

THE INDIAN PENAL CODE

ARRANGEMENT OF SECTIONS

CHAPTER I

INTRODUCTION

PREAMBLE

SECTIONS

1. Title and extent of operation of the Code.
2. Punishment of offences committed within India.
3. Punishment of offences committed beyond, but which by law may be tried within, India.
4. Extension of Code to extra-territorial offences.
5. Certain laws not to be affected by this Act.

CHAPTER II

GENERAL EXPLANATIONS

6. Definitions in the Code to be understood subject to exceptions.
7. Sense of expression once explained.
8. Gender.
9. Number.
10. "Man". "Woman".
11. "Person".
12. "Public".
13. *[Omitted.]*
14. "Servant of Government".
15. *[Repealed.]*
16. *[Repealed.]*
17. "Government".
18. "India".
19. "Judge".
20. "Court of Justice".
21. "Public servant".
22. "Moveable property".
23. "Wrongful gain".
"Wrongful loss".
Gaining wrongfully/ Losing wrongfully.
24. "Dishonestly".
25. "Fraudulently".
26. "Reason to believe".
27. Property in possession of wife, clerk or servant.
28. "Counterfeit".
29. "Document".
- 29A. "Electronic record".
30. "Valuable security".
31. "A will".
32. Words referring to acts include illegal omissions.
33. "Act".
"Omission".
34. Acts done by several persons in furtherance of common intention.
35. When such an act is criminal by reason of its being done with a criminal knowledge or intention.
36. Effect caused partly by act and partly by omission.
37. Co-operation by doing one of several acts constituting an offence.

SECTIONS

- 38. Persons concerned in criminal act may be guilty of different offences.
- 39. "Voluntarily".
- 40. "Offence".
- 41. "Special law".
- 42. "Local law".
- 43. "Illegal".
"Legally bound to do".
- 44. "Injury".
- 45. "Life".
- 46. "Death".
- 47. "Animal".
- 48. "Vessel".
- 49. "Year".
"Month".
- 50. "Section".
- 51. "Oath".
- 52. "Good faith".
- 52A. "Harbour".

CHAPTER III OF PUNISHMENTS

- 53. Punishments.
- 53A. Construction of reference to transportation.
- 54. Commutation of sentence of death.
- 55. Commutation of sentence of imprisonment for life.
- 55A. Definition of "appropriate Government".
- 56. *[Repealed.]*
- 57. Fractions of terms of punishment.
- 58. *[Repealed.]*
- 59. *[Repealed.]*
- 60. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous of simple.
- 61. *[Repealed.]*
- 62. *[Repealed.]*
- 63. Amount of fine.
- 64. Sentence of imprisonment for non-payment of fine.
- 65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.
- 66. Description of imprisonment for non-payment of fine.
- 67. Imprisonment for non-payment of fine, when offence punishable with fine only.
- 68. Imprisonment to terminate on payment of fine.
- 69. Termination of imprisonment on payment of proportional part of fine.
- 70. Fine leviable within six years, of during imprisonment. Death not to discharge property from liability.
- 71. Limit of punishment of offence made up of several offences.
- 72. Punishment of person guilty of one of several offences, the judgment stating that is doubtful of which.
- 73. Solitary confinement.
- 74. Limit of solitary confinement.
- 75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.

CHAPTER IV

GENERAL EXCEPTIONS

- 76. Act done by a person bound, or by mistake of fact believing himself bound, by law.
- 77. Act of Judge when acting judicially.
- 78. Act done pursuant to the judgment or order of Court.
- 79. Act done by a person justified, or by mistake of fact believing himself justified, by law.
- 80. Accident in doing a lawful act.
- 81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.

SECTIONS

- 82. Act of a child under seven years of age.
- 83. Act of a child above seven and under twelve of immature understanding.
- 84. Act of a person of unsound mind.
- 85. Act of a person incapable of judgment by reason of intoxication caused against his will.
- 86. Offence requiring a particular intent or knowledge committed by one who is intoxicated.
- 87. Act not intended and not known to be likely to cause death or grievous hurt, done by consent.
- 88. Act not intended to cause death, done by consent in good faith for person's benefit.
- 89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.
Provisos.
- 90. Consent known to be given under fear or misconception.
Consent of insane person.
Consent of child.
- 91. Exclusion of acts which are offences independently of harm caused.
- 92. Act done in good faith for benefit of a person without consent.
Provisos.
- 93. Communication made in good faith.
- 94. Act to which a person is compelled by threats.
- 95. Act causing slight harm.

