A. Security for unexpired period of bond.**

- When a person for whose appearance a warrant or summons has been issued under the proviso to subsection (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the Magistrate 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. Every Such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

## **Chapter IX**

### **Unlawful Assemblies**

#### **127. Assembly to disperse on command of Magistrate or police officer.**

(1)Any [Executive Magistrate] [Inserted by Act XL of 1966.] or officer incharge of a police station may command any unlawful assembly, of five or more persons likely to cause a disturbances of the public peace, to disperse ; and thereupon be the duty of the members of such assembly to disperse accordingly.(2)Omitted.

#### **128. Use of civil force to disperse.**

- 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] [Substituted by Act XI of 1966.] or officer-in-charge of a police station may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in [the Army] [Substituted by Act XI of 1966 for 'His Highness Army'.] 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.

#### **129. Use of military force.**

- 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] [Substituted by Act XI of 1966.] of the highest rank who is present may cause it to be dispersed by military force :Provided that the sanction of [the Government] [Substituted by Act X of 2010.] shall be obtained within reasonable time for that said purpose when practicable.

#### **130. Duty of officer commanding troops required by Magistrate to disperse assembly.**

- When an [Executive Magistrate] [Substituted by Act XI of 1966.] determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in [the Army] [Substituted by Act XI of 1966 for 'His Highness Army'.] to disperse such assembly by military force, and to arrest and confined such persons forming part of it as the [Executive Magistrate] [Substituted by Act XI of 1966.] may direct as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.(2)Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, 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 commissioned military officer to disperse assembly.**

- When the public security is manifestly endangered by any such assembly, and when no [Executive Magistrate] [Substituted by Act XI of 1966.] can be communicated with, any commissioned officer of [the Army] [Substituted Act XI of 1966 for 'His Highness Army'.] may disperse such assembly by military force, 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] [Substituted by Act XI of 1966.] 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 act done under this Chapter.**

- No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] ; and(a)no [Executive Magistrate] [Substituted by Act XL of 1966.] or police officer acting under this Chapter in good faith ;(b)no officer acting under section 131 in good faith ;(c)no person doing any act in good faith in compliance with a requisition under section 128 or section 130 ; and(d)no inferior officer, or soldier, doing any act in obedience to any order which he was bound to obey ;shall be deemed to have thereby committed an offence.[Explanation. - For purposes of this Chapter expression 'Army' wherever occurring shall mean and include Border Security Force, Central Reserve Police Force and Para-Military Forces and the expression "Military Force" shall such be construed accordingly.] [Added by Act XXVI of 1988 Section 5.]

## **Chapter X**

### **Public Nuisances**

### **133. Conditional order for removal of nuisance.**

(1)Whenever a District Magistrate, a Sub-Divisional Magistrate or an [Executive Magistrate] [Substituted by Act XL of 1966.] of the first class considers, on receiving a police report or other information and on taking such evidence (if any) as he thinks fit ;that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place ; orthat 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 that the construction of any building or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped ; orthat 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 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 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 occupation, 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 ; to remove such obstruction or nuisance ; or 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 to prevent or stop the erection of, or to remove, repair or support such building, tent or structure ; or to remove or support such tree ; or to alter the disposal of such substance ; or to fence such tank, well or excavation, as the case may be ; or 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] [Substituted by Act XL of 1966.] at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided. (2) No order duly made by an [Executive Magistrate] [Substituted by Act XL of 1966.] 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.**

(1) The order shall, if practicable, be served on the person against whom it is made, in 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 [Government] [Substituted by Act XL of 1966.] may by rule 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.

#### **135. Persons to whom order is addressed to obey, or show cause [x x x x] [Words omitted by Act XXXVII of 1978, Section 19, 20].**

- 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.] [Clause (b) substituted omitted by Act XXXVII of 1978.]

#### **136. Consequence of his failing to do so.**

- If such person does not perform such act or appear and show cause [x x x] [Words omitted by Act XXXVII of 1978, Section 19, 20.], he shall be liable to the penalty prescribed in that behalf in section 188 of the Ranbir Penal Code, and the order shall be made absolute.

### **137. Procedure where he appears to show cause.**

(1) If he appears and show cause against the order, the Magistrate shall take evidence in the matter as a summons case. (2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case. (3) If the Magistrate is not so satisfied, the order shall be made absolute.

### **138.**

[Omitted] [Sections 138 and 139 omitted by Act XXXVII of 1978, Section 21.].

### **139.**

[Omitted] [Sections 138 and 139 omitted by Act XXXVII of 1978, Section 21.].

### **139A. 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 137 [x x x] [Words and figures omitted by Act XXXVII of 1978, Section 22.] inquire into the matter. (2) If 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 civil Court ; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 [x x x] [Words and figures omitted by Act XXXVII of 1978, Sections 22, 25.]. (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 [x x x] [Words and figures omitted by Act XXXVII of 1978, Sections 22, 25.].

### **140. Procedure on order being made absolute.**

(1) When an order has been made absolute under [section 136 or section 137 ;] [Words and figures substituted by Act XXXVII of 1978,, Section 23.] 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 Ranbir Penal Code. Consequences of disobedience to order. - (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 the local limits of such Magistrate's jurisdiction.

If such other property is without such limits, the order shall authorise its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.(3)No suit shall lie in respect of anything done in good faith under this section.

#### **141. [ [Section 141 omitted by Act XXXVII of 1978, Section 24.]**

Omitted]

#### **142. Injunction pending inquiry.**

- If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent such danger or injury of a serious kind to the public, he may, [ x x x ] [Words and figures omitted by Act XXXVII of 1978, Sections 22, 25.] issue such an injunction to 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 fault 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 continuance of public nuisance.**

- A District Magistrate or Sub-Divisional Magistrate or [any other Executive Magistrate] [Substituted by Act XL of 1966.] empowered by the [Government] [Substituted by Act XV of 2006 for 'High Court'.] in this behalf may order any person not to repeat or continue a public nuisance as defined in the Ranbir Penal Code or any special or local law.

### **Chapter XI**

## **Temporary orders in Urgent Cases of Nuisance or Apprehended Danger**

#### **144. Power to issue order [xxx] [Substituted by Act XL of 1966.] in urgent case of nuisance or apprehended danger.**

(1)In cases where, in the opinion of a District Magistrate, a Sub-Divisional Magistrate, or of any other [Executive Magistrate] [Substituted by Act XL of 1966.] specially empowered by the [Government] [Substituted by Act XV of 2006 for 'High Court'.] to act under this section, 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] [Inserted by Act XV of 2006.] manner provided by section 134, direct any person to abstain from a certain act or [to take certain order with respect to certain property] [Deleted by Act XIII of 1985, Section 2.] 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, [x x x] [Deleted

by Act XIII of 1985, Section 2.] to any person lawfully employed, or danger to human life health or safety, or a disturbance of the public tranquillity, or a riot, or 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.(4)No order under this section shall remain in force for more than two months from the making thereof :Provided that, if the Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing riot or any affray, it may, by notification in the Government Gazette, 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 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 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 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] [Substituted by Act XIII of 1985, Section 2.].

## Chapter XII

### Dispute as to Immovable Property

#### 145. Procedure where dispute concerning land, etc. is likely to cause breach of peace.

(1)Whenever a [Chief Judicial Magistrate, or any other Judicial Magistrate of the first class] [Substituted by Act XL of 1966.] is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his 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, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute [and further requiring them to put in such documents, or to adduce, by putting in affidavits, the evidence of such persons, as they rely upon in support of such claims] [Substituted by Act XLII of 1956.]:[Provided that where the dispute likely to cause a breach of peace concerns any land as defined in the [Jammu and Kashmir Agrarian Reforms Act, 1976] [Inserted by Act II of 1974.] the powers under this section shall be exercisable only by the District Magistrate or an Executive Magistrate of the first class],(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 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)[ Inquiry as to possession. - The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements, documents and affidavits, if any, so put in, hear the parties and conclude the inquiry, as far as may be practicable, within a period of two months from the date of the appearance of the parties before him and, if possible, decide the question whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject :Provided that the Magistrate may, if he so thinks fit, summon and examine any person whose affidavit has been put in as to the facts contained therein :Provided further that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date :Provided also that, if the Magistrate considers the case one of emergency, he may at anytime attach the subject of dispute, pending his decision under this section] [Section 145 (4) Substituted by Art XXIV of 1978, Section 2.],(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 sub-section (1) shall be final.(6)Party in possession to retain possession until legally evicted. - If the Magistrate decides that one of the parties was or should under the [second proviso] [Substituted by Act XLII of 1956 for 'first proviso'.] to sub-section (4) be treated as being in such possession of the 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 [second proviso] [Substituted by Act XLII of 1956 for 'first proviso'.] to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed.(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 purpose 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 Executive Magistrate] [Substituted by Act II of 1974, Section 2.] to proceed under section 107.

## **146. Power to attach subject of dispute.**

- [(1) If the Magistrate is of opinion that one of the parties was then in such possession, or is unable to decide as to which of them was then in such possession, of the subject of dispute, he may attach it, and draw up a statement of the facts of the case and forward the record of the proceeding to a Civil



Court of competent jurisdiction to decide the question whether any and which of the parties was in possession of the subject of dispute at the date of the order as explained in sub-section (4), of section 145; and he shall direct the parties to appear before the Civil Court on a date to be fixed by him :Provided that [ ] [Sub-section (1), (1-b), (1-c), (1-d) and (1-e) substituted for original sub-section (1) of section 146 by Act XLII of 1956.] the Magistrate who has attached the subject of dispute may withdraw the attachment at any time, if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.(1-a) On receipt of any such reference, the Civil Court shall peruse the evidence on record and take such further evidence as may be produced by the parties respectively, consider the effect of all such evidence, and after hearing the parties, decide the question of possession so referred to it.(1-b) The Civil Court shall, as far as may be practicable, within a period of three months from the date of the appearance of the parties before it, conclude the inquiry and transmit its findings together with the record of the proceeding to the Magistrate by whom the reference was made ; and the Magistrate shall, on receipt thereof, proceed to dispose of the proceeding under section 145 in conformity with the decision of the Civil Court.(1-c) The costs, if any, consequent on a reference for the decision of the Civil Court, shall be costs in the proceedings under this section.(1-d) No appeal shall lie from any finding of the Civil Court given on a reference under this section nor shall any review or revision of any such finding be allowed.(1-e) An order under this section shall be subject to any subsequent decision of a Court of competent jurisdiction].(2)When the Magistrate attaches the subject of dispute, he may, if he thinks fit and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court, appoint a receiver thereof, who, subject to the control of the Magistrate ; shall have all the powers of a receiver appointed under the Code of Civil Procedure :Provided that in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.

## **147. Disputes concerning rights of use of immovable property.**

(1)Whenever any [Chief Judicial Magistrate, or any other Judicial Magistrate of the first class] [Substituted by Act XL of 1966.] is satisfied, from a police report or 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 as explained in section 145, sub-section (2) (whether such rights be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter [in the manner hereinafter provided] [Substituted by Act XLII of 1956 for certain words.] :[Provided that where the dispute likely to cause a breach of peace concerns any land as defined in the [Jammu and Kashmir Agrarian Reforms Act, 1976,] [Substituted by Act II of 1974, Section 4.] the powers under this section shall be exercisable by the District Magistrate or an Executive Magistrate of the first class in the same manner as they are exercisable by a Judicial Magistrate].[(1-a) The Magistrate shall then pursue 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, as far as may be, applicable in the case of such inquiry] [Sub-section (1-a) of section 147 inserted by Act XXIV of 1978, Section 2.](2)If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of 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 institution of the enquiry, 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 seasons or on the last or such occasions before such institution.(3)If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.(4)An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.

### **148. Local inquiry.**

(1)Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or [Chief Judicial Magistrate] [Substituted by Act II of 1974, Section 5.] 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)Order as to costs. - When any costs have been incurred by any party to a proceeding under this Chapter, the Magistrate passing a decision under section 145, section 146 or section 147 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. Such costs may include any expenses incurred in respect of witnesses and of pleaders fees, which the Court may consider reasonable.

## **Chapter XIII**

### **Preventive Action of the Police**

#### **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 such 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 to take cognizable of the commission of any such offence.

#### **151. Arrest to prevent such offences.**

- 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.

## **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 landmark or other mark used for navigation.

## **153. Inspection of weights and measures.**

- 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.

# **Part V – Information to the Police and Their Powers to Investigate**

## **Chapter XIV**

### **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 Government] [Section 154 numbered as sub-section (1) and sub-sections (2) and (3) inserted by Act XXXVII of 1978, Section 26.]may prescribe in this behalf] .[Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 375, section 376, [section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB] [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.] section 376E or section 509 of the Ranbir Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer and such woman shall be provided legal assistance and also the assistance of a healthcare worker or women's organisation or both:Provided further that-(a)in the event of such woman being temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such woman's choice, in the presence of a special educator or an interpreter

or a medical officer, as the case may be; (b) the recording of such information may, as far as practicable, be videographed. ](2)[ A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant against a proper receipt. (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 sub-section (1) may deliver personally or cause to be delivered or send by post the substance of such information, in writing 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. ] [Section 154 numbered as sub-section (1) and sub-sections (2) and (3) inserted by Act XXXVII of 1978, Section 26.]

### **155. Information in non-cognizable 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 in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate [having power to try such case or commit the same for trial.] [Added by Act XL of 1978.] (2) Investigation into non-cognizable cases. - No police officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same 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.

### **156. Investigation into cognizable cases.**

(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 local limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial. (2) No proceeding of 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.

### **157. Procedure where cognizable offence suspected.**

(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 Government] [Substituted for the words 'His Highness' by Act X of 1996.] 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 as follows : Where local investigation dispensed with. -

(a) When any 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 ;Where police officer-in-charge sees no sufficient ground for investigation. - (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 said report his reasons for not fully complying with the requirements of that sub-section and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by [the Government] [Substituted for the words 'His Highness' by Act X of 1996.], the fact that he will not investigate the case or cause it to be investigated.

### **158. Reports under section 157 how submitted.**

(1)Every report sent to a Magistrate under section 157 shall, if [the Government] [Substituted for the words 'His Highness' by Act X of 1996.] so directs be submitted through such superior officer of police as [the Government] [Substituted for the words 'His Highness' by Act X of 1996.] 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 preliminary inquiry.**

- Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

### **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 circumstances of the case ; and such person shall attend as so required] [Section 160 numbered as sub-section (1) by Act XXXVII of 1978, Section 27.]:[Provided that no male person [under the age of fifteen years or above the age of sixty-five years or a woman or a physically or mentally disabled person] [Proviso to section 160 added by Act XLII of 1956.] shall be required to attend at any place other than the place in which such male person or woman resides](2)[ The 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.] [Sub-section (2) inserted by Act XXXVII of 1978, Section 27.]

## 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 Government] [Substituted for the words 'His Highness' by Act X of 1996.] 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 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 record of the statement, of each such person whose statement he records] [Sub-section (3) of section 161 added by Act VIII of 2003.] : [Provided further where the statement of a woman against whom an offence under section 294, section 354, section 354A, section 354B, section 354C, section 354D, section 375, [section 376A, section 376AB, section 376B, section 376C, section 376D, section DA, section DB] [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.] section 376E or section 509 of the Ranbir Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer; and]

## 162. [ [Substituted by Act IX of 2007 Section 3 Section 3 & 4.]

x x x ]["(1) The statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it and a copy of the statement as recorded shall be given forthwith free of cost by the police officer to the person who made the statement, under acknowledgement.] [Substituted by Act IX of 2007 Section 3 Section 3 & 4.] (1-A) Every statement referred to in sub-section (1) shall contain the date, time and place as to when and where the statement was recorded and shall, subject to the provisions of sub-section (3) of section 173, be forthwith forwarded by the officer in-charge of the police station to the Magistrate empowered to take cognizance of the offence upon a police report. (1-B) Any statement referred to in sub-section (1) or any record thereof, whether in a police diary or otherwise, or any part of such statement or record shall not be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made : [Provided that in respect of officers specified in sub-section (1) of section 164-A, where such person is required to be forwarded to the nearest Magistrate for recording his statement under that section, his statement shall not be reduced into writing by the Police Officer under this sub-section : Provided further that where any statement has been recorded under section 164-A, the police officer shall enclose a copy of such statement as part of his police diary recording therein that such person has made such statement before the Judicial Magistrate and proceed further investigation in accordance with the provisions of this Code.] [Substituted by Act IX of 2007, Section 4.] (2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1) of the Evidence Act, 1977 (XIII of 1977), or to affect the provisions of section 27 of that Act.

### **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 the Evidence Act, 1977, section 24. (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.

### **164. Power to record statements and confessions.**

- [Any Judicial Magistrate of the first class or any Judicial Magistrate of the second class specially empowered in this behalf by the High Court] [Substituted by Act XL of 1966.] may, if he is not a police officer, record any statement or confession made to him in the course of an investigation under this Chapter [or under any other law for the time being in force] [Inserted by Act III of 1958.] or at any time afterwards before the commencement of the inquiry or trial. (2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried. (3) A 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 no Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he 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". Explanation. - It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

### **164A. [ Evidence of material witnesses to be recorded by Magistrate in certain cases. [Inserted by Act IX of 2007, Section 5.]**

(1) Any police officer not below the rank of Sub-Inspector, making an investigation of any offence punishable with death or imprisonment for seven years or more, shall, in the course of such investigation, produce all persons whose statement appears to him to be material and essential for proper investigation of the case, to the nearest Judicial Magistrate for recording their statements. (2) Subject to the provisions of sub-section (3), the Magistrate shall record the statements of such persons produced before him under sub-section (1) on oath and shall forward such statements so recorded to the Magistrate by whom the case is to be inquired into or tried. (3) The Magistrate shall, before recording any statement of a person under sub-section (2), satisfy himself that such person is making the statement voluntarily and not under any inducement,

threat or promise.(4)Copies of such statements shall be furnished to the police officer referred to in sub-section (1).](5)[ In case the person making the statement is temporarily or permanently physically or mentally disabled, the Magistrate shall take the assistance of an interpreter or a special educator or a Medical Officer in recording the statement:Provided that if the person making the statement is temporarily or permanent physically or mentally disabled, the statement made by the person, with the assistance of an interpreter or special educator or Medical Officer, may be videographed:Provided further a statement recorded under sub-section (2) of a person who is temporarily or permanently physically or mentally disabled shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Evidence Act, Samvat, 1977 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.] [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]

**164B. [ Medical examination of the victim of rape. [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]**

(1)Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a female registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of a such a practitioner, by any other female registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from time of receiving the information relating to the commission of such offence.(2)The registered medical practitioner, to whom such woman is sent shall, without delay, examine her and prepare a report of his examination giving the following particulars, namely: -

**1. the name and address of the woman and of the person by whom she was brought;**

**2. the age of the woman;**

III. the description of material if any, taken from the person of the woman for DNA profiling;

**1. marks of injury, if any, on the person of the woman;**

**2. general mental condition of the woman; and**

**3. 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 competent to give such consent on her behalf to such examination had been obtained.(5)The exact time of commencement and



completion of the examination shall also be noted in the report.(6)The registered medical practitioner shall, without delay forward the report to the investigation officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of sub-section (5) of that section.(7)Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.Explanation. - For the purposes of this section, "examination" and "registered medical practitioner" shall have the same meanings as in section 53A.]

## **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 within the limits of the police station of which he is in charge, or to which he 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 102 and section 103 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 sub-section (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 with a copy of the same by the Magistrate :Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

## **166. When officer-in-charge of police station may require another to issue search warrants.**

(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-incharge of a police station or a police officer making an investigation under this Chapter

to search, or cause to be searched, any place in the limits of another police station, in accordance with the provisions of section 165 as if such place were within the limits of his own 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 103 and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3).(5)The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4) :Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

## **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 61, 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, Executive or Judicial Magistrate] [Substituted by Act XL of 1966 for 'nearest 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. If he has not 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 -(a)the Magistrate may authorise detention of the accused person, otherwise than in 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 that detention of the accused person in custody under this section for a total period exceeding sixty days and on the expiry of the said period of sixty days 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 section shall be deemed to be so released under the provisions of Chapter XXXIX for the purpose of that Chapter ;(b)[ no Magistrate shall authorize detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage];[Explanation. - If any question arises whether an accused person was produced before the Magistrate as required under clause (b), the production of accused person may be proved by his signatures on the order authorized detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be.] [Added by Governor Act No. 48 of 2018, dated 13.12.2018.](c)no Magistrate of the second class not specially empowered in this behalf by the Government or the High Court, as the case may be, shall authorise detention in the custody of the police.](3)A Magistrate authorising under this section detention in the custody of the police shall

record his reasons for so doing.(4)[ If such order is given by an Executive Magistrate other than the District Magistrate or Sub-Divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate; and if such order is given by a Judicial Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate] [Sub-section (4) substituted by Act XL of 1966.](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 such direction with regard to bail and other matter as he may specify] [Sub-sections (5) and (6) inserted by Act XXXVII of 1978, Section 28.].

### **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.**

- If, upon an investigation under this Chapter, it appears to the officer-in-charge of the police station or to the police officer making the investigation 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, 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.

### **170. Case 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 of 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 from day to day 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, he shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case 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 [Chief Judicial Magistrate] [Substituted by Act XL of 1966.] 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 day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate ; if he is to be forwarded in custody.(5)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 wing his report.

### **171. Complainants and witnesses not to be required to accompany police officer.**

- No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police officer. Complainants and witness not to be subject to restraint. - Or shall be subjected to unnecessary restraint or inconvenience or required to give any security for his appearance other than his own bond. Recusant complainant or witness may be forwarded in custody.
- Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer-in-charge if 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 proceeding 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 by him, and statement or the circumstances, ascertained thorough 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. Neither the accused nor his agent 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 the Evidence Act, 1977, section 161 or section 145, as the case may be, shall apply.

### **173. [ Report of police officer on completion of investigation. [Sections 73 substituted by Act XXXVII of 1978, Section 29.]**

(1)Every investigation under this Chapter shall be completed without unnecessary delay:[Provided that investigation into offences under sections 152, 153-A, 295, 295-A, 296, 297, 298, 435, 436 and 505 of the State Ranbir Penal Code shall be completed within two weeks, and if the investigation is not so completed the investigating officer shall report the causes of the delay to the District Superintendent of Police who shall issue necessary instructions for completion of the investigation]

[Proviso to sub-section (2) substituted by Act XXXVII of 1978, Section 28.](1A)[ The investigation in relation to an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the State Ranbir Penal Code shall be completed within two months.] [Inserted by Jammu and Kashmir Act 35 of 2018, dated 7.12.2018.](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 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, whether with or without sureties ;(g)whether he has been forwarded in custody under section 170.(h)[ whether the report of medical examination of women has been attached where investigation relates to an offence under sections 376, 376A, 376B, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the State Ranbir Penal Code.] [Inserted Act No. 35 of 2018, dated 7.12.2018.](ii)The officer shall also communicate, in such manner as may be prescribed by the 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 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.(4)Wherever 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 along with 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 witness.(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 in expedient in the public interest, he shall indicate that part of the statement and append a not 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 6.(8)Nothing is this shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (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 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.**

(1)The officer-incharge of a police station or some other police officer specially empowered by the [Government] [Substituted by Act XV of 2004 for 'High Court'.] in that behalf, on receiving information that a person-(a)has committed suicide ; or(b)has been killed by another, or by an

animal, or by machinery, or by an accident ; or(c)has died under circumstances raising a reasonable suspicion that some other person has committed an offence, shall immediately give intimation thereof to the nearest magistrate empowered to hold inquests, and, unless otherwise directed by any rule-prescribed by the [Government] [Substituted by Act XV of 2004 for 'High Court'.] or by any general or special order of the District or Sub-Divisional Magistrate, shall proceed to the place where the body 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, burises 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.[(2-A) Where the report relates to death of a person by an accident, such police officer shall forthwith forward copy of the report to the Motor Accidents Claims Tribunal, J&K, State Legal Aid and Advice Board and the person entitled to claim compensation. Such report shall also state the identification marks and other particulars of the vehicle, the name and address of the person who was using the vehicle at the time of the accident and the particulars of the insurer against whom a claim can be made, in respect of the motor vehicle.] [Inserted by Act XXXVI of 1988, Section 6.](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 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 ;(v)the police officer for any other reason considers it expedient so to do ; he shall,]Subject to such rules as the [Government] [Substituted by Act XV of 2004 for 'High Court'.] may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest medical officer or other qualified medical man appointed in this behalf by [Government] [Substituted by Act VII of 2001 for 'His Highness'.] 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)Omitted.(5)The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-Divisional Magistrate or [Executive Magistrate of the first class and any other Executive Magistrate] [Substituted by Act XL of 1966.] especially empowered in this behalf by the [Government] [Substituted by Act XV of 2004 for 'High Court'.].

## **175. Power to summon person.**

(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 acquitted with the facts of the case. Every person so summoned shall be found 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 Magistrates into cause of death.**

(1)[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 such section (3) of section 174] [Substituted by Act XXVI of 1988, Section 7.] the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174 clauses (a), (b) and (c) of sub-section (1), 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. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case. Power to disinter corpses. - (2) 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. Part-VI Proceedings in Prosecutions

## **Chapter XV**

### **The Jurisdiction of the Criminal Courts in Inquiries and Trials**

A. - Place of inquiry or trial

#### **177. Ordinary place of inquiry and trial.**

- Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

#### **178. Power to order cases to be tried in different sessions divisions.**

- Notwithstanding anything contained in section 177, [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may direct that any case 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 under its constitution or under rules framed thereunder, or under this code, section 526.

#### **179. Accused triable in district where act is done or where consequence ensues.**

- When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such

consequence has ensued. Illustrations. (a) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z. (b) A is wounded within the local limits of the jurisdiction of Court X and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the limits of the jurisdiction of either Court Y or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z. (c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y. (d) A is wounded in the [State of Surashtra] [Substituted by A. L. O. 200 'State of Baroda'.] and dies of his wounds in Srinagar. The offence of causing A's death may be inquired into and tried in Srinagar.

### **180. Place of trial where act is 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, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limit of whose jurisdiction either act was done. Illustrations. (a) A charge of an abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed. (b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained. (c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

### **181. Being a thug or belonging to a gang of dacoits, escape from custody, etc.**

(1) The offence of being a thug, of being a thug and committing murder, of dacoity, with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is. Criminal misappropriation and criminal breach of trust. - (2) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property, which is the subject of the offence, was received or retained by the accused person, or the offence was committed. Theft. - (3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen. Kidnapping and abduction. - (4) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or



detained.

**182. Place of inquiry or trial where scene of offence is uncertain or not in one district only ; or where offence is continuing, or consists of several acts.**

- When it is uncertain in which of several local areas an offence was committed, or where an offence is committed partly in one local area and partly in another ; or where an offence is a continuing one ; and continues to be committed in more local areas than one ; or 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.

**183. Offence committed on a journey.**

- An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

**184.**

Omitted.

**185. High Court to decide, in case of doubt, district where inquiry or trial shall take place.**

- Whenever a question arises as to which of two or more Courts subordinate to the High Court ought to inquire into or try any offence, it shall be decided by the High Court.

**186. Power to issue summons or warrant for offence committed beyond local jurisdiction.**

(1) When [a District Magistrate, or Chief Judicial Magistrate, a Sub-Divisional Magistrate, or, if he is specially empowered in this behalf by the Government, or the High Court, as the case may be, an Executive or Judicial Magistrate of the first class,] [Substituted by Act XL of 1966.] sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without Jammu and Kashmir State) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable Magistrates Procedure on arrest in Jammu and Kashmir State, such Magistrate may inquire into the offence as it is had been committed within such local limits, and compel such person in 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 bailable, take a bond, with or without sureties for his appearance before such Magistrate. (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.

### **187. Procedure where warrant issued by subordinate Magistrate.**

(1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than [a District Magistrate, or, a Chief Judicial Magistrate, such Magistrate shall send the person arrested to the District or Sub-Divisional Magistrate, or, as the case may be, to the Chief Judicial Magistrate] [Substituted by Act XL of 1966.] to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued. (2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

### **188. [ Liability of \*State Subject for offences committed out of State. [Added vide Chief Minister's No. 7375 dated 28th August, 1922 published in Government Gazette dated 19th Assuj, 1977.]**

- When a State Subject or State-servant (whether a State Subject or not) commits an offence as mentioned in the Appendix to the \*\*Jammu and Kashmir State Extradition Rules No. IV of 1976 at any place without and beyond the limits of the State, he may be dealt with in respect of such offence as if it had been committed at any place within the State at which he may be found :Provided that no charge as to any such offence shall be inquired into in the State where a demand for extradition has been received and unless the sanction of [the Government] [Substituted by Act XXXVI of 1988, Section 6.] is obtained :Provided also that any proceeding taken against any person under this section which would be a bar to any subsequent proceedings against such person for the same offence if such offence had been committed in the State shall be a bar to further proceeding against him under the State Extradition Rules, 1976, in respect of the same offence in any territory beyond the limits of the State].\* Now permanent residents of the State.\*\* The State Extradition Rules, 1976, were repealed by the Jammu and Kashmir Extradition Act, 2003 (Act No. II of 2003) and the said Act, stands repealed by the Extradition Act, 1962 (Central Act No. 34 of 1962.)