Of the Right of Private Defense

- 96. Things done in private defence.
- 97. Right of private defence of the body and of property.
- 98. Right of private defence against the act of a person of unsound mind. etc.
- 99. Acts against which there is no right of private defence.
Extent to which the right may be exercised.
- 100. When the right of private defence of the body extends to causing death.
- 101. When such right extends to causing any harm other than death.
- 102. Commencement and continuance of the right of private defence of the body.
- 103. When the right of private defence of property extends to causing death.
- 104. When such right extends to causing any harm other than death.
- 105. Commencement and continuance of the right of private defence of property.
- 106. Right of private defence against deadly assault when there is risk of harm to innocent person.

CHAPTER V

OF ABETMENT

- 107. Abetment of a thing.
- 108. Abettor.
- 108A. Abetment in Indian of offences outside India.
- 109. Punishment of a abetment if the act abetted is committed in consequence and when no express provision is made for its punishment.
- 110. Punishment of abetment if person abetted does act with different intention from that of abettor.
- 111. Liability of abettor when one act abetted and different act done.
- 112. Abettor when liable to cumulative punishment for act abetted and for act done.
- 113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.
- 114. Abettor present when offence is committed.
- 115. Abetment of offence punishable with death or imprisonment for life.—if offence not committed.
if act causing harm be done in consequence.
- 116. Abetment of offence punishable with imprisonment.—if offence be not committed.
if abettor or person abetted be a public servant whose duty it is to prevent offence.
- 117. Abetting commission of offence by the public or by more than ten persons.
- 118. Concealing design to commit offence punishable with death or imprisonment for life.
If offence be committed;
if offence be not committed.
- 119. Public servant concealing design to commit offence which it is his duty to prevent.
if offence be committed;
if offence be punishable with death, etc.
if offence be not committed.
- 120. Concealing design to commit offence punishable with imprisonment.
if offence be committed;
if offence be not committed.

CHAPTER VA

CRIMINAL CONSPIRACY

- 120A. Definition of criminal conspiracy.

SECTIONS

120B. Punishment of criminal conspiracy.

CHAPTER VI OF OFFENCES AGAINST THE STATE

- 121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.
- 121A. Conspiracy to commit offences punishable by section 121.
- 122. Collecting arms, etc., with intention of waging war against the Government of India.
- 123. Concealing with intent to facilitate design to wage war.
- 124. Assaulting President. Governor, etc., with intent to compel or restrain the exercise of any lawful power.
- 124A. Sedition.
- 125. Waging war against any Asiatic power in alliance with the Government of India.
- 126. Committing depredation on territories of power at peace with the Government of India.
- 127. Receiving property taken by war or depredation mentioned in sections 125 and 126.
- 128. Public servant voluntarily allowing prisoner of State or war to escape.
- 129. Public servant negligently suffering such prisoner to escape.
- 130. Aiding escape of, rescuing or harbouring such prisoner.

CHAPTER VII OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

- 131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.
- 132. Abetment of mutiny, if mutiny is committed in consequence thereof.
- 133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.
- 134. Abetment of such assault, if the assault is committed.
- 135. Abetment of desertion of soldier, sailor or airman.
- 136. Harbouring deserter.
- 137. Deserter concealed on board merchant vessel through negligence of master.
- 138. Abetment of act of insubordination by soldier, sailor or airman.
- 138A. *[Repealed.]*
- 139. Persons subject to certain Acts.
- 140. Wearing garb or carrying token used by soldier, sailor or airman.

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

- 141. Unlawful assembly.
- 142. Being member of unlawful assembly.
- 143. Punishment.
- 144. Joining unlawful assembly armed with deadly weapon.
- 145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.
- 146. Rioting.
- 147. Punishment for rioting.
- 148. Rioting, armed with deadly weapon.
- 149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.
- 150. Hiring, or conniving at hiring, of persons to join unlawful assembly.
- 151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.
- 152. Assaulting or obstructing public servant when suppressing riot, etc.
- 153. Wantonly giving provocation, with intent to cause riot—
if rioting be committed; if not committed.
- 153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence.
language, etc., and doing acts prejudicial to maintenance of harmony.
Offence committed in place of worship, etc.
- 153AA. Punishment for knowingly carrying arms in any procession or organizing, or holding or taking part in
any mass drill or mass training with arms.
- 153B. Imputation, assertions prejudicial to national-integration.
- 154. Owner or occupier of land on which an unlawful assembly is held.
- 155. Liability of person for whose benefit riot is committed.
- 156. Liability of agent of owner or occupier for whose benefit riot is committed.
- 157. Harbouring persons hired for an unlawful assembly.