### **189.**

Omitted.B. - Conditions requisite for initiation of proceedings

### **190. Cognizance of offence by Magistrates.**

(1) Except as hereinafter provided, [any Chief Judicial Magistrate and, any other Judicial Magistrate] [Substituted by Act XL of 1966.] specially empowered in this behalf, may take cognizance of any

offence-(a)upon receiving a complaint of facts which constitute such offence ;(b)upon a report in writing of such facts made by any police officer ;(c)upon information received from any person other than a police officer, or upon his own knowledge or suspicion, that such offence has been committed.(2)The [High Court may empower any Judicial Magistrate] [Substituted by Act XL of 1966.] to take cognizance under sub-section (1), clause (a) or clause (b), of offences for which he may try or commit for trial.(3)The [High Court may empower any Judicial Magistrate] [Substituted by Act XL of 1966.] of the first or second class to take cognizance under sub-section (1), clause (c), of offences for which he may try or commit for trial.

## **191. Transfer or commitment on application of accused.**

- When a Magistrate takes cognizance of an offence under sub-section (1), clause (c), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

## **192. Transfer of cases by Magistrates.**

(1)[Any Chief Judicial Magistrate] [Substituted by Act XL of 1966.] may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.(2)[Any Chief Judicial Magistrate may empower any Judicial Magistrate] [Substituted by Act XL of 1966.] of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial ; and such Magistrate may dispose of the case accordingly.

## **193. Cognizance of offences by Courts of Session.**

(1)Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall taken cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.(2)Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as [the High Court] [Substituted by Act XL of 1966.] by general or special order may direct: them to try, or, as the Sessions Judges of the division, by general or special order, may make over to them for trial.

## **194. [ [Section 194 omitted by Act XXX of 1978, Section 30.]**

Omitted]

## **195.**

(1)No Court shall take cognizance-(a)Prosecution for contempt of lawful authority of public servants. - Of any offence punishable under sections 172 to 188 of the Ranbir Penal Code, except on

a complaint in writing of public servant concerned, or of some other public servant to whom he is subordinate ;(b)Prosecution for certain offences against public justice. - Of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228 when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court [except on the complaint in writing of that court or by such officer of the court as that court may authorise in writing in this behalf, or of some other court to which that court is subordinate."] [Substituted by Act IX of 2007, Section 6.](c)Prosecution for certain offences relating to documents given in evidence. - Of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.(2)In clauses (b) and (c) of sub-section (1), the term "Court" includes a civil, revenue or criminal Court, but does not include a Registrar or Sub-Registrar under the Registration Act, 1977.(3)For the purposes of this section, 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 the local limits of whose jurisdiction such Civil Court is 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 ; and(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.(4)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 officers, and attempts to commit them.(5)Where a complaint has been made under sub-section (1), clause (a) by public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.

## **196. Prosecution for offences against the State.**

- No Court shall take cognizance of any offence punishable under Chapter VI or IX-A of the Ranbir Penal Code except section 127, [and section 171-F, so far as it relates to the offence of personation] [Inserted by Act IV of 1957.], or punishable under section 108-A, or section 153-A, or section 294-A, [or section 295-A] [Inserted by Act XVII of 1970.] or section 505 of the Ranbir Penal Code, unless upon made by order of, or under authority from [the Government or District Magistrate or such other officer as may be empowered by the Government in this behalf] [Substituted by Act XVIII of 1970.],

## **196A. Prosecution for certain classes of criminal conspiracy.**

- No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120-B of the Ranbir Penal Code,-(1)in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence, to which the

provisions of section 196 apply, unless upon complaint made by order of, or under authority from [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] or some officer empowered by [the-Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] in this behalf, or(2)in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, life imprisonment or rigorous imprisonment for a term of two years or upwards, unless [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.], or District Magistrate empowered in this behalf by [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] has, by order in writing, consented to the initiation of the proceeding :Provided that where the criminal conspiracy is one to which the provisions of sub-section (4) of section 195 apply, no such consent shall be necessary.

## **196B. Preliminary inquiry in certain cases.**

- In the case of any offence in respect of which the provisions of section 196 or section 196-A apply, a District Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have powers referred to in section 155, sub-section (3).

## **197. [ Prosecution of Judges and public servants. [Section 197 substituted by Act XXVII of 1957.]**

(1)When any person who is Judge within the meaning of section 19 of the Ranbir Penal Code or when any Magistrate, or when any public Servant who is not removable from his office save by or with the sanction of the State Government or the Government of India, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties, no Court shall take cognizance of such offence except with the previous sanction-(a)in the case of persons employed in connection with the affairs of the Union, of the Government of India ; and(b)in the case of persons employed in connection with the affairs of the State, of the Government.(2)The Government of India or the State Government, as the case may be, may determine the person by whom, the manner in which 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.]

**197A. [ Prosecution of Rulers of former Indian States. [Section 197-A inserted by Act XXVII of 1957.]**

(1)in this section-(a)"former Indian State" means any such Indian State as the Government of India may, by notification in the official Gazette, specify for the purposes of this section ;"Ruler" in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution of India.(2)No Court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Government of India.(3)The provisions of sub-section (2) of section 197 shall apply in relation to the prosecution and trial of the Ruler of a former Indian State as they apply in relation to the prosecution and trial of a Judge].

**198. Prosecution for breach of contract, defamation and offences against marriage.**

- No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Ranbir Penal Code, or under sections 493 to 496 (both inclusive) of the same. Code, except upon a complaint made by some person aggrieved by such offence :Provided that where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf:[Provided further that where the husband aggrieved by an offence under section 494 of the said Code is serving in any of [the Armed Forces of Indian Union] [Further proviso to section 198 added by Act III of 2001.] [X X X] [Words 'or His Highness Armed Forces' deleted by Act X of 2010.] 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 (1) of section 199-B may, with the leave of the Court, make a complaint on his behalf].

**198A. [ Prosecution for offence of marital misbehaviour. [Existing section 198-A re-numbered as section 198-B and section 198-A inserted by Act XXVII of 1957.]**

- No Court shall take cognizance of an offence under section 376 of the Ranbir Penal Code, where such offence consists of sexual intercourse by a man with his own wife, the wife being under fourteen years of age, if more than one year has elapsed from the date of the commission of the offence].

**198B. [ Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions. [Existing section 198-A re-numbered as section 198-B and section 198-A inserted by Act XXVII of 1957.]**

(1)Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Ranbir Penal Code, 1989 [\* \* \*] is alleged to have been committed against the President or the Vice-President [or the Governor of the State, or of any other State in India] [Substituted by Act XX of 1967.] or a Minister, 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 accused being committed to it for trial, upon a complaint in writing made by the Public Prosecutor.(2)Every such complaint 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 accused of the offence alleged to have been committed by him.(3)No complaint under sub-section (1) shall be made by the Public Prosecutor except with the previous sanction,-(a)in the case of the President or the Vice-President [or the Governor of the State or of any other State in India] [Substituted by Act XX of 1967.], of any Secretary to the Government authorised by him in this behalf ;(b)in the case of Minister of the [Government of India] [Substituted by Act XX of 1967.] or of a State Government, of the Secretary to the Council of Ministers, if any, or of any Secretary to the Government authorised in this behalf by the Government concerned ;(c)in the case of any other public servant employed in connection with the affairs of the Union or of a State, of the Government concerned.(4)No Court of Session shall take cognizance of an offence under sub-section (1), unless the complaint is made within six months from the date on which the offence is alleged to have been committed.(5)When the Court of Session takes cognizance of an offence under sub-section (1) then, notwithstanding anything contained in this Code, the Court of Session shall try the case [according to] [Substituted by Act XXXVII of 1978, Section 31.] the procedure prescribed for the trial by Magistrates of warrant-cases instituted otherwise than on a police report and 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.[(5-a) Every trial under this section shall be held in camera if either party thereto so desires or if Court of Session so thinks fit to do] [Sub-section (5-a) inserted by Act XX of 1967.],(6)If in any case instituted under this section; the Court of Session by which the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court of session 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 the State or of any other State in India] [Substituted by Act XX of 1967.] to show cause why he should not pay compensation to such accused or to each or any of such accused, where there are more than one.(7)The Court of Session shall record and consider any cause which may be shown by the person so directed and if it is satisfied that the accusation was false and either frivolous or vexation it may, for reasons to be recorded direct 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.(8)All compensations awarded under sub-section (7) may be recovered as if it were a fine.(9)No person

who has been directed to pay compensation under subsection (7) 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.(10)The person who has been ordered under sub-section (7) to pay compensation may appeal from the order, in so far as the order relates to the payment of the compensation, as if he had been convicted in a trial held by the Court of Session.(11)When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (10), 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.(12)The provisions of this section shall be in addition to, and not in derogation of, those of section 198.(13)[Where a case is instituted under this section for the trial of an offence, nothing in sub-section (12) shall be construed as requiring a complaint to be made also by the person aggrieved by such offence.] [Sub-section (13) inserted by Act XX of 1967.]

### **198C. [ Prosecution of offences under section 498-A of the State Ranbir Penal Code. [Inserted by Act XXVI of 1988, Section 8.]**

- No Court shall take cognizance of an offence punishable under section 498-A of the Ranbir Penal Code, Samvat 1989, 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, any other person related to her by blood, marriage or option].

### **198D. [ Cognizance of offence under section 376B of Ranbir Penal Code. [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]**

- No Court shall take cognizance of an offence under section 376B of the Ranbir Penal Code where the person are in a marital relationship, except upon prima facie satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the accused husband.]

### **199. Prosecution for adultery or enticing a married woman.**

- No Court shall take cognizance of an offence under section 497 or section 498 of the Ranbir Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, made, with the leave of the Court, by some person who had care of such woman on his behalf at the time when such offence was committed :Provided that where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf :[Provided further that where such husband is serving in any of [the Armed Forces of Indian Union] [Further proviso to section 199 added by Act VIII of 2001.] [X X X] [Words 'or His Highness armed forces' deleted by Act X of 2010.] 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, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 199-B may, with the leave of the Court, make a complaint on his behalf].

### **199A. Objection by lawful guardian to complaint by person other than person aggrieved.**

- When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.

### **199B. [ Form of authorisation under second proviso to section 198 or 199. [Section 199-B added by Act VIII of 2001.]**

(1)The authorisation of a husband given to another person to make a complaint on his behalf under the second proviso to section 198 or the second proviso to section 199 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 the officer referred to in the said provisos and shall be accompanied by a certificate signed by that officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.(2)Any document purporting to be such an authorisation and complying with the provisions of sub-section (1), 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].

## **Chapter XVI**

### **Complaints to Magistrates**

#### **200. Examination of complainant.**

- A Magistrate taking cognizance of an offence on complaint shall at once [examine the complainant and the witnesses present, if any upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses] [Substituted by Act XLII of 1965 for certain words.] and also by the Magistrate :Provided as follows -(a)when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;(b)when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting

to act in the discharge of his official duties ;(c)when the case has been transferred under section 192 and the Magistrate so transferring it already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

### **201. Procedure by Magistrate not competent to take cognizance of the case.**

(1)If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case he shall return the complaint for presentation to the proper Court with an endorsement to that effect.(2)If the complaint has not been made in writing such Magistrate shall direct the complainant to the proper Court.

### **202. [ Postponement for issue of process. [Section 202 substituted by Notification No. 13 L/84 published in Government Gazette dated 27th Magha, 1984.]**

(1)Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself, or, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police officer, or by such other person as he thinks fit for the purpose of ascertaining the truth or falsehood of the complaint :[Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200].(2)If any inquiry or investigation under this section is made by a person not being a Magistrate or a police officer, such person shall exercise all the powers conferred by this Code on an officer-in-charge of a police station, except that he shall not have power to arrest without warrant.(3)Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.]

### **203. Dismissal of complaint.**

- The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after considering the statement on oath (if any), of the complainant [and the witnesses] [Certain words inserted by Act XLII of 1956.] and the result of the investigation or inquiry, (if any), under section 202, there is in his judgment no sufficient ground for proceeding. In such cases he shall briefly record his reasons for so doing.

## **Chapter XVII**

## **The Commencement of Proceeding before Magistrates**

## **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 one in which, according to the forth column of the Second Schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction. [(1-a) No summon or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.] [Sub-sections (1-a) and (1-b) to section 204 added by Act XLII of 1956.] (1-b) 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). (2) Nothing in this section shall be deemed to affect the provisions of section 90. (3) 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.

## **205. Magistrate may dispense with personal attendance of accused.**

(1) Whenever a Magistrate issue 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 manner hereinbefore provided.

## **205A. [ Special summons in case of petty offence. [Section 205-A, 205-B, 205-C, 205-D and 205-E inserted by Act XXXVII of 1978, Section 32.]**

(1) If, in the opinion of a Magistrate taking cognizance of 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, t .c pleader to plead guilty to the charge on his behalf and to pay the fine tl rough 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 (4 of 1939) or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

## **205B. 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 sub-section (5) of section 173 :Provided that the Magistrate may, after persuing 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 copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

## **205C. 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 ;(ii)the statements and confessions, if any, recorded under section 161 or section 164 ;(iii)any document 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.

## **205D. Commitment of case to Court of Sessions 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 Sessions, he shall-(a)commit the case to the Court of Session ;(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.

## **205E. 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 accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and 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].[Chapter XVIII [Chapter XVIII, sections 206-220, omitted by Act XXXVII of 1978, Section 33]

## **206. to 220.**

Omitted].

## **Chapter XIX The Charge**

Form of charges

## **221. Charge to state offence.**

(1)Every charge under this Code shall state the offence with which the accused is charged. Specific name of offence sufficient description. - (2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only. How stated where offence has no specific name. - (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 the section of the law against which the offence is said to have been committed shall be mentioned in the charge. What implied in 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. Language of charge. - (6) The charge shall be written in the language of the Court or in English if the presiding Judge cannot write in the language of the Court. Previous conviction when to be set out. - (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 tended 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. 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 Ranbir Penal Code ; that it did not fall within any of the general exceptions of the same Code ; and that it did not fall within any of the five exceptions to section 300, or that if it did fall within Exception I, one or other of the three provisions to that exception apply to it. (b) A is charged, under section 326 of the Ranbir Penal Code 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 Ranbir Penal 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 adultery, or criminal intimidation, or extortion, or that he used a false property-mark without reference to the definitions of those crimes contained in the Ranbir Penal Code ; 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 Ranbir Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority or a public servant. The charge should be in those words.

## **222. 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] [Substituted by Act XX of 1967.] in respect of which the offence is alleged to have been committed, and the date 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 134 : Provided that the time included between the first and last of such dates shall not exceed one year.

## **223. When manner of committing offence must be stated.**

- When the nature of the case is such that the particulars mentioned in sections 221 and 222 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. (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.

## **224. 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.

## **225. 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 Ranbir Penal Code, 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 his 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 infer 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 Khuda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haider Baksh and the date of the murder was 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 Haider 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 Haider Baksh on the 20th January, 1882, and Khuda 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 Khuda Baksh. The witnesses present in his defence were witnesses in the case of Haider Baksh. The Court may infer from this that A was misled and that the error was material.

## **226.**

[x x x] [Section 226 omitted by Act XXXVII of 1978, Section 34.]

## **227. Court may alter charge.**

(1) Any Court may alter or add to any charge at any time before judgement is pronounced [x x x] [Words omitted by Act XXXVII of 1978, Section 35.] (2) Every such alteration or addition shall be

read and explained to the accused.

## **228. [ When trial may proceed immediately after alteration. [Section 228 substituted by Act XXXVII of 1978, Section 36.]**

- If the alteration or addition made under section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice 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 charged had been the original charge.]

## **229. When new trial may be directed, or trial suspended.**

- If the [x x x] [Words omitted by Act XXXVII of 1978, Sections 37 and 38.] altered or added charge 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.

## **230. Stay of proceeding if prosecution of offence in altered charge requires previous sanction.**

- If the offence stated in the [x x x] [Words omitted by Act XXXVII of 1978, Sections 37 and 38.] 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 [xxx] [Words omitted by Act XXXVII of 1978, Sections 37 and 38.] altered charge is founded.

## **231. 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 to recall or resummon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

## **232. Effect of material error.**

(1) If any appellate Court or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in charge, it shall direct a new trial to be had upon a charged framed in whatever manner it thinks fit. (2) 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. Illustration. A is convicted of an offence, under section 196 of the Ranbir Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it



probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge, but if it appears probable from the proceedings that A had no such knowledge it shall quash the conviction.

**Joinder of Charges**

### **233. Separate charges for distinct offences.**

- For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

**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.

### **234. Three offences of same kind within a 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 Ranbir Penal Code or of any special or local law : Provided that, for the purposes of this section, an offence punishable under section 379 of the Ranbir Penal Code 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 Ranbir Penal 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.

### **235. 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) Offence falling within two definitions. - 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.

(3) Acts constituting one offence, but constituting when combined a different offence. - 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 anyone, or more, of such acts.

(4) Nothing contained in this section shall affect the Ranbir Penal Code, section 71.

**Illustration** 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 Ranbir Penal Code. (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 Ranbir Penal Code. (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 Ranbir Penal Code.(d)A has in his possession several seals, knowing them to counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 366 of the Ranbir Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Ranbir Penal Code.(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 charges. A may be separately charged with, and convicted of, two offences under section 211 of the Ranbir Penal Code.(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 Ranbir Penal Code.(g)A with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharges 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 Ranbir Penal Code.(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 Ranbir Penal Code.The separate charges referred to in Illustrations (a) to (h) respectively may be tried at the same time.to sub-section (2)-(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 Ranbir Penal Code.(j)Several stolen sacks of corn are made over to A and B, who know 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 and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Ranbir Penal Code.(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 offences under sections 317 and 304 of the Ranbir Penal Code.(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 Ranbir Penal Code; A may be separately charged with and convicted of, offences under sections 471 (read with 466) and 169 of the same code.to sub section (3)-(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 Ranbir Penal Code.

## **236. Where it is doubtful what offence has been committed.**

- 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.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 cheatings.(b)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.

### **237. When a person is charged with one offence, he can be convicted of another.**

- If, in the case mentioned in section 236, 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 that section, he may be convicted of the offence which he is shown to have been committed, although he was not charged with it. Illustration A is charged with a 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.

### **238. 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. (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. (2-a) 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. (3) Nothing in this section shall be deemed to authorise a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section. Illustrations (a) A is charged, under section 407 of the Ranbir Penal Code, 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 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 section 406. (b) A is charged, under section 325 of the Ranbir Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

### **239. 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 of the same transaction ; (b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence ; (c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months ; (d) persons accused of different offence committed in the course of the same transaction ; (e) persons accused of an offence which includes theft, extortion, 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 Ranbir Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence ; and(g)persons accused of any offence under Chapter XII of the Ranbir 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.

#### **240. 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. 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.

### **Chapter XX**

#### **The Trial of Summons-Cases by Magistrates**

##### **241. Procedure in summons cases.**

- The following procedure shall be observed by Magistrates in the trial of summons-cases.

##### **242. Substance of accusation to be stated.**

- When 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 if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

##### **243. Conviction on admission of truth of accusation.**

- If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.[243A. Conviction on plea of guilty in absence of accused in petty cases. - (1) Where a summons has been issued under section 205-A 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 the 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.] [Section 243-A inserted by Act XXXVII of 1978, Section 39.]

#### **244. Procedure when no such admission is made.**

(1) If the Magistrate does not convict the accused under the preceding section or if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), 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 : Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court. (2) The Magistrate may, if he thinks fit, on the application of the complainant or 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 his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

#### **245. Acquittal.**

(1) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal. (2) Sentence.- Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.

#### **246. Finding not limited by complaint or summons.**

- A Magistrate may, under section 243 or section 245, 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.

#### **247. Non-appearance of complainant.**

- If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto 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 proper to adjourn the hearing of the case to some other day : [Provided that 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] [Proviso substituted by Act XLII of 1956].

## **248. 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, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

## **249. Power to stop proceedings, when no complainant.**

- In any case instituted otherwise than upon complaint, [a Judicial Magistrate of the first class, or with the previous sanction of the Chief Judicial Magistrate, any Judicial Magistrate of the second class] [Substituted by Act XL of 1966.] may, for reasons to be recorded. by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction and may thereupon release the accused.

## **249A. [ Power of Court to convert summons-cases into warrant cases.**

**[Section 249-A inserted by Act XXXVII of 1978, Section 40.]**

- 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 should be tried in accordance with the procedure for the trial of warrant cases, the Magistrate may proceed to re-hear the case in the manner provided by this Code for the trial of warrant-cases and may recall any witness who may have been examined.]Frivolous accusations in summons and warrant-cases.

## **250. False, frivolous or vexatious accusations.**

(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 the accusation against them or any of them was false and either frivolous or vexatious, 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 the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding [one-half of the fine he is empowered to impose] [Substituted for certain words by Act XLII of 1956.], as he may determine, be paid by such complainant or informant to the accused or to each or any of them.(2-a) 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 suffer simple imprisonment for a period not exceeding thirty days.(2-b) When any person is imprisoned under sub-section (2-a), the provisions of sections 68

and 69 of the Ranbir Penal Code shall, so far as may be, apply.(2-c) 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.(3)A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second [x x] [Words 'or third' omitted by Act XL of 1966.] class to pay compensation or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.(4)When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), 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.

## Chapter XXI

### Trial of Warrant-Cases by Magistrates

#### **251. [ Procedure in warrant-cases. [Section 251 substituted by Act XLII of 1956.]**

- In the trial of warrant-cases by Magistrates, the Magistrate shall-(a)in any case instituted on a police report, follow the procedure specified in section 251-A ; and(b)in any other case, follow the procedure specified in the other provisions of this Chapter].

#### **251A. [ Procedure to be adopted in cases instituted on police report. [Section 251A inserted by Act XLII of 1956.]**

(1)when, in any case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of a trial, such Magistrate shall satisfy himself that the documents referred to in section 173 have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished.(2)If, upon consideration of all the documents referred to in 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 him.(3)If, upon such documents being considered,, such examination, if any being made and the prosecution and the accused being given an opportunity of being heard, 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.(4)The charge shall then be read and explained to the accused and he shall be

asked whether he is guilty or claims to be tried.(5)If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.(6)If the accused refuses to plead, or does not plead, or claims to be tried, the Magistrate shall fix a date for the examination of witnesses.(7)On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced [in support of the prosecution except such evidence which the accused may admit in an application made in this behalf]: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.(8)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 with the record.(9)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 cross-examination, 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. Such ground shall be recorded by him in writing :Provided that when the accused as cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section unless the Magistrate is satisfied that it is necessary for the purposes of justice.(10)The Magistrate may, before summoning any witness on such application under sub-section (9), require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in Court.(11)If, in any case under this section in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.(12)Where in any case under this section, the Magistrate does not proceed in accordance with the provisions of section 349 or section 562 he shall, if he finds the accused guilty, pass sentence upon him according to law.(13)In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), 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 under sub-section (5) or sub-section (12), take evidence in respect of the alleged previous conviction and shall record a finding thereon.]

## **252. Evidence for prosecution.**

(1)[In any case instituted otherwise than on a police report, when the accused appears] [Substituted by Act XLII of 1956 for 'when the accused appears'.] or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution:Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.(2)The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

## **253. Discharge of accused.**

(1)If upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds 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 reasons to be recorded by such Magistrate, he considers the charge to be groundless.

## **254. Charge to be framed when offence appears proved.**

- If, when such evidence and examination have been taken and made, 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.

## **255. Plea.**

(1)The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.(2)If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

## **255A. Procedure in case of previous convictions.**

- In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), 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 under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.

## **256. Defence.**

(1)If the accused refuses to plead, or does not plead, or claims to be tried, 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. 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. The evidence of any remaining witnesses for prosecution shall next be taken, and, after cross-examination and re-examination (if any) they also shall be discharged. The accused shall then be called/upon to enter upon his defence and produce his evidence.(2)If the accused puts in any written statement the Magistrate shall file it with the record.

## **257. Process for compelling production of evidence at instance of accused.**

(1)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

cross-examination, 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. 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 after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.(2)The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

## **258. Acquittal.**

(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.Conviction. - (2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562 he shall, if he finds the accused guilty, pass sentence upon him according to law.

## **259. Absence of complainant.**

- When the proceedings have been instituted upon complaint, and upon 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.

## **259A. [ Special procedure in certain offences. [Inserted vide Act XII of 1980, Section 15.]**

(1)Notwithstanding anything contained in this Code,-(a)the trial of cases relating to offences under sections 152, 153-A, [153-B, 295, 295-A, 296, 297, 298, 435, 436 and 505] of the State Ranbir Penal Code shall be conducted by a Special Judge who shall be a person who is District and Sessions Judge and appointed by the Government in consultation with the High Court, and if the Special Judge is satisfied that it is expedient in the interests of the public safety or public order so to do, he may direct that throughout or during any part of the proceedings such person or less of persons as he may determine shall be excluded ;(b)the trial of aforesaid offences shall commence within one week from the date of the presentation of the police report under section 173 of this Code and shall as far as possible be completed within a period of three months. The proceedings of the Court shall be held from day-to-day ;(c)the witnesses of the prosecution shall be bound down by the investigating officer to appear before the Court on the date fixed for the hearing of police report ;(d)the list of witnesses shall be submitted within two days of the close of prosecution evidence and statement of the accused, if any. These witnesses shall be summoned and served, by the Court:Provided that the Court may at the request of the defence summon witnesses other than those included in the list for reasons to be recorded-(2)When trying any case under sub-section (1), the Special Judge may also try any offence other than an offence specified in clause (a) of subsection (1) with which the accused

may under this Code be charged at the same trial.

### **259AA. [ Special Procedure in offences of sexual assault. [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]**

(1)The trial of offences under [section 376, section 376A, section 376B, section 376C, section 376D, section 376DA, Section 376DB and section 376E] shall commence within one week from the date of the presentation of the police report under section 173 of this Code and shall as far as possible be completed within a period of six months. The proceedings of the Court shall preferably be held on day to day basis:Provided that a report on the status of the trial shall be sent by the Trial Court to the High Court after every after every three months with reasons of non-conclusion of trial.(2)The witnesses of the prosecution shall be bound to appear before the Court on the date fixed for the hearing on a notice received from Investigating Officer, Public Prosecutor or Court.(3)The list of defence witnesses shall be submitted by the accused within two working days of the closure of prosecution evidence and recording of statement of the accused, if any. These witnesses shall be summoned and served by the Court:Provided that the court may at the request of the defence summon witnesses other than those included in the list for reasons to be recorded.(4)When trying any under any case under sub-section (1), the Court may also try any offence other than an offence specified in said sub-section with which the accused may under this Code be charged at the same trial.]

### **259B. Application of other provisions of the Code.**

- The provisions of this Code in so far as they may be applicable and in so far as they are not inconsistent with the provisions contained in section 259-A, shall apply to all matters connected with, arising from or consequent upon, a trial under section 259-A],

## **Chapter XXII**

### **Summary Trials**

### **260. Power to try summarily.**

(1)Notwithstanding anything contained in this Code-(a)[ the Chief Judicial Magistrate] [Clauses (a), (b) and (c) substituted by Act XL of 1966.], [or] [Word 'or' inserted by Act XXXVII of 1978, Section 41.](b)Any Judicial Magistrate of the first class specially empowered in this behalf by the High Court, [xx] [Clause (c) and the word 'and' in clause (b) omitted by Act XXXVII of 1978, Section 41.](c)[Omitted] [Clause (c) and the word 'and' in clause (b) omitted by Act XXXVII of 1978, Section 41.].may, if he "[thinks fit,] [Words substituted by Act XXXVII of 1978, Section 41., Section 41.] try in a summary way all or any of the following offences(a)offences not punishable with death, life imprisonment or imprisonment for a term exceeding six months ;(aa)[ offences relating to disobedience to orders promulgated, and punishable under section 188 of the Ranbir Penal Code.] [Clause (aa) inserted by Act XIV of 1985, Section 2.](b)offences relating to weights and measures

under sections 264, 265 and 266 of the Ranbir Penal Code ;(c)hurt, under section 323 of the same Code ;(d)theft, under section 379, 380 or 381 of the same Code, where the value of property stolen does not exceed [two hundred rupees] [Substituted by Act XLII of 1956 for 'fifty rupees'.] ;(e)dishonest misappropriation of property, under section 403 of the same Code, where the value of the property misappropriated does not exceed [two hundred rupees] [Substituted by Act XLII of 1956 for 'fifty rupees'.] ;(f)receiving or relating stolen property, under section 411 of the same Code, where the value of such property does not exceed [two hundred rupees] [Substituted by Act XLII of 1956 for 'fifty rupees'.] ;(g)assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed [two hundred rupees] [Substituted by Act XLII of 1956 for 'fifty rupees'.] ;(h)mischief, under section 427 of the same Code ;(i)house-trespass, under section 448 and offences under sections 451, 453, 454, 456 and 457 of the same Code ;(j)insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;(k)abetment of any of the foregoing offences ;(l)an attempt to commit any of the foregoing offences, when such attempt is an offence ;(m)offence under section 20 of the Cattle Trespass Act :Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.(2)When in the course of a summary trial it appears to the [xxx] [Magistrate Words omitted by Act XXXVII of 1978.] that the case is one; which is of a character which renders it undesirable that it should be tried summarily, the Magistrate [xxx] [Words omitted by Act XXXVII of 1978, Section 41.] shall recall any witnesses who may have been examined and proceed to rehear the case in manner provided by this Code.[261. Omitted] [Section 261 omitted by Act XXXVII of 1978, Section 42.]

## **262. Procedure for summons and warrant case applicable.**

(1)In trials under this Chapter, the procedure prescribed for summons-cases shall be followed [xxx] [Words omitted by Act XXXVII of 1978, Sections 43 and 44.] except as hereinafter mentioned.Limit of Imprisonment. - (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 cases where there is no appeal.**

- In cases where no appeal lies, the [Judicial Magistrate] [Substituted by Act XL of 1966.] [xxx] [Words omitted by Act XL of 1966, Sections 43 and 44.] need not record the evidence of the witness or frame a formal charge ; but he [xxx] [Words omitted by Act XXXVII of 1978, Sections 43 and 44.] shall enter in such form as [the High Court] [Substituted by Act XL of 1966.] may direct the following particulars(a)the serial number ;(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(d), clause (e), clause (f), or clause (g) 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, and, in the case of a conviction, a brief statement of the reasons therefor ;(i)the sentence or other final order ; and(j)the date on which the proceedings terminated.

**264. [ Record in appealable cases. [Section 264 substituted by Act XLII of 1956.]**

- In every case tried summarily by a Magistrate [xxxx] in which an appeal lies, such Magistrate [xxxx] [Words omitted by Act XXXVII of 1978, Section 45.] shall record the substance of the evidence and also the particulars mentioned in section 263 and shall before passing any sentence, record a judgment in the case].

**265. [ Language of record and judgment. [Section 265 substituted by Act XXXVII of 1978 Section 46.]**

- Records made under section 263 and judgments recorded under section 264 shall be written by the Presiding Officer, either in English or in the language of the Court.]

## **Chapter XXIIA**

### **Plea Bargaining**

**265A. [ Application of the Chapter. [Inserted by Act IX of 2007, Section 7.]**

(1) This Chapter shall apply in respect of an accused against whom—(a) the report has been forwarded by the officer in charge of the police station under section 173 alleging therein that an offence appears to have been committed by him other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years has been provided under the law for the time being in force ; or (b) a Magistrate has taken cognizance of an offence on complaint, other than an offence for which the punishment of death or of imprisonment for life, or of imprisonment for a term exceeding seven years, has been provided under the law for the time being in force and after examining complainant and witness under section 200, issue the process under section 204, but does not apply where such offence affects the socio-economic conditions of the State or has been committed against a woman, or a child below the age of fourteen years. (2) For the purpose of sub-section (1), the Government shall by notification, determine the offences under the law for the time being in force, which shall be the offence affecting the socio-economic condition of State.

**265B. Application for plea bargaining.**

(1) An accused of an offence may file application for plea-bargaining in the court in which such offence is pending for trial. (2) The application under sub-section (1) shall contain a brief description of the case relating to which the application is filed including the offence to which the case relates and shall be accompanied by an affidavit sworn by the accused stating therein that he has voluntarily preferred, after understanding the nature and extent of punishment provided under the law for the offence, the plea bargaining in his case and that he has not previously been convicted by a court in a case in which he has been charged with the same offence. (3) After receiving the

application under sub-section (I), the court shall issue notice to the public prosecutor or the complainant of the case, as the case may be, and to the accused to appear on the date fixed for the case.(4)When the public prosecutor or the complainant of the case, as the case may be, and the accused appear on the date fixed under sub-section(3)the court shall examine the accused in camera, where the other party in the case shall not be present to satisfy itself that the accused has tiled the application voluntarily and where-(a)the court is satisfied that the application has been filed by the accused voluntarily, it shall provide time to the public prosecutor or the complainant of the case as the case may be, and the accused to work out a mutually satisfactory disposition of the case which may include giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case ;(b)the court finds that the application has been filed involuntarily by the accused or he has previously been convicted by the court in a case in which he had been charged with the same offence, it shall proceed further in accordance with the provisions of this Code from the stage such application has been filed under sub-section (1).

### **265C. Guidelines for mutually satisfactory disposition.**

- In working out a mutually satisfactory disposition under clause (a) of sub-section (4) of section 265-B, the court shall follow the following procedure, namely :-(a)In a case instituted on a police report, the court shall issue notice to the public prosecutor, the police officer who has investigated the case, the accused and the victim of the case to participate in the meeting to work out a satisfactory disposition of the case :Provided that throughout such process of working out a satisfactory disposition of the case, it shall be the duty of the court to ensure that the entire process is completed voluntarily by the parties participating in the meeting :Provided further that the accused ; if he so desires, may participate in such meeting with his pleader, if any engaged in the case.(b)In a case instituted otherwise than on police report, the court shall issue notice to the accused, the complainant of the case and the victim of the case to participate in a meeting to work out a satisfactory disposition of the case :Provided that it shall be the duty of the Court to ensure throughout such process of working out a satisfactory disposition of the case, that it is completed voluntarily by the parties participating in the meeting :Provided further that if the victim of the case or the accused, as the case may be, so desires, he may participate in such meeting with his pleader engaged in the case.

### **265D. Report of the mutually satisfactory disposition to be submitted before the Court.**

- Where in a meeting under section 265-C, a satisfactory disposition of the case has been worked out, the court shall prepare a report of such disposition which shall be signed by the Presiding Officer of the court and all other persons who participated in the meeting and if no such disposition has been worked out, the court shall record such observation and proceed further in accordance with the provisions of the Code from the stage the application under sub-section (1) of section 265-B has been filed in such case.

## **265E. Disposal of the case.**

(1) Where a satisfactory disposition of the case has been worked out, under section 265-D, the court shall dispose of the case in the following manner, namely—(a) The court shall award the compensation to the victim in accordance with the disposition under section 265-D and hear the parties on the quantum of the punishment, releasing of the accused on probation of good conduct or after admonition under section 360 or for dealing with the accused under the provisions of the Jammu and Kashmir Probation of Offender Act, 1966 or under the Jammu and Kashmir Juvenile Justice Act, 1997 or any other law for the time being in force and follow the procedure specified in the succeeding clauses for imposing the punishment on the accused. (b) After hearing the parties under clause (a), if the court is of the view that section 562 or the provisions of the Jammu and Kashmir Probation of Offenders Act, 1966 or the Jammu and Kashmir Juvenile Justice Act, 1997 or any other law for the time being in force are attracted in the case of the accused may release the accused on probation or provide the benefit of any such law, as the case may be. (c) After hearing the parties under clause (b), if the court find that minimum punishment has been provided under the law for the offence committed by the accused, it may sentence the accused to half of such minimum punishment. (d) In case after hearing the parties under clause (b) the Court finds that the offence committed by the accused is not covered under clause (b), or clause (c), then, it may sentence the accused to one-fourth of the punishment provided or extendable as the case may be, for such offence.

## **265F. No disability on punishment under this Chapter.**

- Notwithstanding anything contained in any law for the time being in force the punishment imposed under this Chapter shall be considered expiatory in nature and no person punished under this Chapter shall be liable to any disability under any law for the time being in force on the ground that he has been punished under this Chapter.

## **265G. Judgement of the court.**

- The court shall deliver its judgement in terms of section 265-E in the open court and the same shall be signed by the Presiding Officer of the court.

## **265H. Finality of the Judgement.**

- The judgement delivered by the court under section 265-G shall be final and no appeal (except the special leave petition under Article 136 and writ petition under Articles 226 and 227 of the Constitution of India or writ petition under section 103 of the Constitution of Jammu and Kashmir) shall lie in any court against such judgement.

## **265I. Powers of the court in plea-bargaining.**

- A court shall have, for the purpose of discharging its functions under this chapter, all the powers vested in respect of bail, trial of offences and other matter relating to the disposal of a case in such court, under this Code.

## **265J. Period of detention undergone by the accused to be set off against the sentence of imprisonment.**

- The provisions of section 397-A shall apply, for setting off the period of detention undergone by the accused against the sentence of imprisonment imposed under this chapter, in the same manner as they apply in respect of the imprisonment under other provisions of this Code.

## **265K. Savings.**

- The provisions of this chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Code and nothing in such other provisions shall be construed to constrain the meaning of any other provisions of this chapter. Explanation :- For the purpose of this chapter, the expression "public prosecutor" has the meaning assigned to it under clause (a) of section 4." [Chapter XXIII] [Chapter XXIII containing sections 266 to 336 inclusive substituted by Act IX of 2007, Section 47.] Trial before a Court of Session

## **266. Trial to be conducted by Public Prosecutor.**

- In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor .

## **267. Opening case for prosecution.**

- When the accused appears or is brought before the Court in pursuance of a commitment of the case under section 205-D 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.

## **268. 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 no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

## **269. 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 Sessions, he may frame a charge against the accused and by order, transfer the case to the Chief Judicial Magistrate or any Judicial Magistrate competent to try the case, and thereupon the Chief Judicial Magistrate or any Judicial Magistrate to whom a case may have been transferred shall try the offence in accordance with the procedure provided for the trial of warrant cases instituted on police report,] [Substituted by Act XVII of 1987, Section 2.](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 sub-section (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.

## **270. Conviction on plea of guilty.**

- If the accused pleads guilty, the Judge shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him thereon.

## **271. 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 270 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.

## **272. 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 except such evidence which the accused may admit in an application made in this behalf] [Substituted by Act No. I of 2010, dated 27 January, 2010.].(2)The Judge may, in his discretion 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.

## **273. Acquittal.**

- If after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Judge considers that there is no evidence that the accused committed the offence, the Judge shall record an order of acquittal.

## **274. Entering upon defence.**

(1)Where the accused is not acquitted under section 273, 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.

## **275. Arguments.**

- When the examination of the witnesses (if any) for the defence is complete, the prosecution 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 submission with regard to such point of law.

## **276. 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 562, hear the accused on the question of sentence, and then pass sentence on him according to law.

## **277. Previous conviction.**

- In a case where a previous conviction is charged under the provisions of sub-section (7) of section 221, 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 270 or section 276, 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 270 or section 276.[278 to 336.] [Chapter XXIII contains sections 266 to 277 only, Sections 278 to 336 refer to trial by jury. Hence omitted] Omitted.

# **Chapter XXIV**

## **General Provisions as to Inquiries and Trials**

## **337. Tender of pardon to accomplice.**

(1)In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment [which may extend to seven years] [Substituted by Act XLII of 1956 for certain words.] or any offence under any of the following sections of the Ranbir Penal Code, namely, sections [161, 165] [Inserted by Act XLII of 1966.], [165-A] [Words and figures '165-A' inserted by Act III of 1958.], 216-A, 369, 401, 435 and 477-A, [a Chief Judicial Magistrate, a Sub-Divisional Magistrate or any Judicial Magistrate of the first class may, at any stage of the investigation or enquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence 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 :] [Substituted by Act XL of 1966.] Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the [Chief Judicial Magistrate] [Substituted by Act XL of 1966.] shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the [Chief Judicial Magistrate] [Substituted by Act XL of 1966.] has been obtained to the exercise thereof. (1-a) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record : Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost. (2) Every person accepting a tender under this section shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any. (2-a) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be. [(2-b) In every case where the offence is punishable under section 161 or section 165 or section 165-A of the Ranbir Penal Code, 1989 (XII of 1989) or sub-section (2) of section 5 of the Prevention of Corruption Act, 2006 (XIII of 2006), and where a person has accepted a tender of pardon and has been examined under sub-section (2) then notwithstanding anything contained in sub-section (2-a) the Magistrate shall, without making any further inquiry, send the case for trial to the Court of the Special Judge appointed under the Criminal Law Amendment Act, 1958.] [Sub-section (2-b) inserted by Act III of 1958.] (3) Such person, unless he is already on bail, shall be detained in custody until the termination of the trial.

### **338. Power to direct tender of pardon.**

- At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'District Magistrate'.] to tender, a pardon on the same condition to such person.

### **339. Commitment of person to whom pardon has been tendered.**

(1) Where a pardon has been tendered under section 337 or section 338, and the Public Prosecutor certifies that in his opinion any person who has accepted such tender 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 : Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such, tender was made in which case it shall be for the prosecution to prove that such conditions

have not been complied with.(2)The statement made by a person who has accepted a tender of pardon may be given in evidence against him at such trial.(3)No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court

### **339A. Procedure in trial of person under section 339.**

- The Court trying under section 339 a person who has accepted a tender of pardon shall-(a)if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (1) ; and(b)if the Court 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 the pardon was made.(2)If the accused does so plead, the Court shall record the plea and proceed with the trial, and the Court [ ] [Word omitted by vide Act XXXVII of 1978, Section 48.] or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.

### **340. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.**

(1)Any person accused of an offence before a criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.(2)Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings.

### **340A. [ Legal aid to accused at State expenses in certain cases. [Section 340-A inserted by Act XXXVII of 1978, Section 49.]**

(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 concurrence of the Government, make rules providing for-(a)the mode of selecting pleaders for defence under sub-section (1);(b)the facilities to be allowed to such pleaders by the Court ;(c)the fee payable to such pleaders by the Government, and generally for carrying out the purposes of sub-section (1).(3)The Government may by notification, direct that, as from such date as may be specified in the notification the provisions of subsections (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.]

### **341. Procedure where accused does not understand proceedings.**

- If the accused, though not insane, 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 inquiry results in a commitment, or if such trial results 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.

### **342. Power to examine the accused.**

(1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. (2) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them ; but the Court may draw such inference from such refusal or answers as it thinks just. (3) 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. (4) [ No oath shall be administered to the accused when he is examined under sub-section (1)] [Section 342 (4) substituted by Act XLII of 1956.]. (5) [ The court may take help of Public Prosecutor and defence counsel in preparing relevant questions which are to be put to accused and the court may permit filing of written statement by the accused as sufficient compliance of this section.] [Added by Governor Act No. 48 of 2018, dated 13.12.2018.]

### **342A. [ Accused person to be competent witness. [Section 342-A inserted by Act XLII of 1956.]**

- 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 ; or (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].

### **343. No influence to be used to induce disclosures.**

- Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

### 344. 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] [Section 344 (1) re-numbered as sub-section (1-a) of that section and sub-section (1) inserted by Act LXII of 1956.].[(1-a) If from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial the Court may, if it thinks fit, order in writing, by stating the reasons therefor from time to time, 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] [Section 344 (1) re-numbered as sub-section (1-a) of that section and sub-section (1) inserted by Act LXII of 1956.] :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] [Further proviso added by Act XLII of 1956.],(2)Every order made under this section by a Court other than the High Court shall be in writing signed by the presiding Judge or Magistrate.Explanation - Reasonable cause for remand. - If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and if appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

### 345. Compounding offences.

(1)The offences punishable under the sections of the Ranbir 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 :-

Offence	Sections of the Ranbir Penal Code applicable	Persons by whom offence may be compounded
Uttering words, etc., with deliberate intent to wound thereligious feelings of any person.		The person whose religious feelings are intended to bewounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining, for confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force.	352, 355	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour.	374	

		The person compelled to labour.	
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.	
Criminal trespass.	447		The person in possession of the property trespassed upon.
House-trespass.	448		
Criminal breach of contract of service.	490, 491, 492	The person with whom the offender has contracted.	
Adultery.	497		The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498		
Defamation.	500		The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501		
Sale of printed or engraved substance containing defamatory matter, knowing to contain such matter.			
Insult intended to provoke a breach of the peace.	504	The person insulted.	
Criminal intimidation, except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.	
Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.	

(2) The offences punishable under the sections of the Ranbir Penal 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 :-

Offence	Sections of the Ranbir Penal	Persons by whom offence may be compounded
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	Code applicable	
[Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt.	325	“
Voluntarily causing grievous hurt on grave and sudden provocations.	335	“
Causing hurt by doing an act so rashly, negligently as to endanger human life or the personal safety of others.	324	The person to whom hurt is caused.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	“
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days.	344	The person confined.
Wrongfully confining a person in secret.	346	“
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees.	381	“
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred and fifty rupees.	407	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a clerk or servant, where the value of property does not exceed two hundred and fifty rupees.	408	“
Cheating.	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	The person cheated.
Cheating by personation.	419	“



Cheating and dishonestly inducing delivery of property or themaking, valuable security.	420	“
Fraudulent removal or concealment of property, etc., toprevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for hiscreditors a debt or demand due to the offender.	422	“
Fraudulent execution of deed or transfer containing falsestatement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	“
Mischief by killing or maiming animal of the value of tenrupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle etc. of any value orany other animal of the value of fifty rupees or upwards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfullydiverting water when the only loss or damage caused' is loss ordamage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft)punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark.	482	The person to whom loss of injury is caused by such use.
Counterfeiting trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or fortrade or manufacturing purpose, goods marked with a counterfeitrade or property mark.	486	The person whose trade or property mark is counterfeited.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting anyobject intending to insult the modesty of a woman or intrudingupon the privacy of woman.	509	The woman whom it was intended to insult or whose privacy wasintruded upon].

[Substituted by Act XLII of 1966 for the former table.](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 offence) may be compounded in like manner.(4)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.(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.(5-a) The High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section.(6)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.(7)No offence shall be compounded except as provided by this section.

### **346. Procedure of Magistrate in cases which he cannot dispose of.**

(1)If, in the course of an inquiry or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate having jurisdiction, as the District Magistrate [or the chief judicial magistrate, as the case may be,] [Words inserted by Act XL of 1966.] 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.

### **347. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.**

(1)If in an enquiry before a Magistrate, or in any trial before a Magistrate, before signing judgement, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall commit the accused under the provisions hereinbefore contained.(2)If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

### **348. Trial of persons previously convicted of offences against coinage, stamp-law or property.**

(1)Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Ranbir Penal-Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either if those Chapters with imprisonment for a term of three years or upwards, shall, if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused be committed to the Court of Session or High Court, as the case may be, 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[xxxx] [Proviso to sub-section (1) and the words in sub-section (2) omitted by Act XXXVII of 1978, Section 50.](2)When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed [ ] [Proviso to sub-section (1) and the words in sub-section (2) omitted by Act XXXVII of 1978, Section 50.]

### **349. Procedure when Magistrate cannot pass sentence sufficiently severe.**

(1)Whenever a [Judicial Magistrate of the second class,] [Substituted by Act XL of 1966.] having jurisdiction, 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 that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings and forward the accused to the [Chief Judicial Magistrate] [Substituted by Act XL of 1966.] to whom he is subordinate.(1-a) 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] [Substituted by Act XL of 1966.],(2)the 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 judgement sentence or order in the case as he thinks fit, and as is according to law:Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

### **350. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.**

(1)Whenever any 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 Magistrate who has and who exercises such jurisdiction, the 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 Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest 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.] [Substituted by Act XLII of 1956 for certain words at the end of section 350 (1) and former proviso, (For earlier amendment see Act XIV of 1993).](2)Nothing in this section applies to cases in which proceedings have been stayed under section 346, or in which proceedings have been submitted to a superior Magistrate under section 349.(3)When a case is transferred under the- provisions of this Code from one Magistrate to another, 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).

### **350A. [] [Section 350-A omitted by Act XXXVII of 1978, Section 51.]**

Omitted.

### **350AA. [ Application of section 350 to proceedings in Sessions Court. [Section 350-AA inserted by Act XXV of 1973, Section 2.]**

- The provisions of section 350 shall apply in relation to any inquiry or trial by a Sessions Judge in the same manner as they apply to an inquiry or trial by a Magistrate with the substitution of the word "Magistrate" by the words "Sessions Judge" wherever occurring therein.]

### **351. Detention of offenders attending Court.**

(1) Any person attending a criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned. (2) When the detention takes place [xxx] [Words omitted by Act XXXVII of 1978, Section 52.] after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses reheard.

### **352. Courts to be open.**

- [(1) The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open 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. (2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under [section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section DA, section DB and section 376E] [Section 352 renumbered as sub-section (1) thereof and after (1), as so re-numbered (2) and (3) inserted by Act XXVI of 1988, Section 9.] of the Ranbir 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].

## **Chapter XXV**

## **The Mode of Taking and Recording Evidence in Inquiries and Trials**

### **353. Evidence to be taken in presence of accused.**

- Except as otherwise expressly provided, all evidence taken under Chapters [xx] [Figures 'XVIII' omitted by Act XXXVII of 1978, Section 53.], XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader [or, as the case may be, through the medium of Electronic Video Linkage when the court on its own motion or on an application so directs in the interests of justice] [Added by Governor Act No. 48 of 2018, dated 13.12.2018.]. [Provided that where the evidence of a person below the age of

eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the Court may take appropriate measures to ensure that such person is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.]  
[Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]

### **354. Manner of recording evidence.**

- In inquires and trials (other than summary trials) under this Code by or before a Magistrate or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

### **355. Record in summons-cases and in trials of certain offences by first and second class Magistrates.**

(1) In summons-cases tried before a Magistrate, and in cases of the offences mentioned in sub-section (1) of section 260, clauses (b) to (m), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds. (2) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record. (3) If the Magistrate is prevented from making a memorandum as above required he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

### **356. Record in other cases.**

(1) In all other trials before Courts of Session and Magistrates, and in all inquiries under [Chapter XII] [Substituted by Act XXXVII of 1978, Section 54], the evidence of each witness shall be taken down in writing [in the language of the Court either by the Magistrate or Sessions Judge, with his own hand or from his dictation in open Court] [Substituted by Act XLII of 1956 for 'in the language of the Court by the Magistrate or Sessions Judge.'] or in his presence and hearing and under his personal direction and superintendence and [the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record.] [Substituted by Act XLII of 1956 for 'shall be signed by the Magistrate or Sessions Judge.'](2) Evidence given in English. - When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand [or cause it to be taken down in writing in that language from his dictation in open Court] [Inserted by Act XLII of 1956.], and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record. Any other language, not being English, then the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record. (3) Memorandum when evidence not taken down by the Magistrate or Judge himself. - [In cases in which the Magistrate or Sessions

Judge does not either take down the evidence with his own hand or cause it to be taken down in writing from his dictation in open Court,] [Substituted by Act XLII of 1956 for 'in cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge'.] he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes ; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.(4)If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

### **357. Language of record of evidence.**

(1)[The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court.(2)The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record :Provided that [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may direct the Sessions Judge or Magistrate to take down the evidence in the English. Language or in the language of the Court, although such language is not his mother-tongue.

### **358. Option to Magistrate in cases under section 355.**

- In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] has made the order referred to in section 357, in the manner provided in the same section.

### **359. Mode of recording evidence under section 356 or section 357.**

(1)Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.(2)The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

### **360. Procedure in regard to such evidence when completed.**

(1)As the evidence of each witness taken under section 356 or section 357 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 Sessions 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.(3)If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted, to him in the language in which it was given, or in a language which he understands.(4)[ Nothing contained in sub-sections (1) to (3) shall apply when the evidence under section 353 is taken through the medium of Electronic Video Linkage.(5)The evidence taken through the medium of Electronic Video Linkage in electronic form shall be the electronic record within the meaning of clause (t) of section 2 of the Information Technology Act, 2000 (Central Act No 21 of 2000).] [Added by Governor Act No. 48 of 2018, dated 13.12.2018.]

### **361. 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 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 in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

### **362.**

Omitted.

### **363. Remarks respecting demeanour of witness.**

- When a Sessions 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.

### **364. Examination of accused how recorded.**

(1)Whenever the accused is examined by any Magistrate, or by any Court, the whole of such examination, including every question put to him and every answer given by him, shall-be recorded in full, in the language in which he is examined, or if that is not practicable, in the language of Court or in English; and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him, in a language which he understands, and

he shall be at liberty to explain or add to his answers.(2)When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge- 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.(3)In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with latter language ; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.(4)Nothing in this section shall be deemed to apply to [the examination of an accused person either through the medium of Electronic Video Linkage or under section 263] [Substituted 'the examination of an accused person under section 263' by Governor Act No. 48 of 2018, dated 13.12.2018.].

### **365. Record of evidence in High Court.**

- The High Court shall, from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the evidence shall be taken down in accordance with such rule.

## **Chapter XXVI**

## **The Judgment**

### **366. Mode of delivering judgment.**

(1)The judgment in every trial in any criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,-(a)in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and(b)in the language of the Court, or in some other language which the accused or his pleader understands :Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.(2)The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.(3)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 defeat in serving, on the parties or their pleader's, or any of them, the notice of such day and place.(4)Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.



### **367. Language of judgment, Contents of judgment.**

(1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court or from the dictation of such presiding officer in the language of the Court, or in English ; and shall contain the point or points for determination, the decision thereon and the reasons for the decision ; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him. (2) It shall specify the offence (if any) of which, and the section of the Ranbir Penal Code or other law under which the accused is convicted, and the punishment to which he is sentenced. (3) Judgment in alternative. - When the conviction is under the Ranbir Penal Code 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. (4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty. (5) [ Omitted] [Sub-section (5) omitted by Act XXXVII of 1978. Section 55.]. (6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.

### **368. Sentence of death.**

(1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead. (2) [ Omitted] [Section 368 (2) omitted by Act XLII of 1956].

### **369. Court not to alter-judgment.**

- Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of the High Court, by the constitution of High Court, no Court, when it has signed its judgment, shall alter or review the same, except to correct clerical error.

### **370.**

Omitted.

### **371. Copy of judgment, etc. to be given to, accused on application.**

(1) On the application of the accused a 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. Such copy shall, in any case other than a summons-case, be given free of cost. (2) Case of person sentenced to death or life imprisonment. - When the accused is sentenced to death [or imprisonment for life] [Inserted by Law Department Notification No. 7-L/86 published in Government Gazette dated 14th Bhadon 1986.] by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred. (3) [ When the accused is sentenced to imprisonment then, without prejudice to the provisions of sub-section (1), a copy of the finding and sentence shall, as soon as may be after the delivery of the judgment, be given

to the accused free of cost] [Sub-section (3) of section 371 inserted by Act XLII of 1956.],

### **372. Judgment when to be translated.**

- The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court, and the accused so requires, translation thereof into the language of the Court shall be added to such record.

### **373. Court of Session to send copy of finding and sentence to District Magistrate.**

- In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

## **Chapter XXVII**

### **Submission of Sentences for Confirmation**

#### **374. [ Sentence of death or life imprisonment to be submitted by Court of Session. [Section 374 substituted by A. L. O. 2008.]**

- When the Court of Session passes sentence of death or life imprisonment, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.]

#### **375. 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.] [Substituted by Act XXXVII of 1978, Section 56.] (3) When the inquiry and the evidence (if any) are .not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

#### **376. Power of High Court to confirm sentence or annul conviction.**

- [In any case submitted under section 374, the High Court] [Substituted by A. L O. 2008 for 'In any case submitted under section 374, His Highness'.]-(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 Sessions Court might have convicted him, or order a new trial on the same, or an

amended charge [x x x x] [Words 'or order further inquiry and taking of additional evidence' deleted by Act XXV of 2011.] ; 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] [First proviso to section 376 substituted and second proviso deleted by Act XXV of 2011. (for earlier amendment see Act XIII of 2001 and X of 2010).].[x x x x x x] [First proviso to section 376 substituted and second proviso deleted by Act XXV of 2011. (for earlier amendment see Act XIII of 2001 and X of 2010).].

### **377.**

Omitted.