SECTIONS

- 158. Being hired to take part in an unlawful assembly or riot; or to go armed.
- 159. Affray.
- 160. Punishment for committing affray.

CHAPTER IX OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

- 161. to 165A. [*Repealed.*]
- 166. Public servant disobeying law, with intent to cause injury to any person.
- 166A. Public servant disobeying direction under law.
- 166B. Punishment for non-treatment of victim.
- 167. Public servant framing an incorrect document with intent to cause injury.
- 168. Public servant unlawfully engaging in trade.
- 169. Public servant unlawfully buying or bidding for property.
- 170. Personating a public servant.
- 171. Wearing garb or carrying token used by public servant with fraudulent intent.

CHAPTER IXA OF OFFENCES RELATING TO ELECTIONS

- 171A. "Candidate", "Electoral right" defined.
- 171B. Bribery.
- 171C. Undue influence at elections.
- 171D. Personation at elections.
- 171E. Punishment for bribery.
- 171F. Punishment for undue influence or personation at an election.
- 171G. False statement in connection with an election.
- 171H. Illegal payments in connection with an election.
- 171-I. Failure to keep election accounts.

CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

- 172. Absconding to avoid service of summons of other proceeding.
- 173. Preventing service of summons or other proceeding, or preventing publication thereof.
- 174. Non-attendance in obedience to an order from public servant.
- 174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.
- 175. Omission to produce document to public servant by person legally bound to produce it.
- 176. Omission to give notice or information to public servant by person legally bound to give it.
- 177. Furnishing false information.
- 178. Refusing oath or affirmation when duly required by public servant to make it.
- 179. Refusing to answer public servant authorised to question.
- 180. Refusing to sign statement.
- 181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.
- 182. False information, with intent to cause public servant to use his lawful power to the injury of another person.
- 183. Resistance to the taking of property by the lawful authority of a public servant.
- 184. Obstructing sale of property offered for sale by authority of public servant.
- 185. Illegal purchase or bid for property offered for sale by authority of public servant.
- 186. Obstructing public servant in discharge of public functions.
- 187. Omission to assist public servant when bound by law to give assistance.
- 188. Disobedience to order duly promulgated by public servant.
- 189. Threat of injury to public servant.
- 190. Threat of injury to induce person to refrain from applying for protection to public servant.

CHAPTER XI OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

- 191. Giving false evidence.
- 192. Fabricating false evidence.
- 193. Punishment for false evidence.
- 194. Giving or fabricating false evidence with intent to procure conviction of capital offence.
if innocent person be thereby convicted and executed.

SECTIONS

195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.
- 195A. Threatening any person to give false evidence.
196. Using evidence known to be false.
197. Issuing or signing false certificate.
198. Using as true a certificate known to be false.
199. False statement made in declaration which is by law receivable as evidence.
200. Using as true such declaration knowing it to be false.
201. Causing disappearance of evidence of offence, or giving false information, to screen offender—
 - if a capital offence;
 - if punishable with imprisonment for life;
 - if punishable with less than ten Years' imprisonment.
202. Intentional omission to give information of offence by person bound to inform.
203. Giving false information respecting an offence committed.
204. Destruction of document to prevent its production as evidence.
205. False personation for purpose of act or proceeding in suit or prosecution.
206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.
207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.
208. Fraudulently suffering decree for sum not due.
209. Dishonestly making false claim in Court.
210. Fraudulently obtaining decree for sum not due.
211. False charge of offence made with intent to injure.
212. Harbouring offender.—
 - if a capital offence;
 - if punishable with imprisonment for life, or with imprisonment.
213. Taking gift, etc., to screen an offender from punishment.—
 - if a capital offence;
 - if punishable with imprisonment for life, or with imprisonment.
214. Offering gift or restoration of property in consideration of screening offender -
 - if a capital offence;
 - if punishable with imprisonment for life, or with imprisonment.
215. Taking gift to help to recover stolen property, etc.
216. Harbouring offender who has escaped from custody of whose apprehension has been ordered -
 - if a capital offence;
 - if punishable with imprisonment for life, or with imprisonment.
- 216A. Penalty for harbouring robbers or dacoits.
- 216B. [*Repealed.*]
217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.
219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.
220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.
221. Intentional omission to apprehend on the part of public servant bound to apprehend.
222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.
223. Escape from confinement or custody negligently suffered by public servant.
224. Resistance or obstruction by a person to his lawful apprehension.
225. Resistance or obstruction to lawful apprehension of another person.
- 225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.
- 225B. Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.
226. [*Repealed.*]
227. Violation of condition of remission of punishment.
228. Intentional insult or interruption to public servant sitting in judicial proceeding.
- 228A. Disclosure of identity of the victim of certain offences, etc.
229. Personation of a juror or assessor.
- 229A. Failure by person released on bail or bond to appear in Court.