### **378. [ Procedure in case of difference of opinion. [Section 378 substituted by A. L O. 2008.]**

- When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case shall be heard by a full Bench, and the judgment or order shall follow the opinion of the Full Bench or of the majority of the Full Bench.]

### **379. 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, or life imprisonment, the proper officer of the High Court shall, without delay, after the order of conformation or other order has been made by the [the High Court,] [Substituted by A. L O. 2008 for 'His Highness'.] send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

### **380. Procedure in cases submitted by Magistrate not empowered to ad under section 562.**

- Where proceedings are submitted to a [Judicial Magistrate of the first class] [Substituted by Act XL of 1966.] as provided by section 562, 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.

## **Chapter XXVIII**

### **Execution**

### **381. [ Execution of order passed under section 376. [Section 381 substituted by A. L. O. 2008.]**

- When a sentence of death or life imprisonment passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session, shall, on receiving the order of confirmation or other order thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary].

### **382. Postponement of capital sentence on pregnant woman.**

- If a woman sentenced to death is found to be pregnant, [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to imprisonment for life.

### **383. Execution of sentences of life imprisonment or imprisonment in other cases.**

- Where the accused is sentenced to life imprisonment or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

### **384. Direction of warrant for execution.**

- Every warrant for the execution of a sentence of imprisonment shall be directed to the officer incharge of the jail or other place which the prisoner is, or is to be confined.

### **385. Warrant with whom to be lodged.**

- When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

### **386. Warrant for levy of fine.**

(1)Whenever 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 ;(b)issue a warrant to the Collector of the District authorising him to release the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter :Provided that, if the sentence directs that in default of payment of 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 to do so.(2)[The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may make rules regulating the manner in which warrants under sub-section (1), clause (a), 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 Courts issue a warrant to the Collector under sub-section (1), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1977, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly :Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

### **387. Effect of such warrant.**

- A warrant issued under section 386, sub-section (1), clause (a), by any Court may be executed within the local limits of the jurisdiction of such Court, and it shall authorise the attachment and sale of any such property without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

### **387A. [ Warrant for levy of fine issued by Courts in India outside Jammu and Kashmir State. [Section 387-A inserted by Act XL of 2011.]**

- 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 India outside the Jammu and Kashmir State and the Court passing the sentence issues a warrant to the Collector of District in the territories to which this Code extends authorising him to realise the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter, such warrant shall be deemed to be a warrant issued under clause (b) of sub-section (1) of section 386 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.]

### **388. 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 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, and(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 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.

### **389. Who may issue warrant.**

- Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.[390. Omitted] [Section 390 to 395 omitted by Act XXXVII of 1978, Section 57.].[391. Omitted] [Section 390 to 395 omitted by Act XXXVII of 1978, Section 57.].[392. Omitted] [Section 390 to 395 omitted by Act XXXVII of 1978, Section 57.].[393. Omitted] [Section 390 to 395 omitted by Act XXXVII of 1978, Section 57.].[394. Omitted] [Section 390 to 395 omitted by Act XXXVII of 1978, Section 57.].[395. Omitted] [Section 390 to 395 omitted by Act XXXVII of 1978, Section 57.].

### **396. Execution of sentences on escaped convicts.**

(1)When sentence is passed under this Code on an escaped convict, such sentence, if of death, [imprisonment for life or fine] [Words substituted by Act XXXVII of 1978, Section 58.], shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment [x x] [Words 'for life' omitted by Act XXXVII of 1978.], shall take effect according to the following rules, that is to say(2)If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.(3)When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment [x x x] [Words 'of life imprisonment, as the case may be' omitted by Act XXXVII of 1978.] for a further period equal to that which at the time of his escape, remained unexpired of his former sentence.Explanation. - For the purposes of this section. -(a)[ Omitted ;] [Clause (a) omitted by Act XLII of 1956.](b)a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement ; and(c)a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

### **397. [ Sentence on offender already sentenced for another offence. [Section 397 substituted by Act XLII of 1956.]**

(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 123 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 or imprisonment for life the subsequent sentence shall run concurrently with such previous sentence].

**397A. [ Period of detention undergone by the accused to be set off against the sentence of imprisonment. [Section 397-A inserted by Act V of 1976, Section 2.]**

- Where an accused person has on conviction been sentenced to imprisonment for a term, 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 imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him: Provided that where an accused person is in detention as an under trial and the period prescribed under law as the maximum period of sentence for the offence alleged to have been committed by him expires, he shall be entitled to bail.]

**398. Saving as to sections 396 and 397.**

(1) Nothing in section 396 or section 397 shall be held to excuse any 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, [ x x x x ] [Words 'or to a sentence of life imprisonment' omitted by Act XLII of 1956.] for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment [x x x] [Words 'or life imprisonment' omitted by Act XLII of 1956.] 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.

**399. Conviction of youthful offenders in reformatories.**

(1) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] as a fit place for confinement, in which there are means of suitable

discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] prescribes with regard to the discipline and training of persons confined therein.(2)All persons confined under this section shall be subject to the rules so prescribed.

#### **400. Return of warrant on execution of sentence.**

- When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

### **Chapter XXIX**

## **Suspensions, Remissions and Commutations of Sentences**

#### **401. Power to suspend or remit sentences.**

(1)When any person has been sentenced to punishment for an offence, [the Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] 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 Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] for the suspension or remission of a sentence, [the Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] may require the presiding Judge of the Court before or by which the conviction 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 the record of the trial.(3)If any condition on which a sentence has been suspended or remitted is, in the opinion of [the Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] not fulfilled, he 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.(4-a) The provisions of the above sub-section 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. Nothing herein contained shall be deemed to interfere with the right of [the Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] to grant pardon, reprieves, respites or remissions of punishment. (5-a) Where a conditional pardon is granted by [the Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by sentence of a competent Court under this Code and shall be enforceable accordingly. (6) The [Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] 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].

#### **402. Power to commute punishment.**

(1) [The Governor] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :- death, life imprisonment, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine. (2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Ranbir Penal Code.

## **Chapter XXX**

### **Previous Acquittals or Convictions**

#### **403. Person once convicted or acquitted not be tried for the 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, shall 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 section 236, or for which he might have been convicted under section 237. (2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (1). (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 tried was not competent to try the offence with which he is subsequently charged.(5)Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1977, or section 188 of this Code.Explanation. - The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.Illustration(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 upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time the murder was committed ; he may afterwards be charged with, and tried for; robbery.(c)A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.(d)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.(e)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 case comes within paragraph 3 of the section.(f)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 be subsequently charged with, and tried for, robbery on the same facts.(g)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.Part-VII Appeal, Reference and Revision.

## **Chapter XXXI**

### **Appeals**

#### **404. Unless otherwise provided, no appeal to lie.**

- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

#### **405. Appeal from order rejecting application for restoration of attached property.**

- Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

#### **406. Appeal from order requiring security for keeping the peace or for good behaviour.**

- Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order made by any Magistrate, to the Court of Sessions :[x x x x] [First proviso of section 406 omitted by Act XLII of 1956.] Provided, [x] [Word 'further' omitted by Act XLII of 1956.] 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 (3-a) of section 123.[406A. Appeal from order refusing to accept or rejecting a surety.
- Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order to the Court of Session] [Section 406-A substituted by Act XL of 1966.].[407. Omitted] [Section 407 omitted by Act XLII of 1956.].

#### **408. Appeal from sentence of Assistant Sessions Judge or any other Magistrate.**

- Any person convicted on a trial held by an Assistant Sessions Judge, [or a Judicial Magistrate or any person sentenced under 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate] [Substituted by Act XL of 1966 for certain words.], may appeal to the Court of Session: Provided as follows (a) when in any case an Assistant Sessions Judge or [a Chief Judicial Magistrate or where there is no Chief Judicial Magistrate an Additional District Magistrate] [Substituted by Act XXXVII of 1978, Section 59.] passes any sentence of imprisonment for a term exceeding four years, the appeal of all or any of the accused convicted at such trial shall lie to the High Court ; (b) when any person is convicted by a Magistrate of an offence under section 124-A of the Ranbir Penal Code, the appeal shall lie to the High Court.

#### **409. [ Appeals to Courts of Session how heard. [Substituted by Act XXXVII of 1978, Section 59.]**

- (1) Subject to the provisions of this section, an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge or an Assistant Sessions Judge : Provided that no such appeal shall be heard by an Assistant Sessions Judge unless the appeal is of a person convicted on a trial held by any Magistrate of second [x x x] [Proviso to sub-section (6) of section 401 added by Act XLII of 1956.] class. (2) An Additional Sessions Judge or an Assistant Sessions Judge shall hear only such appeals as the [High Court] [Substituted by Act XL of 1966 for 'Government'.] may, by general or special order, direct or as the Sessions Judge of the division may make over to him].

#### **410. Appeal from sentence of Court of Session.**

- [(1)] [Re-Numbered by Jammu and Kashmir Act 35 of 2018, dated 7.12.2018.] Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court. (2) [ When an appeal has been filed against a sentence passed under section 376, 376A, section 376AB, section 376B, section 376C, section 376D, section 376 DA, section 376DB, section 376E of the Ranbir Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.] [Inserted by Jammu and Kashmir Act 35 of 2018, dated

7.12.2018.][411. Appeal from sentence of Special Judge. - Any person convicted on a trial held by a Special Judge, appointed under section 259-A of this Code, may appeal to the High Court.] [Inserted vide Act XII of 1980, Section 16.][411A. Appeal from sentences of High Court. - (1) Any person convicted on a trial held by the High Court in the exercise of its original criminal jurisdiction may, notwithstanding anything contained in section 418 [x x x] [Section 411-A inserted by Act XXVII of 1957, Section 60.] or in the Letters Patent or law by which the High Court is constituted or continued, appeal to the High Court-(a)against the conviction on any ground of appeal which involves a matter of law only ;(b)with the leave of the Appellate Court, or upon the certificate of the Judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground of appeal ; and(c)with the leave of the Appellate Court, against the sentence passed unless the sentence is one fixed by law.(2)Notwithstanding anything contained in section 417, the Government may direct the Public Prosecutor to present an appeal to the High Court from any order of acquittal passed by the High Court in the exercise of its original criminal jurisdiction, and such appeal may, notwithstanding anything contained in section 418 [x x x] [Omitted by Act XXXVII of 1978, Section 60.] or in the Letters Patent or law by which the High Court is constituted, or continued, but subject to the restrictions imposed by clause (b) and clause (c) of sub-section (1) of this section on an appeal against a conviction, lie on a matter of fact as well as a matter of law.(3)Notwithstanding anything elsewhere contained in any Act or Regulation, an appeal under this section shall be heard by a Division Court of the High Court composed of not less than two Judges, being Judges, other than the Judge or Judges by whom the original trial was held ; and if the constitution of such a Division Court is impracticable, the High Court shall report the circumstances to the Government which shall take action with a view to the transfer of the appeal under section 527 to another High Court.(4)Subject to such rules as may from time to time be made by the Supreme Court in this behalf, and to such conditions as the High Court may establish or require, an appeal shall lie to the Supreme Court from any order made on appeal under sub-section (1) by a Division Court of the High Court in respect of which order the High Court certifies that the case is a fit one for such appeal.]

#### **412. No appeal in certain cases when accused pleads guilty.**

- Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted [by the High Court, a Court of Sessions] [Substituted by Act XXVII of 1957 by a Court of Sessions.] or [Judicial Magistrate of the first class] [Substituted by Act XL of 1966 for Magistrate of the First Class.] on such plea, there shall be no appeal except as to the extent or legality of the sentence.

#### **413. [ No appeal in petty cases. [Section 413 substituted by Act XXVII of 1957.]**

- Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which the High Court passes a sentence of imprisonment not exceeding six months only or fine not exceeding two hundred rupees only or in which Court of Session passes a sentence of

imprisonment not exceeding one month only, or in which a Court of Session or [Chief Judicial Magistrate or other Judicial Magistrate] of the first class passes a sentence of fine not exceeding fifty rupees only. Explanation. - There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed].

#### **414. No appeal from certain summary convictions.**

- Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of fine not exceeding two hundred rupees only.

#### **415. Proviso to section 413 and 414.**

- An appeal may be brought against any sentence referred to in section 413 or section 414 by which 4[punishment therein mentioned is combined with any other punishment], but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace. Explanation.- A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

#### **415A. 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.

#### **416.**

Omitted.

#### **417. [ Appeal in case of acquittal. [Section 417 substituted by Act XLII of 1956.]**

- Subject to the provisions of sub-section (4), the 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 the High Court.(2)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, grant special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.(3)No application under sub-section (2) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of sixty days from the date of that order of acquittal.(4)If, in any case, the application under sub-section (2) 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 section (1)].[Explanation. - For the purposes of this section the expression "Public Prosecutor" shall include and shall be deemed always to have included the [Advocate General, Senior Additional Advocate General, Additional Advocate General and Government Advocate] [Explanation inserted by Act XXVII of 1957.], [Dy. Advocate General.] [Substituted by Act XI of 2006, Section 2.]]

#### **418. [ Appeal on what matters admissible. [Section 418 substituted Act XI of 2006, Section 2.]**

(1)An appeal may lie on a fact as well as a matter of law [x x x].[x x x] [Sub-section (2) omitted by Act XXXVII of 1978, Section 61.]Explanation. - The alleged severity of a sentence shall for the purposes of this section, be deemed to be a matter of law.]

#### **419. Petition of appeal.**

- Every appeal shall be made in the form of a petition in writing presented by the appellant 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 [x x x x x] [Words omitted by Act XXXVII of 1978, Section 61.],

#### **420. 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.

#### **421. Summary dismissal of appeal.**

(1)On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering it may dismiss the appeal summarily:Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.(2)Before dismissing an appeal under this section, the Court may, call for the record of the case, but shall not be bound to do so.

#### **422. Notice of appeal.**

- If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as [the Government] [Sadar-i-Riyasat substituted by Act X of 2010 for 'His Highness' and again 'Governor' substituted for 'Sadar-i-Riyasat' by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.] may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the ground of appeal ;and, in cases of appeals under section 417, the

Appellate Court shall cause a like notice to be given to the accused.

### **423. Powers of Appellate Court in disposing of appeal.**

(1)The Appellate Court shall then send for the record of the case, if such record is not already in 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 417, the accused, if he appears, the 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 of acquittal, reverse such order and direct that further inquiry be made or that the accused be retired or committed for trial, as the case may be, or find him guilty and pass sentence on him according of law ;(b)in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retired by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or with or without altering the finding, reduce the sentence, or, (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence but, subject to the provisions of section 106, sub-section (3), not so as to enhance the same ;(c)in an appeal from any other order, alter or reverse such order ;(d)make any amendment or any consequential or incidental order that may be just or proper.[(1-a) Where an appeal from a conviction lies to the High Court, it may enhance the sentence, notwithstanding anything inconsistent therewith contained in clause (b) of sub-section (1) :Provided that the sentence shall not be so enhanced, unless the accused has had an opportunity of showing cause against such enhancement] [Sub-section (1-a) of section 423 inserted by Act XLII of 1956.][x x x] [Sub-section (2) omitted by Act XXXVII of 1978, Section 63.]

### **424. Judgments of subordinate Appellate Courts.**

- The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than [the High Court] [Substituted by Act XXVII of 1957.] :Provided that unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

### **425. Order by High Court on appeal to be certified 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. If the findings, sentence or order was recorded or passed by a Magistrate other than the [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'District Magistrate'.], the certificate shall be sent through the [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for '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.

## **426. Suspension of sentence pending 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. [(1-a) The Appellate Court may cause any person who has been released on bail under sub-section (1) to be arrested and may commit him to custody] [Sub-section (1-a) inserted by Act XXVI of 1968.]. (2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto. [(2-a) When any person other than a person [convicted of a non-bailable offence] [Sub-section (2-a) of section 426 inserted by Act VIII of 2003.] is sentenced to imprisonment by a Court, and an appeal lies from that sentence, the Court may, if the convicted person satisfies the Court that he intends to present an appeal, order that he be released on bail for a period sufficient in the opinion of the Court to enable him 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.][(2-b) Where the High Court is satisfied that a convicted person has been granted special leave to appeal to the Supreme Court against any sentence which the High Court has imposed or maintained, the High Court, may, if it so thinks fit, order that pending the appeal, the sentence or order appealed against be suspended, and also, if such person is in confinement, that he be released on bail] [Sub-section (2-b) inserted by Act XXVI of 1968.]. (3) When the appellant is ultimately sentenced to imprisonment, or life imprisonment, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

## **427. Arrest of accused in appeal from acquittal.**

- When an appeal is presented under section 417, 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.

## **428. 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 or, when the Appellate Court is the High Court, by a Court of Session or a [Judicial Magistrate] [Substituted by Act XL of 1966 for '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) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of [jurors] [Substituted by Act XLII of 1956 for 'assessors'.]. (4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.



## **429. Procedure where Judges of Court of appeal are equally divided.**

- When the Judges composing the Court of appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.[430. Finality of orders on appeal. - Judgment and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.] [Section 430 substituted by Act XXVII of 1957.]

## **431. Abatement of appeals.**

- Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

## **Chapter XXXII**

### **Reference and Revision**

## **432. [ Reference to High Court. [Sections 432 and 433 inserted by Act XXVII of 1957.]**

(1)Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act or Ordinance, or of any provision contained in an Act or Ordinance, the determination of which is necessary for the disposal of the case, and is of opinion that such Act or Ordinance 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.(2)Any Court making a reference to the High Court under sub-section (1) 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.

## **433. 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 Magistrate by whom the reference was made, who 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.]

## **434.**

Omitted.

### **435. [ Calling for records to exercise powers of revision. [Substituted by Act XI of 2006, Section 3.]**

(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 purpose of this sub-section and of section 436.(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 either of them.]

### **436. [ Power to order inquiry. [Substituted by Act XI of 2006, Section 3.]**

- On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates 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 (3) 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.]

### **437. Power to order commitment.**

- When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'District Magistrate'.] considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'District Magistrate'.] may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'District Magistrate'.], improperly discharged :Provided as follows :-(a)that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;(b)that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

#### **438. [ Sessions Judge's powers of revision. [Substituted by Act XI of 2006, Section 4.]**

(1) In the case of any proceeding the record of which has been called for by him, 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 439. (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 439 shall, so far as may be, apply to such proceedings 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 any 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. (4) 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.]

#### **439. High Court's powers of revision.**

(1) In the case of any proceedings the record of which has been called for by itself or which has been reported for orders, 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 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence ; 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 429. (2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence. (3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a [Judicial Magistrate of the first class] [Substituted by Act XL of 1966 for 'a Magistrate of the first class'.]. (4) Nothing in this section [xxx] [Words and figures omitted by Act XXXVII of 1978, Section 65.] shall be deemed to authorise the High Court to convert a; finding of acquittal into one of conviction. (5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed. (6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.

#### **440. Optional with Court to hear parties.**

- No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision : Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (2).

**441.**

Omitted.

**442. High Court's order to be certified to lower Court or Magistrate.**

- When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate 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.

## **Part VIII – Special Proceedings**

### **Chapter XXXIII**

#### **Special Provisions Relating to Cases in Which European and Indian British Subjects are Concerned**

**443. to 463.**

Omitted.

### **Chapter XXXIV**

#### **Lunatics**

**464. Procedure in case of accused being lunatic.**

(1)When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Chief Medical Officer of the Province or such other medical officer as [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] direct, and thereupon shall examine such Chief Medical Officer or other officer as a witness and shall reduce the examination to writing.(1-a) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466.(2)If such Magistrate is of opinion that the accused 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.

## **465. Procedure in case of person committed before Court of Session or High Court being lunatic.**

(1) If any person committed for trial before a Court of Session or the High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence the Court [xxx] [Words 'with the aid of assessors' omitted by Act XLII of 1956.] shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Court is satisfied of the fact, the Judge 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 Court.

## **466. Release of lunatic pending investigation or trial.**

(1) Whenever an accused person is found 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) Custody of lunatic. - 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 Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] : 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 Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may have made under the Lunacy Act of 1977.

## **467. Resumption of inquiry or trial.**

(1) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time 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 466, 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.

#### **468. Procedure on accused appearing before Magistrate or Court.**

(1) If, when the accused appears or is again brought before the Magistrate or the 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 incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be, and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with provisions of section 466.

#### **469. When accused appears to have been insane.**

- 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 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 committed to the Court of Session or High Court, send him, for trial before the Court of Session or High Court, as the case may be.

#### **470. Judgment of acquittal on ground of lunacy.**

- 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.

#### **471. 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, order such person to be detained in safe custody in such place and manner as the Magistrate or court thinks fit, and shall report the action taken to [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] : 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 Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may have made under the Lunacy Act, 1977. (2) Power of Government to relieve Inspector General of certain functions. - [The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188,

193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may empower the officer-in-charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under section 473 or section 474.

## **472.**

Omitted.

## **473. Procedure where lunatic prisoner is reported capable of making his defence.**

- If such person is detained under the provisions of section 466, and in the case of a person detained in a jail, the Minister-in-charge of jail, 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 468 ; and the certificate of such Minister or visitors as aforesaid shall be receivable as evidence.

## **474. Procedure where lunatic detained under section 466 or 471 is declared fit to be released.**

(1) If such person is detained under the provisions of section 466 or section 471, and such Minister 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 Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] 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 formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.], which may order his release or detention as it thinks fit.

## **475. Delivery of lunatic to take care of relative or friend.**

(1) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, Minister-in-charge may, upon the application of such relative or friend and on his giving security to the satisfaction of Minister-in-charge that the person delivered shall-(a) be properly taken care of and prevented from doing injury to himself or to any other person ; and (b) be produced for the inspection of such officer, and at such times and places, as the Minister-in-charge may direct ; and (c) in the case of a person detained under section 466, be produced when required before such Magistrate or Court ; order such person to be delivered to such relative or friend. (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 sub-section (1), clause (b), 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 468, and the certificate of the inspecting officer shall be receivable as evidence.

## **Chapter XXXV**

### **Proceeding in Case of Certain Offences Affecting the Administration of Justice**

#### **476. Procedure in cases mentioned in section 195.**

(1) When any Civil, Revenue or Criminal Court is, whether on application, made to it in this behalf or otherwise, of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in section 195, sub-section (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate : Provided that, where the Court making the complaint is the High Court, the complaint may be signed by such officer of the Court as the Court may appoint. ["Provided further that in any other case, by the Presiding Officer, of that court or by such officer of the court as that court may authorize in writing in this behalf".] [Inserted by Act IX of 2007, Section 8.] (2) Such Magistrate shall thereupon proceed according to law and as upon complaint made under section 200. (3) 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 proceedings 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.



#### **476A. Superior Court may complain where subordinate Court has omitted to do so.**

- The power conferred on Civil, Revenue and Criminal Court by section 476, sub-section (1), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3) in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint ; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

#### **476B. Appeals.**

- Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476-A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and, if it makes such complaint the provisions of that section shall apply accordingly.

#### **477.**

Omitted.

#### **478. Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.**

(1)When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or. such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.(2)For the purposes of an inquiry under this section Civil or Revenue Court may exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be [xxx] [Words and figures omitted by Act XXXVII of 1978, Section 66.] deemed to have been held by a Magistrate.

#### **479. Procedure of Civil or Revenue Court in such cases.**

- When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the [Chief Judicial Magistrate or any other Judicial Magistrate] [Substituted by Act XL of 1966 for 'District Magistrate or other

Magistrate'.] authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witness for the prosecution and defence.

**479A. [ Procedure in certain cases of false evidence. [Section 479-A inserted by Act XLII of 1956.]**

(1)Notwithstanding anything contained in sections 476 to 479 inclusive, when any Civil Revenue or Criminal Court is of opinion that any person appearing before it as a witness has intentionally given false evidence in any stage of the judicial proceeding, or has intentionally fabricated false evidence for the purpose of being used in any stage of the judicial proceeding, and that, for the eradication of the evils of perjury and fabrication of false evidence and in the interests of justice, it is expedient that such witness should be prosecuted for the offence which appears to have been committed by him, the Court shall, at the time of the delivery of the judgment or final order disposing of such proceeding, record a finding to that effect, stating its reasons therefor and may, if it so thinks fit, after giving the witness an opportunity of being heard, make a complaint thereof in writing signed by the presiding officer of the Court setting forth the evidence which, in the opinion of the Court, is false or fabricated and forward the same to a Magistrate of the first class having jurisdiction, and may, if the accused is present before the Court, take sufficient security for his appearance before such Magistrate and may bind over any person to appear and give evidence before such Magistrate :Provided that where the Court making the complaint is the High Court, the complaint may be signed by such officer of the Court as the Court may appoint.[xxx](2)Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.(3)No appeal shall lie from any finding recorded and complaint made under sub-section (1).(4)Where, in any case, a complaint has been made under sub-section (1) and appeal has been preferred against the decision arrived at in the judicial proceeding out of which the matter has arisen, the hearing of the case before the Magistrate to whom the complaint was forwarded or to whom the case may have been transferred shall be adjourned until such appeal is decided; and the Appellate Court, after giving the person against whom the complaint has been made an opportunity of being heard, may, if it so thinks fit, make an order directing the withdrawal of the complaint ; and a copy of such order shall be sent to the Magistrate before whom the hearing of the case is pending.(5)In any case, where an appeal has been preferred from any decision of a Civil, Revenue or Criminal Court but no complaint has been made under sub-section (1), the power conferred on such Civil, Revenue or Criminal Court under the said sub-section may be exercised by the Appellate Court makes such complaint, the provisions of sub-section (1) shall apply accordingly, but no such order shall be made, without giving the person affected thereby an opportunity of being heard.(6)No proceedings shall be taken under sections 476 to 479 inclusive for the prosecution of a person for giving or fabricating false evidence, if in respect of such a person proceedings may be taken under this section.]

**479B. [ Summary procedure for trial of witnesses deposing contrary to statements recorded under section 164-A by Magistrate. [Inserted by Act IX of 2007, Section 9.]**

- If, at the time of any judgement or final order disposing of any judicial proceeding, a court of Sessions or Magistrate of the first class expresses an opinion to the effect that, any witness, whose statement recorded under, sub-section (2) of section 164-A in respect of one offence or in respect of a different offence as referred to in sub-section (2) of section 221, appearing in such proceeding and subsequently retracted his statement in material particulars by stating inconsistent facts or had changed his version by narrating new facts which were destructive of the prosecution case and the court of Sessions or a Magistrate of first class is satisfied that such retraction, contradiction or change of version is of such a nature that the witness is guilty of knowingly or willfully giving false evidence or fabricating 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 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 notwithstanding anything contained in the provisions of this Code, sentence him to imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine :Provided that the provisions of this section shall apply only where the giving or fabrication of false evidence relates to the conduct of the witness subsequent to the recording of his statement under sub-section (2) of section 164-A.(2)The provisions of sub-sections (2), (3) and (4) of section 479-A shall apply for trial of an offence under this section as they apply to the summary trial of an offence referred to in sub-section (1) of that section.]

#### **480. Procedure in certain cases of contempt.**

- When any such offence as is described in section 175, section 178, section 179, section 180, or section 228 of the Ranbir Penal Code is committed in the view of presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, to be detained in custody ; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.(2)Omitted.

#### **481. Record in such cases.**

(1)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.(2)If the offence is under section 228 of the Ranbir Penal Code, 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.

#### **482. Procedure where Court considers that case should not be dealt with under section 480.**

(1)If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default

of payment 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 480, 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 accused 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 hear the complaint against the accused person in manner hereinbefore provided.

### **483. When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.**

- When [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] so direct, any Registrar or any Sub-Registrar appointed under the Registration Act, 1977, shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

### **484. Discharge of offender on submission or apology.**

- When any Court has under section 480 or section 482 adjudged an offender to punishment or 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.

### **485. 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 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. In the event of his persisting in his refusal, he may be dealt "with according to the provisions or section 480 or section 482.

**485A. [ Summary procedure for punishment for non-attendance by a witness in obedience to summons. [Section 485-A inserted by Act XLII of 1956.]**

(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 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 in which an appeal lies].

**486. Appeals from convictions in contempt cases.**

(1) Any person sentenced by any Court under section 480 or section 485 [or section 485-A] [Inserted by Act XLII of 1956.] may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Courts are ordinarily appealable. (2) The provisions of Chapter XXXI 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 officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge.