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

SECTIONS

- 230. "Coin" defined.
Indian coin.
- 231. Counterfeiting coin.
- 232. Counterfeiting Indian coin.
- 233. Making or selling instrument for counterfeiting coin.
- 234. Making or selling instrument for counterfeiting Indian coin.
- 235. Possession of instrument or material for the purpose of using the same for counterfeiting coin:
if Indian coin.
- 236. Abetting in India the counterfeiting out of India of coin.
- 237. Import or export of counterfeit coin.
- 238. Import or export of counterfeits of the Indian coin.
- 239. Delivery of coin, possessed with knowledge that it is counterfeit.
- 240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.
- 241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.
- 242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.
- 243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.
- 244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.
- 245. Unlawfully taking coining instrument from mint.
- 246. Fraudulently or dishonestly diminishing weight or altering composition of coin.
- 247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.
- 248. Altering appearance of coin with intent that it shall pass as coin of different description.
- 249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.
- 250. Delivery of coin, possessed with knowledge that it is altered.
- 251. Delivery of Indian coin, possessed with knowledge that it is altered.
- 252. Possession of coin by person who knew it to be altered when he became possessed thereof.
- 253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.
- 254. Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.
- 255. Counterfeiting Government stamp.
- 256. Having possession of instrument or material for counterfeiting Government stamp.
- 257. Making or selling instrument for counterfeiting Government stamp.
- 258. Sale of counterfeit Government stamp.
- 259. Having possession of counterfeit Government stamp.
- 260. Using as genuine a Government stamp known to be counterfeit.
- 261. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it,
with intent to cause loss to Government.
- 262. Using Government stamp known to have been before used.
- 263. Erasure of mark denoting that stamp has been used.
- 263A. Prohibition of fictitious stamps.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

- 264. Fraudulent use of false instrument for weighing.
- 265. Fraudulent use of false weight or measure.
- 266. Being In possession of false weight or measure.
- 267. Making or selling false weight or measure.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

- 268. Public nuisance.
- 269. Negligent act likely to spread infection of disease dangerous to life.
- 270. Malignant act likely to spread infection of disease dangerous to life.
- 271. Disobedience to quarantine rule.
- 272. Adulteration of food or drink intended for sale.
- 273. Sale of noxious food or drink.
- 274. Adulteration of drugs.

SECTIONS

- 275. Sale of adulterated drugs.
- 276. Sale of drug as a different drug or preparation.
- 277. Fouling water of public spring or reservoir.
- 278. Making atmosphere noxious to health.
- 279. Rash driving or riding on a public way.
- 280. Rash navigation of vessel.
- 281. Exhibition of false light, mark or buoy.
- 282. Conveying person by water for hire in unsafe or overloaded vessel.
- 283. Danger or obstruction in public way or line of navigation.
- 284. Negligent conduct with respect to poisonous substance.
- 285. Negligent conduct with respect to fire or combustible matter.
- 286. Negligent conduct with respect to explosive substance.
- 287. Negligent conduct with respect to machinery.
- 288. Negligent conduct with respect to pulling down or repairing buildings.
- 289. Negligent conduct with respect to animal.
- 290. Punishment for public nuisance in cases not otherwise provided for.
- 291. Continuance of nuisance after injunction to discontinue.
- 292. Sale, etc., of obscene books, etc.
- 293. Sale, etc., of obscene objects to young person.
- 294. Obscene acts and songs.
- 294A. Keeping lottery office.