**487. Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.**

(1) Except as provided in sections 480 and 485, no Judge of a Criminal Court or Magistrate other than a Judge of the High Court, shall try any person for any offence referred to in section 195, when such offence is committed before him self or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding. (2) Nothing in section 476 or section 482 shall prevent a Magistrate, empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

**Chapter XXXVI**

**Maintenance of [Wives, Children and Parents] [Substituted by Act XL of 1966 for 'District Magistrate, a Sub-Divisional Magistrate or a Magistrate'.].**

**488. [ Order for maintenance of wives, children and parent. [Substituted by Act XL of 1966 for 'District Magistrate, a Sub-Divisional Magistrate or a Magistrate'.]**

(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 himself, or (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 himself, 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 two thousand 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 purpose of this Chapter, "minor" means a person who, under the provisions of the Majority Act, Samvat 1977 is deemed not to have attained his majority". (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 allowance 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 if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such 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. ] [Substituted by Act IV of 1998, Section 2.] (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. (6) All evidence under this Chapter shall be taken in the presence of the [person against whom an order for payment of maintenance is proposed to be made] [Substituted by Act IV of 1998, Section 2.] or when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases : Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case ex parte. Any order so made may be set aside for good cause shown, on an application made within three months from the date thereof. (7) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just. (8) Proceedings under this section may be taken against any person in any district where [he is or he or his wife resides] [Substituted

by Act XIII of 2004, Section 4.] or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

#### **489. Alteration in allowance.**

(1)On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his [wife, child, father or mother] [Substituted by Act IV of 1998, Section 2.] the Magistrate may make such alteration in the allowance as he thinks fit provided : that if he increases the allowance, the monthly rate of [two thousand rupees] [Substituted by Act IV of 1998 for 'five hundred rupees'.] in the whole be not exceeded.(2)Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.(3)[ 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 488, the Civil Court shall take into account the sum which has been paid to, recovered by, such person as monthly allowance in pursuance of the said order".] [Inserted by Act IV of 1998, Section 2.]

#### **490. 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 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 non-payment of the allowance due.

### **Chapter XXXVII**

#### **Directions of the Nature of a Habeas Corpus.**

#### **491. Power to issue directions of the nature of a habeas corpus.**

(1)The High court may, whenever it thinks fit, direct-(a)that a person within the limits of its appellate criminal jurisdiction be brought up before the Court to be dealt with according to law ;(b)that a person illegally or improperly detained in public or private custody within such limits be set at liberty ;(c)that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court ;(d)that a prisoner detained as aforesaid be brought before a Court-martial or any Commission [x x x] [Words 'acting under the authority of any commission from His Highness' deleted by Act X of 2010.] for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively ;(e)that a prisoner within such, limits be removed from one custody to another for the purpose of trial ; and(f)that the body of defendant within such limits be brought in on the Sheriffs return of cepi corpus to a writ of attachment.(2)The High Court may, from time to time, frame rules to regulate the procedure in cases under this section.

## **Part IX – Supplementary Provisions.**

### **Chapter XXXVIII**

#### **The Public Prosecutor**

##### **492. Power to appoint Public Prosecutors.**

- [The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.(2)The District Magistrate, or subject to the control of the District Magistrate, Sub-Divisional Magistrate, may in the absence of the Public Prosecutor or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent to be Public Prosecutor for the purpose of any case.

##### **493. Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.**

- The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal ; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

##### **494. Effect of withdrawal from prosecution.**

- Any Public Prosecutor may with the consent of the Court, before the judgement is pronounced, withdraw from the prosecution of any person either generally or in respect of anyone 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.

##### **495. Permission to conduct prosecution.**

(1)Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] in this behalf, but not person, other than the Public



Prosecutor or other officer generally or specially empowered by [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] in this behalf shall be entitled to do so without such permission.(2)Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.(3)Any person conducting the prosecution may do so personally or by a pleader.(4)An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

## **Chapter XXXIX Of Bail**

### **496. In what cases bail to be taken.**

- [(1)] [Section 496 numbered as sub-section (1) and sub-section (2) added by Act XXXVII of 1978, Section 67.] 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 proceedings 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 section 107 sub-section (4), or section 117, sub-section (3).(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 514] [Section 496 numbered as sub-section (1) and sub-section (2) added by Act XXXVII of 1978, Section 67.].

### **497. [ When bail may be taken in case of non-bailable offence. [This section was adopted by Law Deptt. Notification No. 14-L/84 dated 3rd Phagan, 1984, published in the Government Gazette dated 12th Phagan, 1984.]**

(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 incharge of a police station, or appears or is brought before a Court, he may be released on bail, but he 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 :Provided that the Court may direct that any person under the age of sixteen years of any woman or any sick or infirm person accused of such an offence be released on bail

:[Provided further 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 given an undertaking that he shall comply with such directions as may be given by the Court.] [Proviso added by Act XXXVII of 1978, Section 68.](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 guilt the accused shall, 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.[(2-a) 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 State Ranbir Penal Code, 1989, 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.](3)An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.[(3-a) 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.] [Sub-section (3-a) section 497 inserted by Act XLII of 1956.](4)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.(5)The High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.] [Sub-section (2-a) inserted by Act XXXVII of 1978.]

#### **497A. [ Direction for grant of bail to person apprehending arrest. [Added by Act I of 1960 after 1st proviso to sub-section (3).]**

(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 direction in the light of the facts of 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 the State without the previous

permission of the Court ;(iv)such other condition as may be imposed under sub-section (2-a) of section 497 as if the bail were granted under that section.(3)If such person is thereafter arrested without warrant by an officer incharge 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, he shall be released on bail, and if Magistrate taking cognizance 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).]

#### **497B. [ Special provision regarding bail. [Inserted by Act XII of 1980, Section 17.]**

- Notwithstanding anything contained in this Code but subject to the provisions of section 498, no person accused of an offence punishable under section 152, 153-A, 295, 295-A, 296, 297, 298, 435, 436 or 505 of the State Ranbir Penal Code shall be released on bail unless-(a)the prosecution has been given an opportunity to oppose the application for such release ; and(b)the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence :Provided that the accused shall be released on bail if the investigation has not been completed within two weeks.]

#### **497C. [ Special provision regarding bail in certain offences against women etc. [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]**

(1)Notwithstanding anything contained in this Code no person accused of an offence punishable under section 304-B, 326A, 370, [376, 376A, 376AB, 376C, 376D, 376DA, 376DB and 376E] of Ranbir Penal Code, shall if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code, is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.(2)The restrictions on granting of bail specified in sub-section (1) shall be in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.(3)Nothing in section 497A of the Code shall apply in relation to any case involving the arrest of any person accused of having committed an offence specified in sub-section (1).

#### **497D. Maximum period for which an under trail prisoner can be detained.**

- Where a person has during the period of investigation, inquiry or trail under this Code or an offence under any law (not being an offence for which the punishment under the law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded in the writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of personal bond with or without sureties:Provided further that no such person shall in any case be detained during the period of

investigation, inquiry or trial for more than maximum period of imprisonment provided for said offence under the law. Explanation. - In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.]

#### **498. Power to direct admission to bail or reduction of bail.**

- [(1)] [Section 498 renumbered as sub-section (1) of that section and sub-section (2) inserted by Act XLII of 1956.] The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstance of the case, and shall not be excessive ; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police officer or Magistrate be reduced ;(2)[ The High Court or Court of Session may cause any person who has been admitted to bail under sub-section (1) to be arrested and may commit him to custody.] [Section 498 renumbered as sub-section (1) of that section and sub-section (2) inserted by Act XLII of 1956.]

#### **499. 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)If the case so require, 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.(3)[ For the purpose of determining whether the sureties are sufficient, the court may, if it so thinks fit, accept affidavits in proof of the facts contained therein relating to the sufficiency of the sureties or may make such further inquiry as it deems necessary] [Sub-section (3) of section 499 inserted by Act XLII of 1956].

#### **500. 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 order shall release him.(2)Nothing in this section, section 496 or section 497 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.

#### **501. 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.

## **502. 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 custody.

## **Chapter XL**

### **Commissions for the Examination of Witnesses**

#### **503. [ When attendance of witness may be dispensed with and commission issued. [Sections 503 to 508 substituted by Act XXVII of 1957.]**

- [(1) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to the High Court, Court of Session, or any 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 such 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 or the Governor of a State in India or the Governor of this State 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 fee, be paid by the prosecution.] [Sub-section (2) of section 503 inserted by Act XXXVII of 1978, Section 70.]

#### **504. 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 District Magistrate within the local limits of whose jurisdiction the witness is to be found. (2) If the witness is in India, the commission shall be directed to such Court or officer as the Government of India may, by notification in the Official Gazette specify in this behalf. (3) If the witness is in a country or place outside India and arrangements have been made by the Government of India with the Government of such country or place for taking the evidence of witness 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 Government of India may, by notification in the Official Gazette, prescribe in this behalf.

## **505. Execution of commissions.**

- Upon receipt of the commission, the District Magistrate, or such Magistrate as he may appoint in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him 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.

## **506. 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.

## **507. Return of commission.**

- After any commission issued under section 503 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 open at all reasonable times to inspection of the parties, and 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 Evidence Act, 1977 (XIII of 1977), may also be received in evidence at any subsequent stage of the case before another Court.

## **508. Adjournment of proceeding.**

- In every case in which a commission is issued under section 503, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.]

## **508A. [ Execution of foreign; commissions. [Section 508-A inserted by Act XXXVII of 1957.]**

(1)The provisions of section 505 and so much of section 506 and section 507 as relates 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 503.(2)The Courts, Judges and Magistrates referred to in sub-section (1) are :-(a)any such Court, Judge or Magistrate exercising jurisdiction within India as the Government of India may, by notification in the Official Gazette, specify in this behalf ; and(b)any Court, Judge or Magistrate exercising jurisdiction in, any such country or place outside India as the Government of India may,

by notification in the Official Gazette, 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.]

## **Chapter XLI**

### **Special Rules of Evidence**

#### **509. Deposition of medical witness.**

(1)The deposition of a Chief Medical Officer or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, 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)Power to summon medical witness.- The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

#### **510. Report of Chemical Examiner.**

- [(1)] [Section 510 numbered as sub-section (1) of that section and sub-section (2) inserted by Act XLII of 1956.] Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government [or the Chief Inspector of Explosives or the Director of Finger Print Bureau or an Officer of the Mint] [Inserted by Act XLII of 1956.], 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, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the subject-matter of his report.

#### **510A. [ Evidence on affidavits. [Section 510-A inserted by Act XLII of 1956.]**

(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.]

#### **511. Previous conviction or acquittal how proved.**

- In any [inquiry] [Substituted by Act XL of 1966 for 'Magistrate'.], 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 any extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had 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 inflicted, 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.

## **512. 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 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. Any such deposition may, on the arrest of such person, be given in evidence against him on the enquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable. (2) Record of evidence when offender unknown. - 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 may direct that any [Judicial Magistrate] [Substituted by Act XL of 1966 for 'Magistrate'.] of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. 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 Jammu and Kashmir State.

## **Chapter XLII**

### **Provisions as to Bonds**

## **513. 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 or Government-promissory-notes to such amount as the Court or officer may fix, in lieu of executing such bond.

## **514. Procedure on forfeiture of bond.**

(1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of Magistrate of the first class ;or, when the bond is for appearance before a Court, to the satisfaction of such Court ;that such 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. (2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable property belonging to such person or his estate if he be dead. (3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it ; and it shall authorise the attachment and sale of any movable property belonging to such person without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found. (4) If such penalty is not paid and cannot be recovered by such attachment and sale, the



person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.(5)The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.(6)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.(7)When any person who has furnished security under section 106 or section 118 or section 562 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 514-B, 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.

### **514A. 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 514, 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 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.

### **514B. Bond required from a minor.**

- When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, bond executed by a surety or sureties only.[515. Appeal from, and revision of orders under section 514. - All orders passed under section 514 by any Magistrate shall be appealable to the Sessions Judge, or, if not so appealed, may be revised by him.] [Section 515 substituted by Act XL of 1966.]

### **516. 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 to appear and attend at such High Court or Court of Session.

## **Chapter XLIII**

### **Disposal of Property**

### **516A. Order for custody and disposal of property pending trial in certain cases.**

- When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, 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 or natural decay [or if it is otherwise expedient so to do, the Court] [Inserted by Act XLII of 1956.], may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

### **517. Order for disposal of property regarding which offence committed.**

(1)When an inquiry or a 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 entitled to possession thereof or otherwise of any property or document produced before it or its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.(2)When the High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.(3)When an order is made under this section such order shall not, except where the property is live-stock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.(4)Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing 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 this section is modified or set aside on appeal.Explanation. - In this section 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.

### **518. Order may take form of reference to District or Sub-Divisional Magistrate.**

- In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-Divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

### **519. 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 has brought 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.

## **520. Stay of order under section 517, 518, or 519.**

- Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court and may modify alter or annul such order and make any further orders that may be just.

## **521. Destruction of libellous and other matter.**

(1) On a conviction under the Ranbir Penal Code, section 292, section 293, section 501 or section 502, 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 the Ranbir Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

## **522. Power to restore possession of immovable property.**

(1) Whenever 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 criminal intimidation any person has been dispossessed of any immovable property, the Court may, if it thinks fit, when convicting such person or at any time within one month from the date of the conviction, order the person dispossessed to be restored to the possession of the same. (2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit. (3) An order under this section may be made by any Court of appeal confirmation, reference or revision.

## **523. Procedure by police upon seizure of property taken under section 51 or stolen.**

(1) The seizure by any police officer of property taken under section 51 or alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall 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) Procedure where owner of property seized unknown. - 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. 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.

## **524. 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, such property shall be at the disposal of the Government, and may be sold under the orders of the District Magistrate or Sub-Divisional Magistrate, or of [an Executive Magistrate] [Substituted by Act XL of 1966.] of the first class empowered by [the Government] [Substituted by Act XV of 2004 for 'High Court' [for earlier amendment see Notification 3-L/85 published in Government Gazette dated 8th Bhadon, 1985].] in this behalf. (2) In the case of every order passed under this section an appeal shall lie [to the Sessions Judge] [Substituted by Act XL of 1966.],

## **525. Power to sell perishable property.**

- If the person entitled to the possession of such property is unknown or absent 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 523 and 524 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

## **Chapter XLIV**

### **Transfer of Criminal Cases**

## **526. High Court may transfer case or itself try it.**

(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 a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same ; or (d) that an order under this section will tend to the general convenience of the parties or witness ; or (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code, it may order—(i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (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 or appeal be transferred to and tried before itself ; or (iv) that an accused person be committed for trial to itself or to a Court of Session. [(1-a) Notwithstanding anything contained in sub-section (1), no application shall lie to the High Court for the exercise of its powers under the said sub-section for transferring any 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] [Sub-section (1-a) of section 526 inserted by Act XLII of 1956.]. (2) When the High Court withdraws for trial before itself any case from any Court, it shall [xxx] [Words and figures omitted by Act XXXVII of 1978, Section 71.] observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn. (3) 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.(4)Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Government Advocate, be supported by affidavit or affirmation.(5)When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if so ordered, pay any amount which the High Court may under this section award by way of compensation to the person opposing the application.(6)Notice to Public Prosecutor of application under this section. Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made, and no order shall be made on 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-a) Where any application for the exercise of the power conferred by this section 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 two hundred and fifty rupees as it may consider proper in the circumstances of the case.(7)Nothing in this section shall be deemed to affect any order made under section 197.(8)Adjournment on application under this section or under section 528. - If in an inquiry under Chapter VIII [xxx] [Words and figures omitted by Act XXXVII of 1978, Section 71.] or in any trial, any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section [or under section 528] [Inserted by Act XVII of 1956.], the Court shall upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon :Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party [if the application is intended to be made to the same Court to which the party has been given an opportunity of making such an application,] [Inserted by Act XLII of 1956.] or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.(9)Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.Explanation. - Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section 344.(10)If, before the argument (if any) for admission of an appeal begins, or in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period, as will afford sufficient time for the application to be made and an order to be obtained thereon.

## 526A.

Omitted.[527. Omitted] [Section 527 omitted by Act X of 2011.].

## 528. Sessions Judge may withdraw cases from Assistant Sessions Judge.

(1)Any Session Judge may withdraw [any case or appeal] [Substituted by Act XLII of 1956 for 'any case'.] from, or recall [any case or appeal] [Substituted by Act XLII of 1956 for 'any case'.] which he has made over to, any Assistant Sessions Judge subordinate to him.[(1-a) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, any Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.(1-b) Where a Sessions Judge withdraws or recalls a case or appeal under sub-section (1) or sub-section (1-a), 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.(1-c) Any Sessions Judge, on an application made to him in this behalf, may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from one Criminal Court to another Criminal Court in the same sessions division.] [Sub-sections (1-a) and (1-c) of section 528 inserted Act XLII of 1956.](2)Chief Judicial Magistrate may withdraw or refer cases. - [The Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'any District Magistrate or Sub-Divisional 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.(3)Power to authorise District Magistrate to withdraw classes of cases. - [The Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may authorise the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.[(3-a) Where the District Magistrate authorised under sub-section (3) withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same] [Sub-section (3-a) inserted by Act XL of 1966.](4)Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself.(5)A Magistrate making an order under this section shall record in writing his reasons for making the same.

## Chapter XLIV

### A Supplementary Provisions Relating to European and Indian British Subjects and Others

## **528A. to 528D.**

Omitted.

## **Chapter XLV Irregular Proceedings**

### **529. 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 98 ;(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 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;(e)to take cognizance of an offence under section 190, sub-section (1), clause (a) or clause (b) ;(f)to transfer case under section 192 ;(g)to tender a pardon under section 337 or section 338 ;(h)to sell property under section 524 or section 525 ; or(i)to withdraw a case and try it himself under section 528 ;erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

### **530. 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 88 ;(b)issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department ;(c)demand security to keep the peace ;(d)demand 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 under section 133, as to local nuisance ;(h)prohibits, under section 143, the repetition or continuance of a public nuisance ;(i)issues an order under section 144 ;(j)makes an order under Chapter XII ;(k)takes cognizance, under section 190, sub-section (1) clause (c), of an offence ;(l)passes a sentence, under section 349, on proceedings recorded by another Magistrate ;(m)calls, under section 435, for proceedings ;(n)makes an order for maintenance ;(o)revises, under section 515, an order passed under section 514 ;(p)tries an offender ;(q)tries an offender summarily ; or(r)decides an appeal ;his proceedings shall be void.

### **531. 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 proceeding 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.

### **532. When irregular commitments may be validated.**

(1) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment, if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority. (2) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

### **533. Non-compliance with provisions of section 164 or 364.**

(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 364 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 shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained in the Evidence Act, 1977, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits. (2) The provisions of this section apply to Courts of appeal, reference and revision.

### **534.**

Omitted.

### **535. Effect of omission to prepare charge.**

(1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby. (2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge. [536. Omitted] [Section 536 omitted by Act XXXVII of 1978, Section 72.].

### **537. Finding or sentence when reversible by reason of error or omission in charge or other proceedings.**

- Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account (a) of any error, omission or irregularity in the complaint, summons warrant, [x] [Word 'Charge' omitted by Act XLII of 1956.] proclamation order, judgement or other proceedings before or during trial or is any inquiry or other proceedings under this Code ; or (b) [ of any error, omission or irregularity in the charge, including any misjoinder of charges, [x] [Clause (b) of section 537



inserted by Act XLII of 1956.] ;](c)[ Omitted] [Words 'or' and 'clause (c)' omitted by Act XXXVII of 1978, Section 73.],(d)Omitted.[unless such error, omission or irregularity has in fact occasioned a failure of justice] [Added by corrigenda published in Government Gazette dated 5th Har, 1993.].Explanation. - In determining whether any error, omission or irregularity in any proceeding under this Code 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.

### **538. Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.**

- 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 of attachment or other proceedings relating thereto.[Chapter XLV-A [Chapter XLV-A inserted by Act XXXVII of 1978, Section 74.] Limitation for Taking Cognizance of Certain Offences

#### **538A. Definition.**

- For the purposes of this Chapter, unless the context otherwise requires "period of limitation" means the period specified in section 53,8-B for taking cognizance of an offence.

#### **538B. 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;(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 a term exceeding one year but not exceeding three years.

#### **538C. Commencement of the period of limitation.**

(1)The period of limitation, in relation of 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.

#### **538D. 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, 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.(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.

### **538E. 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.

### **538F. 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.

### **538G. 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.]

## **Chapter XLVI**

### **Miscellaneous**

### **539. Courts and persons before whom affidavits may be sworn.**

- Affidavits and affirmations to be used before any Court in the State may be sworn and affirmed before such Court or any Magistrate or other Court in the State, but if the affidavit or affirmation is made outside the limits of the State, it may be sworn or affirmed before any tribunal competent in that behalf according to the law of locality where the affidavit or affirmation is made.

#### **539A. [ Affidavit in proof of conduct of public servant. [Sections 539-A and 539-AA substituted for original section 539-A by Act XLII of 1956.]**

(1)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.(2)Affidavits under this section 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.

#### **539AA. Authorities before whom affidavits may be sworn.**

(1)An affidavit to be used before any Court other than the High Court under section 510-A or section 539-A may be sworn or affirmed in the manner prescribed in section 539 or before any Magistrate.(2)The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.]

#### **539B. 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. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost.[xxx] [Proviso omitted by Act XXXVII of 1978, Section 75.] Omitted.

### **540. 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 essential to the just decision of the case.

## **540A. 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, 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.] [Sub-section (1) of section 540-A substituted by Act XLII of 1956.](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.[Explanation. - For the purpose of this section "personal attendance of the accused" shall include his attendance through the medium of Electronic Video Linkage as provided in section 353.] [Added by Governor Act No. 48 of 2018, dated 13.12.2018.]

## **541. Power to appoint place of imprisonment.**

(1)Unless when otherwise provided by any law for the time being in force, [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.(2)Removal to criminal jail of accused or convicted persons who are in confinement in civil jail and their return to the civil jail. - 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 sub-section (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 discharged from the civil jail under section 58 of the Code of Civil Procedure, 1977 ; 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 discharged under section 58 of the Code of Civil Procedure, 1977.

## **542. Power to 1st class Magistrate to order prisoner in jail to be brought up for examination.**

(1)Any Magistrate of the 1st class desirous of examining as a witness in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer-in-charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.(2)The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

### **543. 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.

### **544. Expenses of complainants and witnesses.**

- Subject to any rule made by the High Court with the previous sanction of [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.], 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.

### **545. Power of Court to pay expenses or compensation out of fine.**

(1)Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal revision or otherwise a sentence of fine, or [a sentence (including a sentence of death) of which fine forms a part] [Substituted by Act XLII of 1956 for 'a sentence 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 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 substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court ;(bb)[ when any person is convicted of any offence far 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, 1977, entitled to recover damages from the person sentenced for the loss resulting to them from such death] [Clause (bb) of section 545(1) inserted by Act XLII of 1956.];(c)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 payments 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.

### **545B. [ Compensation to be in addition to fine under section 326A or section 376D of the Ranbir Penal Code. [Substituted by Jammu and Kashmir Act No. 35 of 2018, dated 7.12.2018.]**

- Compensation payable by the Government under section 545A shall be in addition to payment of fine to the victimunder section 326A, section 376A, 376D, section 376DA or section 376 DB.]

**545C. [ Treatment of victims. [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]**

- All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under [section 326A, 376, 376A, 376B, 376C, 376D, 376DA, 376DB or section 376E] of the Penal Code and shall immediately inform the police of such incident. Explanation. - The expression "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of victims during convalescence or of victims requiring medical attention or rehabilitation or medical examination or pathological tests.]

**546. Payments to be taken into account in subsequent suit.**

- 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 section 545.

**546A. Order of payment of certain fees paid by complainant 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-(a) the fee (if any) paid on the petition of complaint or for the examination of the complainant ; and (b) any fees paid by the complainant for serving processes on his witnesses or on the accused ; and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days. (2) An order under this section may also be made by an Appellate Court, or by High Court, when exercising its powers of revision.

**547. Moneys ordered to be paid recoverable as fines.**

- 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 it were a fine.

**548. Copies of proceedings.**

- If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith : Provided that he pays for the same, unless the Court, for some special reasons, thinks fit to furnish it free of cost.

## **549. Delivery to military authorities of persons liable to be tried by Court-martial.**

(1)[The Government] [Substituted by Act X of 2010 for 'His Highness'.] may make rules consistent with this Code and the Army Act in force in the State or any similar law for the time being in force as to the cases in which persons subject to military law, shall be tried by a Court to which this Code applies, or by Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act in force in the State to be tried 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 regiment, corps or detachment, to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.(2)Apprehension of such persons. - Every Magistrate shall on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

## **550. Powers to police to seize property suspected to be stolen.**

- 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. Such police officer, if subordinate to the officer-in-charge of a police station, shall forthwith report the seizure to that officer.

## **551. 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.

## **552. Power to compel restoration of abducted females.**

- Upon complaint made to a District Magistrate [or Chief Judicial Magistrate] [Inserted by Act XL of 1966.] on oath of the abduction or unlawful detention of a woman, or of a female child under the age of [sixteen] [Substituted for 'fourteen' by Notification 14-L/83 published in Government Gazette dated 29th Bhadon, 1983.] years, for any unlawful purpose, he may. take 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.

## **553.**

Omitted.

## **554. Power of High Court to make rules.**

(1)The High Court may, from time to time, and with the previous sanction of the [the Government] [In section 4(1)(a), (1) and (p). 7(2), 8, 9, 10, 11, 12, 415(3), 108, 132, 157, 158, 161, 173, 178, 188, 193(2), 196, 196-A, 197, 218, 261, 263, 265, 319, 320(1), 321, 335, 357, 358, 382, 386, 392, 399, 422, 464, 466, 471, 474, 483, 492, 495, 528, 541 and 554 the words 'The Government' substituted for the words 'His Highness' by Act X of 1996.] ;(a)make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts ;(b)frame forms for every proceeding in the said Courts for which it thinks that a form should be provided ;(c)make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it ; and(d)make rules for regulating the execution of warrants issued under this Code for the levy of fines :Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.(2)All rules made under this section shall be published in the Government Gazette.

## **555. Forms.**

- Subject to the power conferred by section 554, the forms set forth in the Fifth Schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

## **555A. [ Power of High Court to make rules in respect of petition writers. [Section 555-A inserted by Act XII of 1956.]**

(1)The High Court may, from time to time, and with the previous approval of the 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 licence to such persons the conduct of business by them ; and the scale of fees to be charged by them ; and(c)provide 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 :Provided that the rules made under this section shall not be inconsistent with this Code or any other law in force for the time being.(2)All rules made under this section shall be published in the Government Gazette.]

## **556. 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 a party, or personally-interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise 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 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. Illustration A, as collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

### **557. 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 such Court or in any Court within the jurisdiction of such Court.

### **558. Power to decide language of Courts.**

- The Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories of Jammu and Kashmir State.

### **558A. [ Delegation of powers. [Section 558-A inserted by Act XV of 2004.]**

- The Government may by order direct that all or any, of the powers and duties conferred or imposed on the Government by the Code be exercised or performed by the Minister-in charge, Law Department.]

### **559. Provision for powers of Judges and Magistrates being exercised 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 Magistrate, [the Chief Judicial Magistrate in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates] [Substituted by Act XL of 1966 for 'the District Magistrate'.], 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-in-office of such Magistrate. (3) When there is any doubt as to who is the successor-in-office of any Additional or Assistant Session 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.

### **560. Officers concerned in sales 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.

## **561. Special provisions with respect to offence of rape by a husband.**

(1) Notwithstanding anything in this Code, no Magistrate except a 1[Chief Judicial Magistrate] shall-(a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife ; or (b) commit the man for trial for the offence. (2) And, notwithstanding anything in this Code, if a [Chief Judicial Magistrate] [Substituted by Act XL of 1966 for 'the District Magistrate'.] deems it necessary to direct an investigation by a police officer, with respect to such an offence as is referred to in sub-section (1), no police officer of a rank below that of police inspector shall be employed either to make, or to take part in, the investigation.

### **561A. Saving of inherent power of High Court.**

- Nothing in this Code shall be deemed to limit or affect the inherent power 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.

### **561B. [ Duty of High Court to exercise continuous superintendence over the Courts of Judicial Magistrates. [Section 561-B and 561-C inserted by Act XXXVII of 1978, Section 76.]**

- 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.

### **561C. Trials before High Court.**

- When an offence is tried by the High Court otherwise than under section 526, 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.] First Offenders.

## **562. Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.**

(1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, 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 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 [Judicial Magistrate of the second class not specially empowered by the High Court] [Substituted by Act XL of 1966.] in this behalf, 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 [Judicial Magistrate of the first class] [Substituted by Act XL of 1966.], forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.(1-a) Conviction and release with admonition. - In any case in which a person is convicted of theft, theft in a building, dishonest-misappropriation, cheating or any offence under the Ranbir Penal Code punishable with not more than two years imprisonment and no previous conviction is proved against him, the Court before whom 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.(2)An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.(3)When an order has been made under this section in respect of any offender, the High Court 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 shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.(4)The provisions of sections 122, 126-A and 406-A shall, so far as may be, apply in the. case of sureties, offered in pursuance of the provisions of this section.

### **563. Provision in case of offender failing to observe conditions, of his recognizances.**

(1)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.(2)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. Such Court may, after hearing the case, pass sentence.

### **564. Conditions as to abode of offender.**

- The Court, before directing the release of an offender under section 562, sub-section (1), shall be satisfied that the 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.Previously convicted offenders.

### **565. Order for notifying address of previously convicted offender.**

(1)When any person having been convicted-(a)by a. Court in the Jammu and Kashmir State of an

offence punishable under section 215, section 489-A, section 489-B, section 489-C, or section 489-D, of the Ranbir Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards ; or(b)by a Court or Tribunal in [any other part of the territory of India] [Substituted by Act XL of 1966.] of any offence which would, if committed in the State, have been punishable under any of the aforesaid sections or Chapters of the Ranbir Penal Code with like imprisonment for a like term ;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 the High Court, Court of Session, [Chief Judicial Magistrate or any other Judicial Magistrate] [Substituted by Act XL of 1966.] of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing 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)If such conviction is set aside on appeal or otherwise, such order shall become void.(3)[the Government] [Substituted by Act. XV of 2004 for 'High Court'.] [in consultation with the High Court] [Words inserted by Act XL of 1966.] may 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.(4)An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.(5)Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed within meaning of section 176 of the Ranbir Penal Code to have omitted to give a notice required for the purpose of preventing the commission of an offence.(6)Any person charged with a breach of any such rule may be tried by a [Judicial Magistrate] [Substituted by Act XL of 1966.] of competent jurisdiction in the District in which the place last notified by him as place of residence is situated.

I

Omitted

II

Tabular Statement of OffencesExplanatory Note :- The entries in the second and seventh columns of this Schedule, headed respectively "Offence" and "Punishment under the Ranbir Penal Code", are not intended as definitions of the offences and punishments described in the several corresponding sections of the Ranbir Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section the number of which is given in the first column.

1	2	3	4	5	6
Section of Ranbir Penal Code.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compound or not.

Chapter  
V-Abetment

		May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According offence ab compound not.
109.	Abetment of any offence, if the act abetted is committed inconsequence, and where no express provision is made for its punishment.				
110.	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	do.	do.	do.	do.
111.	Abetment of any offence, when one act is abetted and different act is done ; subject to the proviso.	do.	do.	do.	do.
113.	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	do.	do.	do.	do.
114.	Abetment of any offence, if abettor is present when offence is committed.	do.	do.	do.	do.
115.	Abetment of an offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of	do.	do.	Not bailable.	do.

theabetment.

If an act which  
causes harm be done  
in consequence of  
theabetment.

do.

do.

do.

do.

116. Abetment of an  
offence, punishable  
with imprisonment,  
if theoffence, be not  
committed in  
consequence of the  
abetment.

do.

do.

According as the  
offence abetted is  
bailable or not.

do.

If the abettor or the  
person abetted be a  
public servantwhose  
duty it is to prevent  
the offence.

do.

do.

According as the  
offence abetted is  
bailable or not.

do.

117. Abetting the  
commission of an  
offence by the public, do.  
or bymore than ten  
persons.

do.

do.

do.

do.

118. Concealing as design  
to commit an offence  
punishable  
withdeath or  
imprisonment for life  
if the offence be  
committed.

May arrest  
without

warrant if  
arrest for the  
offence  
abettedmay  
be made  
without  
warrant, but  
not  
otherwise.

do.

do.

According as a  
warrant of  
summons may  
issue for the  
offenceabetted.

Not bailable.

Bailable.

According  
offence ab  
compound  
not.

do.

119.	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	do.	do.	According as the offence abetted is bailable or not.	do.
	If the offence be punishable with death or imprisonment for life.	do.	do.	Non bailable.	do.
	If the offence be not committed.	do.	do.	Bailable.	do.
120.	Concealing a design to commit an offence punishable with imprisonment if the offence be committed.	do.	do.	According as the offence concealed is bailable or not.	do.
	If the offence be not committed.	do.	do.	Bailable.	do.

Chapter  
V-A-Criminal  
Conspiracy.

120-B.	Criminal conspiracy to commit an offence punishable with death, imprisonment for life, or rigorous imprisonment for a term of two years or upwards.	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According to a warrant or summons may issue for the offence which is the object of the conspiracy.	According to the offence which is the object of the conspiracy is bailable or not.	Non compound
	Any other criminal conspiracy	Shall not arrest without warrant	Summons.	Bailable.	do.

Chapter  
VI-Offences  
Against The State

121.	Waging or attempting to wage war or abetting the waging of war against the Government of India.	Shall not arrest without warrant	Warrant.	Not bailable.	Not compo
121-A.	Conspiring to commit certain offences against the State.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compo



122.	Collecting arms, etc. with the intention of waging war against the Government and Government of India.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compo
123.	Concealing, with intent to facilitate a design to wage war	do.	do.	do.	do.
124.	Assaulting President or Governor with intent to compel or restrain the exercise of any lawful power.	do.	do.	do.	do.
124-A.	Sedition	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compo
125.	Waging war against any Asiatic Power in alliance or at peace with the Government of India, or abetting the waging of such war.	do.	do.	do.	do.
126.	Committing depredation on the territories of any Power in alliance or at peace with the	do.	do.	do.	do.

Govt. of India.

127.	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	do.	do.	do.	do.
128.	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	do.	do.	do.	do.
129.	Public servant negligently suffering prisoner of State or war in his custody to escape.	do.	do.	Bailable.	do.
130.	Aiding escape of, rescuing or harbouring such prisoner, or offering any resistance to the recapture of such prisoner.	Shall not arrest without warrant.	Warrant.	Not Bailable.	Not compo
Chapter VII-Offences Relating to the Army, Navy and Airforce.					
131.	Abetting mutiny, or attempting to seduce an officer, soldier, sailor, or airman from his allegiance or duty.	May arrest without warrant.	Warrant.	Not Bailable.	Not compo
132.		do.	do.	do.	do.

Abetment of mutiny,  
if mutiny is  
committed in  
consequencethereof.

133.	Abetment of an assault by an officer, soldier, sailor orairman on his superior officer, when in the execution of hisoffice.	do.	do.	do.	do.
134.	Abetment of such assault, if the assault is committed.	do.	do.	do.	do.
135.	Abetment of the description of an officer, soldier, sailor orairman.	May arrest without warrant.	Warrant.	Bailable.	Not compo
136.	Harbouring such an officer, soldier, sailor or airman who hasdeserted.	do.	do.	do.	do.
137.	Omitted.				
138.	Abetment of act of insubordination by an officer, soldier,sailor or airman if the offence be committed in consequence.	do.	do.	do.	do.
140.	Wearing the dress or carrying any token used by a	do.	Summons.	do.	do.

soldier,sailor or  
airman with intent  
that it may be  
believed that he  
issuch a soldier,  
sailor or airman.

Chapter  
VIII-Offences  
Against The  
PublicTranquility.

143.	Being member of an unlawful assembly.	May arrest without warrant.	Summons.	Bailable.	Not compo
144.	Joining an unlawful assembly armed with any deadly weapon.	do.	Warrant	do.	do.
145.	Joining or continuing in an unlawful assembly, knowing thatit has been commanded to disperse.	do.	do.	do.	do.
147.	Rioting.	May arrest without warrant.	Warrant.	Bailable.	Not compo
148.	Rioting, armed with a deadly Weapon.	do.	do.	do.	do.

149.	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Not compo
150.	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	do.	do.
151.	Knowingly joining or continuing in any assembly of five or more persons, after it has been commanded to disperse.	do.	Summons.	Bailable.	do.
152.	Assaulting or obstructing public servant when suppressing riot, etc.	May arrest without warrant.	Warrant.	[Not bailable.] [Substituted by Act XII of 1980, Section 18.]	do.
153.	Want only giving provocation with intent to cause riot,	May arrest without warrant.	Warrant.	Bailable.	do.

ifrioting be  
committed.

If not committed. do. Summons. do. do.

[153-A.]  
[Substituted by  
Act XVII of 1970.] (1) Promoting enmity  
between classes. do. Warrant. Not bailable. do.

[153-A.]  
[Substituted by  
Act XVII of 1970.] (2) Promoting  
enmity between  
classes in place of  
worship. do. do. do. do.

[153-B.] [Inserted  
by Act X of 1983,  
Section 25.] Assertions etc.  
prejudicial to  
maintenance of  
harmony. do. do. do. do.

154. Owner or Occupier of land not giving  
information, of  
riotetc. Shall not  
arrest  
without  
warrant. Summons. Bailable. Not compo

155. Person for whose  
benefit or on whose  
behalf a riot Shall not  
arrest  
without Summons. Bailable. do.

	takesplace not using all lawful means to prevent.		warrant.			
156.	Agent of owner or occupier for whose benefit a riot iscommitted not using all lawful means to prevent it.	do.	do.	do.	do.	
157.	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	do.	do.	do.	
158.	Being hired to take part in an unlawful assembly or riot.	do.	do.	do.	do.	
158.	Or to go armed.Contd.	do.	Warrant.	do.	do.	
160.	Committing affray.	shall not arrest without warrant.	Summons.	do.	do.	
ChapterIX-Offences by or Relating to Public Servants.						
161.	Being or expecting to be a public servant and taking agratification other than legal remuneration in respect of anofficial.	[May arrest without warrant] [Substituted by Act XLII of 1956 for 'Shall not arrest without warrant'.].	Summons.	Bailable.	Not compo	

162.	Taking a gratification in order by corrupt or illegal means to influence a public servant.	do.	do.	do.	do.
163.	Taking a gratification for the exercise of personal influence with a public servant.	do.	do.	do.	do.
164.	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	[May arrest without warrant] [Words 'and personation' omitted by Act IV of 1957.].	Summons.	Bailable.	Not compo
165.	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	do.	do.	do.	do.
166.	Public servant disobeying a direction of the law with intent to cause injury to any person.	Shall not arrest without warrant.	do.	do.	do.
166A. [ [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Public servant disobeying direct on under Law	Shall not arrest without warrant.	Summons	Bailable	Not compo
166B. [ [Inserted by Jammu and	Non-treatment of victim by hospital	Shall not arrest	Summons	Bailable	Not compo



Kashmir Act No. 11  
of 2014, dated  
22.3.2014.]

without  
warrant

167.	Public servant framing an incorrect document with intent to cause injury.	do.	do.	do.	do.
168.	Public servant unlawfully engaging in trade.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
169.	Public servant unlawfully buying or bidding for property.	do.	do.	do.	do.
170.	Personating a public servant.	May arrest without Warrant.	Warrant.	do.	do.
171.	Wearing garb or carrying token used by public servant with fraudulent intent.	do.	Summons.	do.	do.

Chapter  
IX-A-Offences  
Relating to  
Elections.

171-E.	Bribery	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
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	Under Influence[xxx] [Words 'and personation' omitted by Act IV of 1957.]at an election.	do.	do.	do.	do.
171-F.					
	[Personation at an election] [Inserted by Act IV of 1957.]	May arrest without warrant [Shall not arrest without warrant] [Substituted by Act IV of 1957].	do.	do.	do.
171-G.	False statement in connection with an election.		Summons.	Bailable.	Not compo
171-H.	Illegal payments in connection with election.	do.	do.	do.	do.
171-I.	Failure to keep election accounts.	do.	do.	do.	do.
Chapter X-Contempts of the Lawful Authorityof Public Servants.					
172.	Absconding to avoid service of summons or other proceedingsfrom a public servant.	Shall not arrest without warrant.	Summons	Bailable	Not compo
	If summons or notice require attendance in person, etc. in aCourt of Justice.	do.	do.	do.	do.
173.	Preventing the service or the affixing at any summons ornotice, or the	do.	do.	do.	do.

removal of it when it  
has been affixed  
or preventing a  
proclamation.

If summons, etc.  
require attendance in  
person, etc, in a Court  
of Justice.

do.

do.

do.

do.

174. Not obeying a legal  
order to attend at a  
certain place  
in person or by agent, do.  
or departing  
therefrom without  
authority.

do.

do.

do.

If the order requires  
personal attendance,  
etc. in a Court  
of Justice.

do.

do.

do.

do.

175. Intentionally  
omitting to produce  
a document to a  
public servant by a do.  
person legally bound  
to produce or deliver  
such document.

do.

do.

do.

If the document is  
required to be  
produced in or do.  
delivered to a Court  
of Justice.

do

do.

do.

176. Intentionally do.  
omitting to give  
notice or information

do

do.

do.

	to a public servant by a person legally bound to give such notice or information.				
	If the notice or information required respects the commission of an offence, etc.	do.	do.	do.	do.
177.	Knowingly furnishing false information to a public servant.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
	If the information required respects the commission of an offence, etc.	do.	do.	do.	do.
178.	Refusing oath when duly required to take oath by a public servant.	do.	do.	do.	do.
179.	Being legally bound to state truth, and refusing to answer questions.	do.	do.	do.	do.
180	Refusing to sign a statement made to public servant when legally required to do so.	do.	do.	do.	do.
181.		do.	Warrant.	do.	do.

Knowingly stating to  
a public servant on  
oath as true  
that which, is false.

182.	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	do.	Summons.	do.	do.
183.	Resistance to the taking of property by the lawful authority of a public servant.	do.	do.	do.	do.
184.	Obstructing sale of property offered for sale by authority of a public servant.	do.	do.	do.	do.
185.	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	do.	do.	do.	do.
186.	Obstructing public servant in discharge of his public functions.	do.	do.	do.	do.
187.		do.	do.	do.	do.

	Omission to assist public servant when bound by law to give such assistance.				
	Wilfully neglecting to aid a public servant who demands aid in the execution of process the prevention of offences, etc.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
188.	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	do.	do.	do.	do.
	If such disobedience causes danger to human life, health or safety, etc.	do.	do.	do.	do.
189.	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	[Shall not arrest without warrant] [Substituted by correction slip published in Government Gazette dated 14th	Warrant.	Not Bailable.	do.

		Sawan, 2000.].			
190.	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Shall not arrest without warrant.	Summons.	Bailable.	do.
[190-A.] [Entry relating to section 190-A inserted by Act I of 1993.]	Dissemination of contents of prescribed documents].	May arrest without warrant.	do.	do.	
Chapter XI-False Evidence and Offence Against Public Justice.					
193.	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compo
	Giving or fabricating false evidence in any other case.	do.	do.	do.	do.
194.	Giving or fabricating false evidence with intent to cause any person to be conducted of a capital offence.	do.	do.	Not bailable	do.
	If innocent person be thereby convicted and executed.	do.	do.	do.	do.
195.	Giving or fabricating false evidence with intent to	do.	do.	Bailable	do.

	procure conviction of an offence punishable with imprisonment for life or with imprisonment for seven years or upwards.				
[195-A. [Inserted by Act IX of 2007, Section 10.]	Threatening or inducing any person to give false evidence.	Cognizable	do.	Non-bailable	do.
196.	Using in a judicial proceeding evidence known to be false or fabricated.	Shall not arrest without warrant.	Warrant.	According as the offence of giving such evidence is bailable or not.	Not competent.
197.	Knowing issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	do.	do.	Bailable.	do.
198.	Using as a true certificate one known to be false in a material point.	do.	do.	do.	do.
199.	False statement made in any declaration which is by law receivable as evidence	do.	do.	do.	do.
200.	Using as true any such declaration known to be false.	do.	do.	do.	do.
201.	Causing disappearance of evidence of an offence committed, or giving false	do.	do.	do.	do.



information touching  
it to screen the  
offender, if capital  
offence.

If punishable with  
imprisonment for life  
or imprisonment  
for 10 years.

do.

do.

do.

do.

If punishable with  
less than 10 years  
imprisonment.

do.

do.

do.

do.

202. Intentional omission  
to give information  
of an offence by  
a person legally  
bound to inform.

do.

Summons

do.

do.

203. Giving false  
information  
respecting an offence  
committed.

do.

Warrant

do.

do.

204. Secreting or  
destroying any  
document to prevent  
its production as  
evidence.

do.

do.

do.

do.

205. False personation for  
the purpose of any  
act or proceeding in a  
suit or criminal  
prosecution, or for  
becoming bail  
or security.

do.

do.

do.

do.

206.	Fraudulent removal or concealment, etc. of property to prevent its seizure as a forfeiture, or satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compo
207.	Claiming property without right, or practising deception 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.	do.	do.	do.	do.
208.	Fraudulently suffering a decree to pass for a sum not due or suffering decree to be executed after it has been satisfied.	do.	do.	do.	do.
209.	False claim in a Court of Justice.	do.	do.	do.	do.
210.	Fraudulently obtaining in a decree for a sum not due, or erasing a decree to be executed after it has been satisfied.	do.	do.	do.	do.
211.	False charge of offence made with intent to injure.	do.	do.	do.	do.

	If offences charged be punishable with imprisonment for 7 years or upwards.	do.	do.	do.	do.
	If offences charged be capital, or punishable with imprisonment for life.	do.	do.	do.	do.
212.	Harbouring an offender, if the offence be capital.	May arrest without warrant.	do.	do.	do.
	If punishable with imprisonment for life, or with imprisonment for 10 years.	do.	do.	do.	do.
	If punishable with imprisonment for 1 year and not for 10 years.	do.	do.	do.	do.
213.	Taking gift, etc., to screen an offender from punishment if the offence be capital.	May arrest without warrant.	Warrant.	Bailable.	Not compo
	If punishable with imprisonment for life, or with imprisonment for 10 years.	do.	do.	do.	do.

	If with imprisonment for less than 10 years.	do.	do.	do.	do.
214.	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Shall not arrest without warrant.	do.	do.	do.
	If punishable with imprisonment for life, or with imprisonment for 10 years.	do.	do.	do.	do.
	If with imprisonment for less than 10 years.	Shall not arrest without warrant	do.	do.	do.
215. [ ] [Offences under section 215 made cognizable by notification No. 4L/86 published in Government Gazette dated 7th Bhadon, 1986.]	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender.	May arrest without warrant.	Warrant.	Bailable.	Not compo
216.	Harbouring an offender who has escaped from custody, or	do.	do.	do.	do.

	whose apprehension has been ordered, if the offence be capital.				
	If punishable with imprisonment for life, or both with imprisonment for 10 years.	May arrest without warrant.	Warrant.	Bailable.	Not compo
	If with imprisonment for less than 10 years.	do.	do.	do.	do.
216-A.	Harbouring robbers or dacoits.	do.	do.	do.	do.
217.	Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
218.	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	do.	Warrant.	do.	do.
219.	Public servant in a judicial proceeding corruptly making and pronouncing an	do.	do.	do.	do.

	order, report, verdict or decision which he knows to be contrary to law.				
	Commitment for trial or confinement by a person				
220.	having authority, who knows that he is acting contrary to law.	do.	do.	do.	do.
	Intentional omission to apprehend on the part of a public servant by bound law to apprehend an offender if the offence be capital.				
221.		do.	do.	do.	do.
	If punishable with imprisonment for life, or imprisonment for 10 years.	do.	do.	do.	do.
	If with imprisonment for less than 10 years.	do.	do.	do.	do.
	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.				
222.		do.	do.	Not-bailable	do.
	If under sentence of imprisonment for life or imprisonment for	do.	do.	do.	do.

10 years or upwards.

If under sentence of imprisonment for less than 10 years, or lawfully committed to custody.

do.

do.

Bailable

do.

223.

Escape from confinement negligently suffered by a public servant.

do.

Summons

do.

do.

224.

Resistance or obstruction by a person to his lawful apprehension.

May arrest without warrant.

Warrant.

Bailable.

Not competent

225.

Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.

do.

do.

do.

do.

If charged with an offence punishable with imprisonment for life, or imprisonment for 10 years.

do.

do.

Not bailable.

do.

If charged with a capital offence.

do.

do.

do.

do.

If the person is sentenced to imprisonment for life, or imprisonment for 10 years or upwards.

do.

do.

do.

do.

	If under sentence of death.	do.	do.	do.	do.
225-A.	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provide for-				
	(a) in case of intentional omission or sufferance ;	Shall not arrest without warrant.	Warrant.	Bailable	Not compo
	(b) in case of negligent omission or sufferance.	do.	Summons.	do.	do.
225-B.	Resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for.	May arrest without warrant.	Warrant.	do.	do.
226.	Omitted.				
227.	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons.	do.	do.
228.			Summons.	Bailable.	Not compo



	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Shall not arrest without warrant.			
[228-A.] [Inserted by Act XXVI of 1988, section 9.]	Disclosure of identity of the victim of certain offences etc., printing or publication of a proceeding without permission of Court.	May arrest without warrant.	Warrant	do.	do.
229.	Personation of a juror or assessor.	Shall not arrest without warrant.	Summons.	do.	do.
Chapter XII-Offences Relating to Coin and Government Stamps.					
231.	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
232.	Counterfeiting or performing any part of the process of counterfeiting, the Indian Coin.	do.	do.	do.	do.
233.	Making, buying or selling instrument for the purpose of counterfeiting coin.	do.	do.	do.	do.

234.	Making, buying or selling instrument for the purpose or counterfeiting the Indian coin.	do.	do.	do.	do.
235.	Possession of instrument or material for the purpose of using the same for counterfeiting Coin.	do.	do.	do.	do.
	If Indian coin	do.	do.	do.	do.
236.	Abetting in the State the counterfeiting out of the State of coin.	do.	do.	do.	do.
237.	Import or export of counterfeit coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
238.	Import or export of counterfeits of the Indian coin, knowing the same to be counterfeit.	do.	do.	do.	do.
239.	Having any Counterfeit coin known to be such when it came into possession, and	do.	do.	do.	do.

delivering, etc., the  
same to any person.

240.	The same with respect to Indian coin.	do.	do.	do.	do.
241.	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	do.	do.	do.	do.
242.	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	do.	do.	do.	do.
243.	Possession of Indian coin by a person who knew it to be counterfeit when he became possessed thereof.	do.	do.	do.	do.
244.	Omitted.				
245.	Omitted.				
246.	Fraudulently diminishing the weight or altering the composition of any coin.	do.	do.	do.	do.
247.	Fraudulently diminishing the weight or altering the composition of Indian coin.	do.	do.	do.	do.

248.	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	do.	do.	do.	do.
249.	Altering appearance of the Indian coin with intent that it shall pass as a coin of a different description.	May arrest without warrant.	Warrant.	Bailable.	Not compo
250.	Delivery to another of coin possessed with the knowledge that it is altered.	do.	do.	do.	do.
251.	Delivery of Indian coin possessed with the knowledge that it is altered.	do.	do.	do.	do.
252.	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	do.	do.	do.	do.
253.	Possession of Indian coin by a person who knew it to be altered when he became possessed thereof.	do.	do.	do.	do.
254.	Delivery to another of coin as genuine which, when first possessed, the delivery did not know to be altered.	do.	do.	do.	do.
255.	Counterfeiting a Government stamp.	do.	do.	do.	do.

256.	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	do.	do.	do.	do.
257.	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	do.	do.	do.	do.
258.	Sale of counterfeit Government stamp.	do.	do.	do.	do.
259.	Having possession of a counterfeit Government stamp.	do.	do.	do.	do.
260.	Using as genuine a Government stamp known to be counterfeit.	do.	do.	do.	do.
261.	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	do.	do.	do.	do.
262.	Using a Government stamp known to have been before used.	May arrest without warrant.	Warrant	Not bailable.	Not compo

263.	Erasure of mark denoting that stamp has been used.	do.	do.	do.	do.
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263-A.	Fictitious stamps.	do.	do.	do.	do.
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Chapter  
XIII-Offences  
Relating to Weight  
and Measures.

264.	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
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265.	Fraudulent use of false weight or measures.	do.	do.	do.	do.
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266.	Being in possession of false weights or measures for fraudulent use.	do.	do.	do.	do.
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267.	Making or selling false weights or measures for fraudulent use.	do.	do.	do.	do.
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Chapter  
XIV-Offences  
Affecting the  
Public Health  
Safety,  
Convenience,  
Decency and

Morals.

269.	Negligently doing any act known to be likely to spreadinfection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Not compo
270.	Malignantly doing any act known to be likely to spreadinfection of any disease dangerous to life.	do.	do.	do.	do.
271.	Knowingly disobeying any quarantine rules.	Shall not arrest without warrant.	do.	do.	do.
272.	Adulterating food or drink intended for sale, so as to makethe same noxious.	do.	do.	do.	do.
273.	Selling any food or drink as food and drink, knowing the sameto be noxious.	do.	do.	do.	do.
274.	Adulterating any drug or medical preparation intended forsale so as to lessen its efficacy, or to change its operation orto make it noxious.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
275.	Offering for sale or issuing from a dispensary any drug ormedical preparation known to have been.adulterated.	do.	do.	do.	do.

276.	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	do.	do.	do.	do.
277.	Defilling the water of a public spring or reservoir.	May arrest without warrant.	do.	do.	do.
278.	Making atmosphere noxious to health.	Shall not arrest without warrant.	do.	do.	do.
279.	Driving or riding on a public way so rashly or negligently as to endanger human life etc.	May arrest without warrant.	do.	do.	do.
280.	Navigating any vessel so rashly or negligently as to endanger human life, etc.	do.	do.	do.	do.
281.	Omitted.				
282.	Conveying for hire any person, by water in a vessel in such a state, or so loaded, as to endanger his life.	do.	do.	do.	do.
283.	Causing danger, obstruction or injury in any public way or line of navigation.	Shall not arrest without warrant.	do.	do.	do.
284.		do.	do.	do.	do.



Dealing with any  
poisonous substance  
so as to endanger  
humanlife, etc.

285.	Dealing with fire or any combustible matter so as to endangerhuman life, etc.	May arrest without warrant.	do.	do.	do.
286.	So dealing with any explosive substance.	do.	do.	do.	do.
287.	So dealing with any Machinery.	Shall not arrest without warrant.	Summons.	Bailable.	Not compo
288.	A person omitting to guard against probable danger to humanlife by the fall of any building over which he has a rightentitling him to pull it down or repair it.	do.	do.	do.	do.
289.	A person omitting to take order with any animal in hispossession, so as to guard against danger to human life or ofgrievous hurt, from such animal.	May arrest without warrant.	do.	do.	do.
290.	Committing a public nuisance.	Shall not arrest without warrant	do.	do.	do.
291.			do.	do.	do.

	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.			
[291-A.] [Section 291-A inserted by Act XVIII of 1996.]	Wrongful obstruction to the use of public tanks, wells, etc.	Shall not arrest without warrant.	do.	do.	do.
292. [] [Sections 292 and 293 amended by Notification No. 15-L/83 published in Government Gazette dated 29th Bhadon 1983.]	Sale etc. of obscene books etc.	do.	Warrant.	do.	do.
293. [] [Sections 292 and 293 amended by Notification No. 15-L/83 published in Government Gazette dated 29th Bhadon 1983.]	Sale, etc. of obscene objects to young persons.	do.	do.	do.	do.
294.	Obscene songs.	[May arrest without warrant.] [Substituted by Act XXX of 1963.]	do.	[Notailable.] [Substituted by Act XXX of 1963.]	do.

294-A.	Keeping a lottery office.	Shall not arrest without warrant.	Summons.	Bailable.	do.
	Publishing proposals relating to lotteries.	do.	do.	do.	do.
Chapter XV-Offences Relating to Religion.					
295.	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant	Summons.	[Non-bailable] [Substituted by Act XII of 1980, Section 18.]	Not-comp
[295-A] [Section 295-A added by Notification No. 3-L/89 published in Government Gazette dated 17th Baisakh, 1989.].					
	Maliciously insulting the religion or the religious beliefs of any class.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compo
296.	Causing a disturbance to an assembly engaged in religious worship.	May arrest without warrant.	Summons.	[Not bailable] [Substituted by Act XII of 1980, Section 18.]	do.

297.	Trespassing in place of worship or sepulcher disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	do.	do.	[do] [Substituted by Act XII of 1980, Section 18.]	do.
298.	Uttering any word or making any 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.	Shall not arrest without warrant.	do.	[do.] [Substituted by Act XII of 1980, Section 18.]	[do.] [Substituted by Act XII of 1980, Section 18.]
298-A.	Intentionally killing or slaughtering cow or like animal.	May arrest without warrant.	Warrant.	Not bailable.	Not competent.
298-B.	Keeping in possession flesh of such animal.	do.	do.	do.	do.
298-C.	Killing or slaughtering he or she buffalo.	Shall not arrest without warrant.	Summons.	Bailable.	do.

[298-D.] [Section  
298-D added by  
Notification No.  
9-A/L/84  
published in  
Government  
Gazette dated 6th  
Asuj, 1984.]

Chapter  
XVI-Offences  
Affecting the  
HumanBody.  
Of offences  
affecting life.

Bringing or  
possessing flesh or  
untanned hide of a  
Gond in atown.

do.

do.

do.

do.

302.

Murder.

May arrest  
without  
warrant.

Warrant.

Not bailable.

Not compo

303.

Murder by a life  
convict.

do.

do.

do.

do.

304.

Culpable homicide  
not amounting to  
murder, if act by  
whichthe death is  
caused is done with  
intention of causing  
death,etc.

do.

do.

do.

do.

If act is done with  
knowledge that do. it  
is likely to  
causedeath, but  
without any  
intention to cause  
death, etc.

do.

do.

do.

do.

304-A.

Causing death by  
rash or negligent act.

May arrest  
without  
warrant.

Warrant.

[Not bailable]  
[Substituted by Act V  
of 1977, Section 3.]

Not compo

305.	Abetment of suicide committed by a child, or insane, or delirious person, or an idiot, or a person intoxicated.	do.	do.	Not bailable.	do.
306.	Abetting the commission of suicide.	do.	do.	do.	do.
307.	Attempt to murder.	do.	do.	do.	do.
	If such act causes hurt to any person.	do.	do.	do.	do.
	Attempt by life-convict to murder, if hurt is caused.	do.	do.	do.	do.
308.	Attempt to commit culpable homicide.	do.	do.	Bailable.	do.
	If such act cause hurt to any person.	do.	do.	do.	do.
309.	Attempt to commit suicide.	do.	do.	do.	do.

311.	Being a thug.	do.	do.	Not bailable.	do.
	Of the causing of miscarriage ; of injuries to unborn children ; of the exposure of infants ; and of Concealment of births.				
312.	Causing miscarriage.	Shall not arrest without warrant.	Warrant.	Bailable.	do.
	If the woman be quick with child.	do.	do.	do.	do.
313.	Causing miscarriage without woman's consent.	do.	do.	Not bailable.	do.
314.	Death caused by an act done with intent to cause miscarriage.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compo
	If act done without woman's consent.	do.	do.	Not bailable.	do.
315.	Act done with intent to prevent a child being born alive, or, to cause it to die after its birth.	do.	do.	do.	do.

316.	Causing death of a quick unborn child by an act amounting to culpable homicide.	do.	do.	do.	do.
317.	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	do.	Bailable.	do.
318.	Concealment of birth by secret disposal of dead body.	do.	do.	do.	do.
Of Hurt.					
323.	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons	do.	Compound
324.	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	do.	do.	Compound when permitted by the court given by the court before which prosecution is pending.
325.	Voluntarily causing grievous hurt.	do.	do.	do.	do.
326.	Voluntarily causing grievous hurt by dangerous weapons or means.	do.	do.	Not bailable.	Not compoundable



326A. [ [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Voluntary causing grievous hurt by use of acid, etc.	May arrest without warrant	Warrants	Not bailable.	Not compo
326B. [ [Inserted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Voluntarily throwing or attempting to throw acid.	May arrest without warrant.	Warrants	Not bailable.	Not compo
327.	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything, which is illegal, or which may facilitate the commission of an offence.	do.	do.	do.	do.
328.	Administering stupefying drug with intent to cause hurt etc.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
329.	Voluntarily causing grievous hurt to extort property or avaluable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	do.	do.	do.	do.
330.	Voluntarily causing hurt to extort confession or information or to	do.	do.	Bailable.	do.

	compel restoration of property etc.				
331.	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	do.	do.	Not bailable.	do.
332.	Voluntarily causing hurt to deter public servant from his duty.	do.	do.	Bailable.	do.
333.	Voluntarily causing grievous hurt to deter public servant from his duty.	do.	do.	Not bailable.	do.
334.	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons	Bailable.	Compoundable
335.	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	do.	do.	Compoundable when permitted by the court before which the prosecution is pending.
336.	Doing any act which endangers human life or the personal safety of others.	do.	do.	do.	Not compoundable
337.		do.	do.	do.	

	Causing hurt by an act which endangers human life, etc.				Compound when permitted by the court before which the prosecution is pending.
338.	Causing grievous hurt by an act which endangers human life, etc.	May arrest without warrant.	Summons.	Bailable.	Compound when permitted by the court before which the prosecution is pending.
341.	Wrongfully restraining any person.	do.	do.	do.	Compound
342.	Wrongfully confining any person.	do.	do.	do.	do.
343.	Wrongfully confining for three or more days.	do.	do.	do.	Compound when permitted by the court before which the prosecution is pending.
344. [Section 344 inserted by Act III of 1967.]	Wrongfully confining for ten or more days.	do.	do.	do.	do.
345.	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	do.	do.	Not compo

346.	Wrongful confinement in secret.	May arrest without warrant.	do.	do.	Compound when permitted by the court given by the court before which the prosecution is pending.
347.	Wrongful confinement for the purpose of extorting property, or constraining to do an illegal act, etc.	Shall not arrest without warrant.	do.	do.	Not compoundable.
348.	Wrongful confinement for the purpose of extorting confession or information or of compelling restoration of property, etc.	do.	do.	do.	do.
Of Criminal Force and assault.					
352.	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons.	Bailable.	Compoundable.
353.	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant.	do.	Not compoundable.
354. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated	Assault or use of criminal force to outrage her modesty.	May arrest without warrant.	Warrant	Non-Bailable	Not Compoundable.

22.3.2014.]

354A. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	(1) Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours(2) Sexual harassment of the nature of making sexually coloured remark.	May arrest without warrantMay arrest without warrant	WarrantWarrant	BailableBailable	Not Compound Compound
354B. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Assault or use May arrest of criminal without force to woman warrant with	May arrest without warrant	Warrant	Non-Bailable	Not Compound
354C. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Voyeurism	May arrest without warrant	Warrant	BailableNot-Bailable	Not Compound Compound
354D. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Stalking	May arrest without warrant	Warrant	Bailable	Not Compound

355.	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons.	do.	Compound
356.	Assault or criminal force in attempt to commit theft of property worn or carried by a person	May arrest without warrant.	Warrant.	Not-bailable.	Not compo
357.	Assault or use of criminal force in attempt wrongfully to confine a person.	do.	do.	Bailable.	Compound when perm given by th before whi prosecution pending.
358.	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons.	do.	Compound
Of Kidnapping, Abduction, Slavery and Force labour.					
363. [] [In section 363 punishment raised from 3 years to 7 years by Notification No. 14-L/83 published in Government Gazette dated 29th Bhadon, 1983.]	Kidnapping.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
[363-A.] [Section 363-A inserted by Act XXIX of 1960.]	Kidnapping or obtaining the custody of a minor in order that such minor may be employed or used for purposes of begging.	do.	do.	do.	do.
		do.	do.	do.	do.

	Maiming a minor in order that such minor may be employed or use for purpose of begging.				
364.	Kidnapping or abducting in order to murder.	May arrest without warrant.	Warrant	Not bailable.	Not compo
365.	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	do.	do.	do.	do.
366.	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	do.	do.	do.	do.
[366-A.] [Section 366-A inserted by Notification 14/L/83 published in the Government Gazette dated 29th Bhadon, 1983.]					
	Procuration of minor girl.	do.	do.	do.	do.
[366-B.] [Section 366-B added by Act IX of 1989.]					
	Importation of girl from outside the State.	do.	do.	do.	do.
367.	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	do.	do.	do.	do.
368.	Concealing or keeping in confinement a kidnapped person.	do.	do.	do.	do.

369.	Kidnapping or abducting a child with intent to take property from the person of such child.	do.	do.	do.	do.
370. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	(1) Trafficking of person	May arrest without warrant	Warrant	Non-Bailable	Imprisonment not less than 7 years but which may extend to 10 years and with fine
	(2) Trafficking of more than one person.	May arrest without warrant	Warrant	Non-Bailable	Imprisonment not less than 7 years but which may extend to 10 years and with fine
	(3) Trafficking of a minor.	May arrest without warrant	Warrant	Non-Bailable	Imprisonment not less than 7 years but which may extend to 10 years and with fine
	(4) Trafficking of more than one minor	May arrest without warrant	Warrant	Non-Bailable	Imprisonment not less than 7 years but which may extend to 10 years and with fine
	(5) Public servant or a police officer involved in trafficking of minor	May arrest without warrant	Warrant	Non-Bailable	Imprisonment not less than 7 years but which may extend to 10 years and with fine
	(6) Person convicted of offence of trafficking of minor on more than one occasion	May arrest without warrant	Warrant	Non-Bailable	Imprisonment not less than 7 years but which may extend to 10 years and with fine
			warrant	Non-bailable.	Not Comp



370A. [	(1) Employing of a	May arrest			
[Substituted by	trafficked child	without			
Jammu and		warrant			
Kashmir Act No. 11					
of 2014, dated					
22.3.2014.]					
	(2) Employing of a	May arrest			
	trafficked adult	without	warrant	Non-bailable.	Not Comp
	person	warrant			
371.	Habitual dealing in	May arrest			
	slaves.	without	do.	Not bailable.	do.
		warrant.			
372.	Selling or letting to				
	hire a minor for	do.	do.	do.	do.
	purposes				
	of prostitution, etc.				
373.	Buying or obtaining				
	possession of a	do.	do.	do.	do.
	minor for the				
	same purposes.				
374.	Unlawful compulsory	Shall not			
	labour.	arrest	Warrant.	Bailable.	Compound
		without			
		warrant.			
376. [	(1) Rape.	May arrest	Warrant	Non-Bailable	Not Comp
[Substituted		without			
by Jammu and		warrant			
Kashmir Act No. 11					
of 2014, dated					
22.3.2014.]					

(2) Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the victim assaulted or by a near relative of the victim

May arrest  
without  
warrant

Warrant

Non-Bailable

Not Comp

[Persons committing offence of rape on a woman under sixteen years of age [Inserted by Act No. 35 of 2018, dated 7.12.2018.]

may arrest  
without  
warrant

Warrant

non-bailable

non-comp

[376-A. [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Persons committing an offence of rape and inflicting injury which causes death or causes the victim to be in a persistent vegetal state	May arrest without warrant	Warrant	Non-Bailable	Not Comp
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376AB. [ [Substituted by Jammu and Kashmir Act No. 35 of 2018, dated 7.12.2018.]	Persons committing an offence of rape on a woman under twelve years of age	May arrest without warrant	Warrant	Non-Bailable	Not Comp
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376B. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Sexual Intercourse by the husband upon his wife during separation	May arrest without warrant	Warrant.	Not bailable.	Not Comp
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376C. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.]	Sexual Intercourse	May arrest	Warrant	Non-Bailable	Not Comp
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[Substituted by  
Jammu and  
Kashmir Act No. 11  
of 2014, dated  
22.3.2014.]

by a person in  
authority  
without  
warrant

376D. [  
[Substituted by  
Jammu and  
Kashmir Act No. 11  
of 2014, dated  
22.3.2014.]

Gang Rape

May arrest  
without  
warrant

Warrant

Non-Bailable

Not Comp

376DA. [  
[Substituted by  
Jammu and  
Kashmir Act No.  
35 of 2018, dated  
7.12.2018.]

Gang Rape on a  
women under sixteen  
years of age

May arrest  
without  
warrant

Warrant

Non-Bailable

Not Comp

376DB. [  
[Substituted by  
Jammu and  
Kashmir Act No.  
35 of 2018, dated  
7.12.2018.]

Gang Rape on a  
women under twelve  
years of age

May arrest  
without  
warrant

Warrant

Non-Bailable

Not Comp

376E. [ [Substituted by Jammu and Kashmir Act No. 11 of 2014, dated 22.3.2014.] Of Unnatural Offences.	Repeat offenders	May arrest without warrant	Warrant	Non-Bailable	Not Comp
377.	Unnatural-offences.	do.	do.	do.	do.
Chapter XVII-Offences Against Property of Theft.					
379.	Theft.	do.	do.	do.	[Compound when the v the proper not exceed hundred a rupees . an permission by the Court which the prosecutio pending.] [Substitute XLII of 19 'Not compound
380.	Theft in a building, tent or vessel.	do.	do.	do.	Not compo

						[Compound when the v the proper not exceed hundred a rupees and permission by the Court which the prosecution pending.] [Substitute XLII of 19 'Not compound
381.	Theft by clerk or servant of property in possession of master or employer.	do.	do.	do.		
382.	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of heart, or of restraint, in order to the committing of such theft, or to retreating after committing it or to retaining property taken by it.	May arrest without warrant	Warrant.	Not bailable.	Not compo	
384.	Extortion.	Shall not arrest without warrant.	do.	Bailable.	do.	
385.	Putting or attempting to put in fear of injury, in order to commit extortion.	do.	do.	do.	do.	
386.	Extortion by putting a person in fear of death or grievous hurt.	do.	do.	Not bailable.	do.	

387.	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	do.	do.	do.	do.
388.	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years.	do.	do.	Bailable.	do.
	If the offence threatened be an unnatural offence.	do.	do.	do.	do.
389.	Putting a person in fear of accusation of offence punishable with death, imprisonment for life, or with imprisonment for 10 years, in order to commit extortion.	do.	do.	do.	do.
	If the offence be an unnatural offence.	do.	do.	do.	do.

Of Robbery and Dacoity.

392.	Robbery.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
	If committed on the highway between sunset and sunrise.	do.	do.	do.	do.

393.	Attempt to commit robbery.	do.	do.	do.	do.
394.	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	do.	do.	do.	do.
395.	Dacoity.	do.	do.	do.	do.
396.	Murder in dacoity.	do.	do.	do.	do.
397.	Robbery or dacoity, with attempt to cause death or grievous hurt.	do.	do.	do.	do.
398.	Attempt to commit robbery or dacoity when armed with deadly weapon.	do.	do.	do.	do.
399.	Making preparation to commit dacoity.	do.	do.	do.	do.
400.	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	do.	do.	do.	do.
401.	Belonging to a wandering gang of persons associated for the purpose of habitually	do.	do.	do.	do.



	committing thefts.					
402.	Being one or five or more persons assembled for the purpose of committing dacoity.	do.	do.	do.	do.	
Of criminal misappropriation of property.						
403.	Dishonest misappropriation of movable property, or converting it to one's own use.	Shall not arrest without warrant.	do.	Bailable.		Compound when permitted by the Court given by the Court before which the prosecution is pending.
404.	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at the time of his death, and that it has not since been in the possession of any person legally entitled to it.	Shall not arrest without warrant.	Warrant.	Bailable.		Not compoundable.
	If by clerk or person employed by deceased.	do.	do.	do.	do.	
Of Criminal breach of trust.						
406.	Criminal breach of trust.	May arrest without warrant.	do.	Not-bailable		[Compoundable when the value of the property does not exceed one hundred and fifty rupees and with the permission of the Court]

						which the prosecution pending] [Substitute XLII of 1989] 'Not compound
407.	Criminal breach of trust by by a carrier, wharfinger, etc.	do.	do.	do.		[do.] [Substitute by Act XLII of 1989 for 'Not compound
408.	Criminal breach of trust by a clerk or servant.	do.	do.	do.		do.
409.	Criminal breach of trust by public servant or by banker,merchant or agent, etc.	do.	do.	do.		Not compo
Of the receiving of stolen property.						
411.	Dishonestly receiving stolen property, knowing it to bestolen.	do.	do.	do.		do.
412.	Dishonestly receiving stolen property, knowing that it wasobtained by dacoity.	May arrest without warrant.	Warrant.	Not-bailable.		Not compo

413.	Habitually dealing in stolen property.	do.	do.	do.	do.
414.	Assisting in concealment or disposal of stolen property knowing it to be stolen.	do.	do.	do.	do.
Of Cheating.					
417.	Cheating.	Shall not arrest without warrant.	do.	Bailable.	Compoundable when permitted by the court given by the court before which the prosecution is pending.
418.	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	do.	do.	do.	do.
419.	Cheating by personation.	May arrest without warrant.	do.	do.	do.
420.	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	do.	do.	do.	do.
[420-A.] [Section 420-A inserted by Act X of 1983, Section 15.]	Cheating public authorities in performance of contracts.	do.	do.	Not bailable.	Not compoundable.

Of Fraudulent  
deeds disposition  
of property.

421.	Fraudulent removal or concealment of property, etc. to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant.	Bailable.	[Compound when perm given by th beforewhic prosecutio pending] [Substitute XLII of 199 'Not compound
422.	Fraudulently preventing a form being made available for his creditors a debt or demand due to the offender.	do.	do.	do.	do.
423.	Fraudulent execution of deed of transfer containing a false statement if consideration.	Shall not arrest without warrant.	Warrant.	Bailable.	[Compound when perm given by th beforewhic prosecutio pending] [Substitute XLII of 199 'Not compound
424.	Fraudulent removal or concealment of property, himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	do.	do.	do.	do.
Of mischief. 426.	Mischief		Summons.	Bailable.	[Compound when the c or damage

					lossor dam private per [Substitute XLII of 193 'Not compound
427.	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	do.	Warrant.	do.	do.
428.	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	do.	do.	[Compound when perm given by th beforewhic prosecutio pending] [Substitute XLII of 193 'Not compound
429.	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of 50 rupees or upward.	do.	do.	do.	do.
430.	Mischief by causing diminution of supply of water for agricultural purposes, etc.	do.	do.	do.	do.
431.	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less	do.	do.	do.	Not compo

	safe for travelling or conveying property.				
	Mischief by causing inundation or obstruction to public drainage, attended with damage.	do.	do.	do.	do.
432.					
433.	Omitted.	...	...	...	...
	Mischief by destroying or moving, etc., a landmark fixed by public authority.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.
434.					
	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agriculture produce, 10 rupees or upwards.	May arrest without Warrant.	do.	[Not bailable.] [Substituted by Act XII of 1980, Section 18.]	[Not compoundable.] [Substituted by Act XII of 1980, Section 18.]
435.					
	Mischief by fire or explosive substance with intent to destroy a house, etc.	do.	do.	Not bailable.	do.
436.					
437.	Omitted	...	...	...	...
438.	Omitted	...	...	...	...
439.	Omitted	...	...	...	...
440.	Mischief committed	May arrest	Warrant.	Bailable.	Not compoundable.

after preparation  
made for causing  
death, or hurt, etc.

without  
warrant.

## Of Criminal Trespass.

447.	Criminal trespass.	do.	Summons.	Bailable.	Compoundable.
[447-A.] [Inserted by Act XXIV of 1988, Section 4.]	Criminal trespass of public premises.	do.	Warrant.	do.	do.
448.	House trespass.	do.	do.	do.	do.
449.	House-trespass in order to the commission of an offence punishable with death.	do.	do.	Not bailable.	Not compoundable.
450.	House trespass in order to the commission of an offence punishable with imprisonment for life.	do.	do.	do.	do.
451.	House-trespass in order to the commission of an offence punishable with imprisonment.	do.	do.	Bailable.	Compoundable when permitted given by the Magistrate before which the prosecution is pending.

pending.

	If the offence is theft, warrant.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
452.	House-trespass, having made preparation for causing hurt, assault, etc.	do.	do.	do.	do.
453.	Lurking house-trespass or house-breaking.	do.	do.	do.	do.
454.	Lurking house trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	do.	do.	do.	do.
	If the offence is theft.	do.	do.	do.	do.
455.	Lurking house-trespass or house breaking after preparation made for causing hurt, assault, etc.	do.	do.	do.	do.
456.	Lurking house-trespass or house-breaking by night.	do.	do.	do.	do.



457.	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	do.	do.	do.	do.
	If the offence is theft.	do.	do.	do.	do.
458.	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	do.	do.	do.	do.
459.	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	do.	do.	do.	do.
460.	Death or grievous hurt caused by one of several persons jointly concerned in housebreaking by night, etc.	May arrest without Warrant.	Warrant.	Not bailable.	Not compo
461.	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	do.	do.	Bailable.	do.
462.	Being entrusted with any closed receptacle	do.	do.	do.	do.

containing  
or supposed, to  
contain any property,  
and fraudulently  
opening the same.

Chapter  
XVIII-Offences  
Relating to  
Documents and to  
Trade or Property  
Marks.

465.	Forgery.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compo
466.	forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant. Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	do.	do.	Not bailable.	do.
467.	When the valuable security is a promissory note of the Government of India.	do.	do.	do.	do.
468.	Forgery for the purpose of cheating.	May arrest without warrant.	do.	do.	do.
469.		Shall not arrest without warrant.	do.	Bailable.	do.

	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.				
471.	Using as genuine a forged document which is known to be forged.	do.	do.	do.	do.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Warrant.	Bailable.	Not compo
472.	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Ranbir Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	do.	do.	do.
473.	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Ranbir Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	do.	do.	do.	do.
474.	Having possession of a document, knowing	do.	do.	do.	do.

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 Ranbir  
Penal Code.

		do.	do.	do.	do.
475.	Courterfeiting device or mark used for authenticating document described in section 467 of the Ranbir Penal Code or possessing counterfeit marked material.	do.	do.	do.	do.
476.	Courterfeiting a device or mark used for authenticating document other than those described in section 467 of the Ranbir Penal Code, or possessing counterfeit marked material.	do.	do.	Not bailable.	do.
477.	Fraudulently destroying or defacing or attempting to destroy or deface, or secreting, a will, etc.	do.	do.	do.	do.
477-A.	Falsification of accounts.	do.	do.	Bailable.	do.

Of Trade and  
Property Marks.

482.	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant.	Bailable.	Compound when permitted by the Court before which the prosecution is pending.
483.	Counterfeiting a trade or property mark used by another with intent to cause damage or injury.	do.	do.	do.	do.
484.	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality etc., of any property.	do.	Summons.	do.	Not compoundable.
485.	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade mark.	do.	do.	do.	do.
486.	Knowingly selling goods marked with a counterfeit property or trade-mark.	do.	do.	do.	Compoundable with permission of the Court before which the prosecution is pending.
487.	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that	do.	do.	do.	Not compoundable.

	it contains goods which it does not contain, etc.				
488.	Making use of any such false mark.	do.	do.	do.	do.
489.	Removing destroying or defacing any property-mark with intent to cause injury.	do.	do.	do.	do.
Of currency notes and bank notes.					
489-A.	Counterfeiting currency notes or bank notes.	May arrest without warrant.	Warrant	Not bailable.	Not compo
489-B.	Using as genuine forged or counterfeit currency notes or bank-notes.	May arrest without warrant.	Warrant.	Not bailable.	Not compo
489-C.	Possession of forged or counterfeit currency notes or bank-notes.	do.	do.	Bailable	do.
489-D.	Making or possessing instruments or materials for forging or counterfeiting currency notes or bank-notes.	do.	do.	Not bailable	do.

Chapter  
XIX.-Criminal  
Breach of  
Contracts

of Service.

490.	Omitted.	...	...	...	...
	Being bound to attend on or supply the wants of a person who is helpless from youth unsoundness of mind or disease, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons.	Bailable.	Compound
492.	Omitted.	...	...	...	...
Chapter XX.-Offences Relating to Marriage.					
493.	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compo
494.	Marrying again during the lifetime or a husband or wife.	do.	do.	Bailable.	Compound with perm Court before the prosecu pending.
495.	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	do.	do.	do.	Not compo
496.	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	do.	do.	Not bailable.	do.

497.	Adultery.	do.	do.	Bailable	Compoundable
498. [] [In section 98 '5 years punishment' substituted for '2 years' vide Notification No. 14-L/88 published in the Government Gazette dated 29th Bhadon, 1985.]	Enticing or taking away or detaining with a criminal intent a married woman.	Shall not arrest without warrant.	Warrant.	Bailable.	Compoundable
[498-A.] [Inserted by Act XXVI of 1988, section 9.]	Punishment for subjecting a married woman to cruelty.	May arrest without warrant.	do.	Not bailable.	Not compoundable
Chapter XXI-Defamation.					
500. [] [Substituted by Act XLII of 1965 for entry relating to section 500.]	(a) Defamation (other than defamation by spoken words) against the President or the Vice-President or the Governor of a State in India or the Governor of this State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in	Shall not arrest without warrant.	Warrant.	Bailable.	Compoundable with the permission of the Court in which the prosecution is pending.



the discharge of his  
public functions,  
when instituted upon  
a complaint made by  
the public  
prosecutor.

(b) Defamation in  
any other case.

do.

do.

do.

Compound

(a) Printing or  
engraving matter  
knowing it to be  
defamatory against  
the president or the  
Vice-President or the  
Governor of a State in  
India or Governor of  
this State or a  
Minister 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  
when instituted upon  
complaint made by  
the Public  
Prosecutor.

do.

do.

do.

Compound  
with the pe  
of the Cou  
which the  
prosecutio  
pending.

(b) Printing or  
engraving matter  
knowing it to be  
defamatory, in any  
other case.

do.

do.

do.

Compound

501. []  
[Substituted by  
Act XLII of 1965  
for entry relating  
to section 501 and  
502.]

<p>502. [] [Substituted by Act XLII of 1965 for entry relating to section 501 and 502.]</p>	<p>(a) Sale of printed or engraved substance containingdefamatory matter, knowing it to contain such matter, againstthe President or the Vice-President or the Governor of a Statein India or the Governor of a State or a Minister or any otherpublic servant employed in connection with the affairs of theUnion or of a State in respect of his conduct in the dischargeof his public functions when instituted upon a complaint made bythe public prosecutor.</p>	do.	do.	do.	Compound with the pe of the Cou whichthe prosecution pending.
	<p>(b) Sale of printed or engraved substance containingdefamatory matters knowing it to contain such matter, in anycase.</p>	do.	do.	do.	Compound
<p>Chapter XXII-Criminal Intimidation, Insultand Annoyance.</p>					
<p>504.</p>	<p>Insult intended to provoke a breach of the peace.</p>	<p>Shall not arrest without warrant.</p>	<p>Warrant.</p>	<p>Bailable.</p>	<p>Compound</p>
<p>[505(1).] [Substituted by Act XVII of 1970</p>	<p>False statement, rumour, etc. with intent to cause</p>	<p>[May arrest without of warrant]</p>	<p>Warrant.</p>	<p>Not bailable.</p>	<p>Not compo</p>

for the original entry.]	mutinyoffence against the public peace.	[Substituted by Act XII of 1980, section 18.].				
[505(2).] [Substituted by Act XVII of 1970 for the original entry.]	False statement, rumour, etc. with intent to create enmity,hatred or ill-will between different classes.	May arrest without warrant.	do.	do.	do.	do.
[505(3).] [Substituted by Act XVII of 1970 for the original entry.]	False statement, rumour, etc. made in place of worship etc.with intent to create enmity hatred or ill-will.	do.	do.	do.	do.	do.
506.	Criminal intimidation.	Shall not arrest without warrant.	do.	Bailable.	Compoundable.	Compoundable.
	If threat be to cause death or grievous hurt, etc.	do.	do.	do.	Not compoundable.	Not compoundable.
507.	Criminal intimidation by anonymous communication or havingtaken precaution to conceal whence the threat comes.	do.	do.	do.	do.	do.
508.		do.	do.	do.	Compoundable.	Compoundable.

Act caused by  
inducing a person to  
believe that he will  
be rendered an object  
of Divine  
displeasure.

509.	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	[May arrest without warrant] [Substituted do. by Act XVII of 1981, section 4.].	[Not bailable] [Substituted by Act XVII of 1981, section 4.].	[Not compoundable] [Substituted XVII of 1981, section 4.].
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510.	Appearing in a public place etc. in a state of intoxication and causing annoyance to any person.	do.	do.	Not bailable.	do.
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#### Chapter XXIII-Attempts to Commit Offences.

511.	Attempting to commit offences punishable with imprisonment for life and in such attempt doing Act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted compoundable
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	warrant or not.		
["Offences Against Other Laws. [Substituted by Act XIV of 2009 (section 2) w.e.f. 8-10-2009.]			
Offence	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4
If punishable with death, imprisonment for life or imprisonment for more than 7 years.	Cognizable	Not-bailable	Court of Session.
If punishable with imprisonment for 3 years and "upwards but more than 7 years.	Cognizable	Not-bailable	Magistrate of the First Class.
If punishable with imprisonment for less than 3 years or with fine only.]	not-cognizable	Bailable	Any Magistrate."
[Schedule III] [Schedules III and IV substituted by Act XL of 1966.][See section 36] Ordinary Powers of Magistrates. I. Ordinary powers of a Judicial Magistrate of the second class :-(1) Power to arrest or direct the arrest of and to commit to custody a person committing an offence in his presence, section 64.(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.(4) Power to issue proclamations in cases judicially before him, section 87.(5) Power to attach and sell property and to dispose of claims or objections to attached property, section 88.(6) Power to restore attached property, section 89.(7) Power to require search to be made for letters and telegrams, section 95.(8) Power to issue search warrant, section 96.(9) Power to endorse a search warrant, and order delivery of thing found, section 99.(10) Power to order the Police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.(11) Power to authorise detention, not being detention in the custody of the police, of a person during a police investigation, section 167.(12) Power to postpone issue of process and to inquire into a case or direct investigation, section 202. [(12-A) Power to commit for trial under section 205-C.] [Entry (12-A) inserted by Act XXXVII of 1978, Section 77.](13) Power to detain an offender found in the Court, section 351.(14) Power to take evidence on commission, section 503.(15) Power to recover forfeited bond for appearance before Magistrate's Court, section 514 and to require fresh security, section 514-A.(16) Power to make order as to custody and disposal of property pending inquiry or trial, section 516-A.(17) Power to make order as to disposal of property, section 517.(18) Power to sell property of a suspected character, section 525.(19) Power to require affidavit in support of application, section 539-A.(20) Power to make local inspection, section 539-B. II. Ordinary powers of Judicial Magistrate of the first class :-(1) The ordinary powers of a Judicial Magistrate of the second class.(2) Power to direct warrant to land-holders, section 78.(3) Power to issue search warrant otherwise than in due course of an inquiry, section 98.(4) Power to issue search warrant for discovery of persons wrongfully confined, section 100.(5) Power to require execution of a bond, section 106.(6) Power to discharge sureties, sections 126 and 126-A.(7) Power to make orders etc. in possession cases, sections 145, 146, 147.(8) Power to record statements and, confessions during a police investigation, section 164.(9) Power to authorise, detention of a person in the custody of the police during police investigations, section			

167.(10)[x x x] [Entry 10 omitted by Act XXXVII of 1978. Section 77.](11)Power to stop proceedings when no complainant, section 249.(12)Power to tender pardon to accomplice during inquiry into case by himself, section 337.(13)Power to make orders of maintenance, sections.488 and 489.(14)Power to recover penalty on forfeited bond, section 514.(15)Power to require fresh security, section 514-A.(16)Power to recall case made over by him to another Magistrate, section 528 (4).(17)Power to make order as to first offenders, section 562.(18)Power to order released convicts to notify residence, section 565.III. Ordinary powers of Chief Judicial Magistrates :-(1)The ordinary powers of a Judicial Magistrate of the first class.(2)Powers to require delivery of letters, telegrams, etc., section 95.(3)Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96.(4)Power to release persons imprisoned for failing to give security under section 106, section 124.(5)Power to cancel any bond for keeping the peace under section 106, section 125.(6)Power to order Police Investigation into a cognizable case, section 156.(7)Power to issue process for a person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.(8)Power to entertain complaints, section 190.(9)Power to receive police reports, section 190.(10)Power to entertain cases without complaint, section 190.(11)Power to transfer cases to a Subordinate Magistrate, section 192.(12)Power to order preliminary investigation by a Police Officer not below the rank of an Inspector in certain cases, section 196-B.(13)Power to try summarily, section 260.(14)Power to tender pardon to accomplice at any stage of a case, section 337.(15)Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.(16)Power to call for records, section 435.(17)Power to order inquiry, section 436.(18)Power to order commitment, section 437.(19)Power to report a case to High Court, section 438.(20)Power to withdraw cases and to try or refer them for trial, section 528.(21)Power to compel restoration of abducted female, section 552.IV. Ordinary power of an Executive Magistrate of the second class.(1)Power to arrest or direct the arrest of and to commit to custody, a person committing an offence in his presence, section 65.(2)Power to arrest, or direct the arrest in his presence of, an offender, section 65.(3)Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.(4)Power to issue proclamations, section 87.(5)Power to attach and sell property, section 88.(6)Power to restore attached property, section 89.(7)Power to require search to be made for letters and telegrams, section 95.(8)Power to issue search warrant, section 96.(9)Power to endorse a search warrant and order delivery of thing found, section 99.(10)Power to command unlawful assembly to disperse, section 127.(11)Power to use civil force to disperse unlawful assembly, section 128.(12)Power to require military force to be used to disperse unlawful assembly, section 130.(13)Power to authorise detention not being detention in the custody of the police of a person during a police investigation, section 167.(14)Power to take evidence on commission, section 503.(15)Power to recover forfeited bond for appearance before Magistrate's Court, section 514 and to require fresh security, section 514-A.(16)Power to make order as to disposal of property, section 517.(17)Power to sell property of a suspected character, section 525.V. Ordinary power of an Executive Magistrate of the first class :-(1)The ordinary powers of an Executive Magistrate of the second class.(2)Power to issue search warrant otherwise than in course of an inquiry, section 98.(3)Power to issue search warrant for discovery of persons wrongfully confined, section 100.(4)Power to require security to keep the peace, section 107.(5)Power to require security for good behaviour, section 109.(6)Power to discharge sureties, sections 126 and 126-A.(7)Power to make orders as to local nuisances, section 133.(8)Power to authorise detention of a person in the custody of the Police during a police investigation, section 167.(9)Power to hold

inquests, section 176.(10)Power to recover penalty on forfeited bond, section 514.(11)Power to require fresh security, section 514-A.VI. Ordinary powers of a Sub-Divisional Magistrate :-(1)The Ordinary powers of an Executive Magistrate of the first class.(2)Power to direct warrants to land-holders, section 78.(3)Power to require security for good behaviour, section 110.(4)Power to make orders prohibiting repetitions of nuisances, section 143.(5)Power to make orders under section 144.(6)Power to depute Subordinate Executive Magistrate to make local inquiry, section 148.(7)Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.(8)Power to sell property alleged or suspected to have been stolen etc., section 524.VII. Ordinary Powers of a District Magistrate:-(1)The ordinary powers of a Sub-Divisional Magistrate.(2)Power to require delivery of letters, telegrams, etc., section 95.(3)Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96.(4)Power to require security for good behaviour, section 108.(5)Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.(6)Power to order preliminary investigation by Police Officer not below the rank of Inspector in certain cases, section 196-B.(7)Power to cancel bond for keeping peace, section 125.(8)Power to tender pardon to accomplice at any stage of a case, section 337.(9)Power to call for and examine records, section. 425 (2).(10)Power to direct Executive Magistrate to make further inquiry into proceedings, etc., section 436 (2).(11)Power to report to High Court, section 438 (3).(12)Power to appoint person to be Public Prosecutor in particular case, section 492 (2).(13)Power to compel restoration of abducted female, section 552.

## IV

[See section 37]Additional powers with which Magistrate may be Invested.

## Part I – (A) By High Court-

Powers with which a Judicial Magistrate of the first class may be invested.(1)Power to issue process for person within local jurisdiction, who has committed an, offence outside the local jurisdiction, section 186.(2)Power to take cognizance of offences upon complaint, section 190.(3)Power to take cognizance of offences upon police reports, section 190.(4)Power to take cognizance of offences without complaint, section 190.(5)Power to try summarily, section 260.(6)[ x x x ] [Entry 6 omitted by Act XXXVII of 1978, Section 78.]. Omitted.Powers with which a Judicial Magistrate of the second class may be invested.(1)Power to record statements and confessions during a Police investigation, section 104.(2)Power to authorise detention of a person in the custody of the Police during a police investigation, section 167.(3)Power to take cognizance of offences upon complaint, section 190.(4)Power to take cognizance of offences upon police reports, section 190.(5)Power to take cognizance of offences without Complaint, section 190.(6)Power to commit for trial, section 206.(7)Power to make orders as to first offenders, section 562.(B)By the Chief Judicial Magistrate-Powers with which any Judicial Magistrate of the first class may be invested.(1)Power to take cognizance of offences upon complaint, section 190.(2)Power to take cognizance of offences upon police reports, section 190.(3)Powers to transfer cases, section 192.Powers with which any Judicial Magistrate of the second class may be invested.(1)Powers to take cognizance of offences upon complaint, section 190.(2)Power to take cognizance of offences upon police reports, section

190.(3)Power to stop proceedings instituted otherwise than upon complaint, section 249.

## Part II – (A) By Government-

Power with which an Executive Magistrate of the first class may be invested.(1)Power to make orders prohibiting repetitions of nuisances, section 143.(2)Power to make orders under section 144.(3)Power to issue process for person within local jurisdiction, who has committed an offence outside the local jurisdiction, section 186.(4)Power to sell property alleged or suspected to have been stolen, etc., section 524.Powers with which an Executive Magistrate of the second class may be invested.(1)Power to make orders prohibited repetitions of nuisances, section 143.(2)Power to make orders under section 144.(3)Power to authorise detention of a person in the custody of the police during a police investigation, section 167.(4)Power to hold inquests, section 174.Power with which a District Magistrate may be invested.Power to withdraw cases and to try or refer them for trial, sub-section (3) and (3-A) of section 528.Power with which a Sub-Divisional Magistrate may be invested.Power to call for records of inferior Court and to forward them to District Magistrate, sub-sections (2) and (3) of section 435.(B)By the District Magistrate-Power with which any Executive Magistrate of the first class may be invested.(1)Power to make orders prohibiting repetition of nuisance, section 143.(2)Power to make orders under section 144.Power with which any Executive Magistrate, second class may be invested.(1)Power to make orders prohibiting repetitions of nuisances, section 143.(2)Power to make orders under section 144.(3)Power to hold inquests, section 174.

## V

[See section 555]FormsI. - Summons to an Accused Person.[See section 68]To ofWhereas 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 ..... , 20(Seal)(Signature)II. - Warrant of Arrest[See section 75]To (name and designation of the person or persons who is or are to execute the warrant).Whereas ..... of ..... 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 ..... , 20(Seal)(Signature)[See section 76]This warrant may be endorsed as follows :-If the said ..... shall give bail himself in the sum of ..... with one surety in the sum of ..... [or two sureties each in the sum of ..... ] 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 ..... , 20(Signature)III. - Bond and Bail-Bond After Arrest under a Warrant[See section 86]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 Court ; and, in case of my making default herein, I bind myself to forfeit, to the Government, the sum of rupeesDated this ..... day of ..... , 20(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 the Government, the sum of rupeesDated this ..... day of ....., 20(Signature)IV. - Proclamation Requiring the Appearance of a Person Accused[See section 87]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 Ranbir 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 said warrant) ;Proclamation is hereby made at the said ..... of ..... is required to appear at (place) before this Court (or before me) to answer the said complaint on the ..... day ofDated this ..... day of ....., 20(Signature)V. - Proclamation Requiring the Attendance of a Witness[See section 87]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 .....,20(Seal)(Signature)VI. - Order of Attachment to Compel the Attendance of a Witness[See section 88]To the Police Officer-in-charge of the Police-station atWhereas 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 ....., 20(Seal)(Signature)Order of Attachment to Compel the Appearance of a Person Accused[See section 88]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 Ranbir 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 by seizure, and to hold the same 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 ....., 20(Seal)(Signature).Order Authorising an Attachment by the Deputy Commissioner as Collector[See section 88]To the officer-in-charge, Police Station of the District ofWhereas 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 Ranbir 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 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, 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 ....., 20(Seal)(Signature)VII. - Warrant in the First Instance to Bring up A Witness[See section 90]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 ..... of ..... 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) and on the day of to bring him before this Court, to be examined touching the offence complained of.Given under my hand and the seal of the Court this day of 20(Seal)(Signature)VIII. - Warrant to Search After Information of a Particular Offence[See section 96]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 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.Given under my hand and the seal of the Court, this day of, 20(Seal)(Signature)IX. - Warrant to Search Suspected Place of Deposit[See section 98]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 if 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 obscene objects,] [Added by Notification No. 15-L/83 published in Government Gazette dated 29th Bhadon, 1983.] as the case may be)-[Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps or false seals, or counterfeit coin (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 Given under my hand and the seal of the Court, this day of, 20(Seal)(Signature)X. - Bond to Keep the Peace[See section 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 the Government the sum ..... of rupeesDated this ..... day of ....., 20(Seal)(Signature)XI. - Bond for Good Behaviour[See sections 108, 109 and 110]Whereas I, (name), inhabitant of (place), have been called upon to, enter into a bond to be of good behaviour to the Government and to all subjects of the State 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 the Government and to all subjects of the State during the said term or until the completion of the said inquiry; and, in case of my making default therein, I bind myself to forfeit to the Government the sum ..... of rupeesDated this ..... day of ....., 20(Signature)(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 the Government and to all subjects of the State during the said term or until the completion of the inquiry ; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the Government the sum of rupeesDated this ..... day of ....., 20(Signature)XII. - Summons of Information of a Probable Breach of the Peace[See section 114]To ofWhereas 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 ..... 20, 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) surety (or sureties in the sum of rupees (each if more than one))] that you will keep the peace for the term ofGiven under my hand and the seal of the Court, this day of 20(Seal)(Signature)XIII. - Warrant of Commitment on Failure to Find Security to Keep the Peace[See section 123]To the Superintendent (or Keeper) of the Jail atWhereas (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 bond of 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, the said

Superintendent (or Keeper), 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. Given under my hand and the seal of the Court this day of 20. (Seal)(Signature)XIV. - Warrant of Commitment on Failure to Find Security for Good Behaviour[See section 123]To the Superintendent (or Keeper) of the Jail atWhereas it has been made to appear to me that (name and description) has been and is lurking within the district of ..... having no ostensible means of subsistence (or, and that he is unable to give any satisfactory account of himself);orWhereas 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, the said Superintendent (or Keeper), 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. Given under my hand and the seal of the Court, this day of , 20 .(Seal)(Signature)XV. - Warrant to Discharge a Person Imprisoned on Failure to Give Security.[See sections 123 and 124]To the Superintendent (or Keeper) 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 the Court, dated the ..... day of ..... and has since duly given security under section ..... of the Code of Criminal Procedure ;orand 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. Given under my hand and the seal of the Court, this day of 20 .(Seal)(Signature.)XVI. - 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 (of nuisance) still exists ;orWhereas 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 ;orWhereas it has been made to appear to me that you are the owner (or are in possession or have the control over) a certain tank (or well or excavation) adjacent to be public 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) ;orWhereas etc., etc., (as the case may be);I do hereby direct and require you within (state the time allowed) to (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 ;orI 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 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. ;orI 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. ;orI do hereby direct and require you, etc., etc., (as the case may be).Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature.)[XVII.-] [Form XVII omitted by Act XXXVII of 1978, Section 79.][XVIII. - Magistrates Notice and Peremptory Order.] [Form XVIII substituted by Act XXXVII of 1978, Section 79.][See section 140]To (name, description and address)I do 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 order within (state the time allowed) on peril of the penalty provided by the State Ranbir Penal Code for disobedience thereto.Dated this ..... day of ....., 20(Seal of the Court)(Signature)[XIX. - Injunction to Provide Against Imminent Danger Pending Inquiry.] [Form XIX substituted by Act XXXVII of 1978, Section 79.][See section 142]To (name, description and address)Whereas the inquiry into the conditional order issued by me on the day ..... 20 ....., is pending and it has been made to appear 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, Samvat 1989 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 ....., 20(Seal)(Signature)XX. - 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. XVI, or Form No. XXI, as the case may be) ;I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc., (as the case may be).Given under my hand and the seal of the Court, this day of , 20 .(Seal)(Signature)XXL. - 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 ;orWhereas 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 religious procession along the public street, etc., (as the case may be), and that such processions likely to lead to a riot or an affray ;orWhereas 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 ;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).Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XXII. - Magistrate's Order Declaring Party Entitled to Retain Possession of Land etc., in Dispute[See section 145]It appearing 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 between bodies of villagers) concerning certain (state concisely the subject of dispute) situate within the local limits of my 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 this 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.Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXIII. - Warrant of Attachment in The Case of a Dispute as to the Possession of Land, Etc.[See section 146]To the police 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, 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 & 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.Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXIV. - 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 of dispute) situate within the limits of my jurisdiction, the possession of which land (or water) is claimed exclusively by (describe the person or persons), and.it appearing to me, on due inquiry into the same, that the aid 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 particular seasons, say "during the last of the seasons at which the same is, capable of being enjoyed").I do order that the said (the claimant or claimants of possession) or anyone 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.Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXV. - 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 oforand after inquiry called upon to enter in 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 the Government the sum of rupeesDated this ..... day of ....., 20(Signature)I, hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for above said ..... 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 the Government the sum of rupees Dated this ..... day of ....., 20(Signature)XXVI. - 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 the Government the sum of rupees Dated this ..... day of ..... ,20(Signature)[XXVI-A. - Special Summons to a Person Accused of a Petty Offence] [Form XXVI-A inserted by Act XXXVII of 1978, Section 79.][See section 205-A]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 ..... 20 , 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, the ..... the day of ....., 20(Seal of the Court)(Signature)Note :- The amount of fine specified in this summons shall not exceed one hundred rupees.XXVII. - Notice of Commitment by Magistrate to Government Pleader[See section 2(205-D)]The Magistrate of ..... hereby gives notice that he has [Committed] [Figures and letters substituted by Act XXXVII of 1978, Section 79.] one for trial at the next Sessions; and the Magistrate hereby instructs the Government Pleader 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 ....., 20(Signature.)XXVIII. - Charges[See sections 221, 222 and 223](I)- Charges with one Head(a)I, (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows :(b)On Penal Code section 121. - That you, on Or about the ..... day of ..... waged war against the Government of India or the Government and thereby committed an offence punishable under section 121 of the Ranbir Penal Code, and within the cognizance of the Court of Session.(c)And I hereby direct that you be tried by the said Court in the said charge.(Signature and seal of the Magistrate)[To be substituted for (b)] :-(2)On section 124. - That you, or about the ..... day of ..... at ..... with the intention of inducing the Hon'ble A, B, Minister of the Government, to refrain from exercising a lawful power as such Minister assaulted such Minister, and thereby committed an offence punishable under section 124 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High 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), a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Ranbir Penal Code, and within the cognizance of foe Court of Session (or High Court).(4)On section 166. - 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 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(5)On section 193. - That you, on or

about the ..... day of at ....., in the course of 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 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(6)On section 304. - That you, on or about the ..... day of ....., at, ..... committed culpable homicide not amounting to murder, causing death , and thereby committed an offence punishable under section 304 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(7)On section 306. - 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 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(8)On section 325. - That you, on or about the ..... day of ....., at ....., voluntarily caused grievous hurt to ....., and thereby committed an offence punishable under section 325 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(9)On section 392. - That you, on or about the ..... day of ....., at ....., robbed (state the name), and thereby committed an offence punishable under section 392 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(10)On section 395. - That you, on or about the ..... day of ....., at ....., committed dacoity, an offence punishable under section 395 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(In cases tried by Magistrates substitute "within my cognizance" for within the cognizance of the "Court of Session," and in (c) omit "by the said Court".(II). - Charges with two or more Heads(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, by name, A, B, as genuine, and thereby committed an offence punishable under section 241 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).Secondly. - That you, on or about the ..... 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 Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(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 sections 302 and 304. First. - That you, on or about the ..... day of ....., at ..... committed murder by causing the death of and thereby committed an offence punishable under section 302 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).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 Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(3)On sections 379 and 382. First. - That you, on or about the ..... day of ....., at ....., committed theft, and thereby committed an offence punishable under section 379 of the Ranbir Penal Code, and within the cognizance of die Court of Session (or High Court).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 Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).Thirdly. - That you, on or about the ..... day of ....., at, committed theft, having made preparation for causing restrain 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 Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).Fourthly. - That you, on or about the ..... day of ..... at, ..... committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Ranbir Penal Code, and within the cognizance of the Court of Session (or High Court).(4)Alternative charges on section 93. - 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 stated evidence that one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Ranbir Penal Code, and within the-cognizance of the Court of Session (or High Court). (In cases tried by Magistrates substitute "within my cognizance" for "within the cognizance of the Court of Session" and in (c) omit "by the said Court"] (III). - Charge for 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 Ranbir Penal Code, and within the cognizance of the Court of Session [or High Court/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 Ranbir Penal Code with imprisonment for a term of three years, that is to say, the offence of housebreaking 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 Ranbir Penal Code.And I hereby direct that you be tried, etc.XXIX. - Warrant of Commitment on a Sentence of Imprisonment or Fine if Passed by a Magistrate[See sections 245 and 258]To the Superintendent (or Keeper of the Jail atWhereas on the ..... day of ..... 20 (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. .... of the Calendar for 20 ....., was convicted before me (name and official designation) of ..... the offence of, (mention the offence or offences concisely) under section (or sections) of the Ranbir Penal Code (or of Act), and was sentenced to (state the punishment fully and distinctly) ;This is to authorise and require you, the said Superintendent (or Keeper) to receive the said (prisoner's name) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXX. - Warrant of Imprisonment on Failure to Recover Amends by Attachment and Sale[See section 250]To the Superintendent (or Keeper) of the Jail atWhereas (name and description) has brought against (name and description of the accused person) the complaint that (mention it concisely) and the same has been dismissed as false and frivolous (or vexatious) and the order of dismissal awards payment by the said (name of the complainant) of the sum of rupees ..... , as amends ; 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, the said Superintendent (or Keeper), to receive the said (name) into your custody, together with his 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 Ranbir Penal Code, unless the I 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 Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXXL. - Summons to Witness[See sections 68 and 252]To ofWhereas complaint has been made before me that ..... of ..... has (or is suspected to have) committed the offence of (state the offence concisely with time and place), and it appears to me that you are likely to give material evidence for the prosecution;You are hereby summoned to appear before this Court on the ..... day of ..... next at 10 o'clock in the forenoon, 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature).[XXXII and XXXIII] [Forms XXXII and XXXIII omitted by Act XXXVII of 1978, Section 79.] Omitted.XXXIV. - Warrant of Commitment Under Sentence of Death[See section 374]To the Superintendent (or Keeper) of the Jail atWhereas at the Session held before me on the ..... day of ..... 20, (name of the prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner, in case No. .... of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section ..... of the Ranbir Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court ofThis, is to authorise and require you, the said Superintendent (or, Keeper), 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.Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXXV. - Warrant of Execution on a Sentence of Death[See section 381]To the Superintendent (or Keeper) of the Jail atWhereas (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. .... of the Calendar at the Session held before me on the day of ..... 20, has been by a warrant of this Court, dated the day of committed to your custody under sentence of death ; and whereas the order of the ..... Court of ..... confirming the said sentence has been received by this Court ;This is to authorise and require you, the said Superintendent (or Keeper), 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 a endorsement certifying that the sentence has been executed.Given under my hand and the seal of the Court, this day of , 20(Seal).(Signature).XXXVI. - Warrant After a Commutation of Sentence[See sections 381 and 382]To the Superintendent (or Keeper) of the Jail atWhereas at a Session held on the ..... day of .....20, (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of ..... punishable under section ..... of the Ranbir 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 has been commuted to the punishment of imprisonment for life (or as the case may be) ;This is to authorise and require you the said Superintendent (or Keeper), 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 purpose of his undergoing the punishment of imprisonment for life under the said order,orif the mitigated sentence is one of imprisonment, say, after the words "custody in the said Jail", "and thereto carry into execution the punishment of imprisonment under the said order according to law".Given under my hand and the seal of the Court, this day of , 20(Seal)(Signature)XXXVII. - Warrant to Levy a Fine by Attachment and Sale[See section 386(1) (a)]To the (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 ..... 20 ....., 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 ;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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XXXVII-A. - Bond for Appearance of Offender Released Pending Realisation of Fine[See section 388]Whereas I, (name), inhabitant of (place), have been sentenced to pay a fine of rupees ..... and in default of payment thereof to undergo imprisonment for .....; and whereas the Court has been pleased to order my release on condition of my executing a bond for my 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 the Government-the sum of rupeesDated this ..... day of ..... 20(Signature).Where a bond with sureties to be executed, add-We 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 the Government the sum of rupees(Signature)XXXVIII - Warrant of Commitment in Certain Cases of Contempt When a Fine is Imposed[See section 480]To the Superintendent (or Keeper) of the Jail atWhereas at a Court held on 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 to suffer simple imprisonment for the space of state the number of months or days ;This is to authorise and require, you, the Superintendent (or Keeper) of the said Jail, 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 (paid 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XXXIX. - Magistrates or Judges Warrant of Commitment of Witness Refusing Answer[See section 485]To (name and description of officer of Court)Whereas (name and description), being summoned (or brought before this Court) as a witness 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, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention 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 space of days, unless in the meantime he shall consent to be examined and to answer the questions asked of 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XL. - Warrant of Imprisonment on Failure to Pay Maintenance[See section 488]To the Superintendent

(or Keeper) of the Jail atWhereas (name, description and address) has been proved before me to be possessed of sufficient means to maintain his wife (name), [or his child (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) 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 there upon an order was made adjudging him to undergo simple or rigorous imprisonment in the said Jail for the period ofThis is to authorise and require you, the said Superintendent (or Keeper), 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XLI. - Warrant to Enforce the Payment of Maintenance by Attachment and Sale[See section 488]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) 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature).XLII. - Bond, and Bail Bond on a Preliminary Inquiry Before a Magistrate[See sections 496 and 499]I, (name), of (place), being brought before the Magistrate of (as the case may be) charged with the offence of ....., and required to give security for my attendance in his Court and at the Court of Session, if required, to bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to the Government the sum of rupeesDated this ..... day of ....., 20(Signature)I hereby declare myself (or We jointly and severally declare ourselves and each of us) surety (or sureties for the said (name) that he shall attend at the Court of ..... on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and, in case of his making default therein, I bind myself (or we bind ourselves) to forfeit to the Government the sum of rupeesDated this ..... day of ....., 20(Signature)XLIII. - Warrant to Discharge a Person Imprisoned on Failure to Give Security[See section 500]To the Superintendent (or Keeper) 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 499 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XLIV. -

Warrant of Attachment to Enforce a Bond[See section 514]To the Police officer incharge of the Police Station atWhereas (name, description and address of person) has failed to appear on (mention the occasion) pursuant to his recognizance, and has by such default forfeited to the 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 ;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 three 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature).XLV. - Notice To Surety On Breach Of Bond[See section 514]To ofWhereas ..... day of ....., 20 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 the 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XLVI. - Notice to Surety of Forfeiture for Bond of Good Behaviour[See section 514]To ofWhereas on the ..... day of ..... 20 ....., you became surety 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 the Government; and whereas the said (name) has been convicted of the offence of (mention the offence concisely) committed since you became such surety, whereby your surety 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.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XLVII. - Warrant of Attachment Against a Surety[See section 514]To ofWhereas, (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 the 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 three days, to sell the property so attached, or so much of it as it may be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant, immediately upon its execution.Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XLVIII. - Warrant of Commitment of the Surety of an Accused Person Admitted to Bail[See section 514]To the Superintendent (or Keeper) of the Civil Jail atWhereas (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 in the said bond has been forfeited to the 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 movable property of his, 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 this warrant and him safely to keep in the said Jail for the said (term of imprisonment), and to return this warrant with an endorsement certifying the

manner of its execution. Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)XLIX. - Notice to the Principal of Forfeiture of a Bond to Keep the Peace.[See section 514]To (name, description and address).Whereas on the, ..... day of ..... 20 , 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 ....., 20(Seal).(Signature).L. - Warrant to Attach the Property of the Principal on Breach of a Bond to Keep the Peace.[See section 514]To (name and description of Police officer), at the Police station ofWhereas (name and description) did, on the day of ..... 20 ....., enter into a bond for the sum of rupees ..... binding himself not to commit a breach of the peace, (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. Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)LI. - Warrant of Imprisonment on Breach of a Bond to Keep the Peace[See section 514]To the Superintendent (or Keeper) of the Civil Jail atWhereas 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 the 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 him safely to keep 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. Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)LII. - Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour[See section 514]To the police officer incharge of the police station atWhereas (name, description and address) did on the ..... day of ....., 20 ....., 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 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. Given under my hand and the seal of the Court, this day of 20(Seal)(Signature)LIII. - Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour[See section 514]To the

Superintendent (or Keeper) of the Civil Jail at Whereas (name, description and address) did, on the ..... day of ....., 20 ....., 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 the Government the sum of rupees ....., and 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 him safely to keep in the said Jail for the said period of (term of imprisonment), returning this warrant with an endorsement certifying the manner of its execution. Given under my hand and the seal of the Court, this day of 20 (Seal). (Signature)