CHAPTER XV OF OFFENCES RELATING TO RELIGION

- 295. Injuring or defiling place of worship, with intent to insult the religion of any class.
- 295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- 296. Disturbing religious assembly.
- 297. Trespassing on burial places, etc.
- 298. Uttering words, etc., with deliberate intent to wound the religious feelings.

CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY

Of offences affecting life

- 299. Culpable homicide.
- 300. Murder.
 - When culpable homicide is not murder.
- 301. Culpable homicide by causing death of person other than person whose death was intended.
- 302. Punishment for murder.
- 303. Punishment for murder by life-convict.
- 304. Punishment for culpable homicide not amounting to murder.
- 304A. Causing death by negligence.
- 304B. Dowry death.
- 305. Abetment of suicide of child or insane person.
- 306. Abetment of suicide.
- 307. Attempt to murder.
 - Attempts by life-convicts.
- 308. Attempt to commit culpable homicide.
- 309. Attempt to commit suicide.
- 310. Thug.
- 311. Punishment.

Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the concealment of Births

- 312. Causing miscarriage.
- 313. Causing miscarriage without woman's consent.

SECTIONS

- 314. Death caused by act done with intent to cause miscarriage.
if act done without woman's consent.
- 315. Act done with intent to prevent child being born alive or to cause it to die after birth.
- 316. Causing death of quick unborn child by act amounting to culpable homicide.
- 317. Exposure and abandonment of child under twelve years, by parent or person having care of it.
- 318. Concealment of birth by secret disposal of dead body.

Of Hurt

- 319. Hurt.
- 320. Grievous hurt.
- 321. Voluntarily causing hurt.
- 322. Voluntarily causing grievous hurt.
- 323. Punishment for voluntarily causing hurt.
- 324. Voluntarily causing hurt by dangerous weapons or means.
- 325. Punishment for voluntarily causing grievous hurt.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 326A. Voluntarily causing grievous hurt by use of acid, etc.
- 326B. Voluntarily throwing or attempting to throw acid.
- 327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.
- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
- 330. Voluntarily causing hurt to extort confession, or to compel restoration of property.
- 331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.
- 334. Voluntarily causing hurt on provocation.
- 335. Voluntarily causing grievous hurt on provocation.
- 336. Act endangering life or personal safety of others.
- 337. Causing hurt by act endangering life or personal safety of others.
- 338. Causing grievous hurt by act endangering life or personal safety of others.

Of wrongful restraint and wrongful confinement

- 339. Wrongful restraint.
- 340. Wrongful confinement.
- 341. Punishment for wrongful restraint.
- 342. Punishment for wrongful confinement.
- 343. Wrongful confinement for three or more days.
- 344. Wrongful confinement for ten or more days.
- 345. Wrongful confinement of person for whose liberation writ has been issued.
- 346. Wrongful confinement in secret.
- 347. Wrongful confinement to extort property, or constrain to illegal act.
- 348. Wrongful confinement to extort confession, or compel restoration of property.

Of Criminal Force and Assault

- 349. Force.
- 350. Criminal force.
- 351. Assault.
- 352. Punishment for assault or criminal force otherwise than on grave provocation.
- 353. Assault or criminal force to deter public servant from discharge of his duty.
- 354. Assault or criminal force to woman with intent to outrage her modesty.
- 354A. Sexual harassment and punishment for sexual harassment.
- 354B. Assault or use of criminal force to woman with intent to disrobe.
- 354C. Voyeurism.
- 354D. Stalking.
- 355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.
- 356. Assault or criminal force in attempt to commit theft of property carried by a person.
- 357. Assault or criminal force in attempt wrongfully to confine a person.
- 358. Assault or criminal force on grave provocation.

Of Kidnapping, Abduction, Slavery and Forced Labour

- 359. Kidnapping.

SECTIONS

- 360. Kidnapping from India.
- 361. Kidnapping from lawful guardianship.
- 362. Abduction.
- 363. Punishment for kidnapping.
- 363A. Kidnapping or maiming a minor for purposes of begging.
- 364. Kidnapping or abducting in order to murder.
- 364A. Kidnapping for ransom, etc.
- 365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366. Kidnapping, abducting or inducing woman to compel her marriage, etc.
- 366A. Procuration of minor girl.
- 366B. Importation of girl from foreign country.
- 367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
- 368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.
- 369. Kidnapping or abducting child under ten years with intent to steal from its person.
- 370. Trafficking of person.
- 370A. Exploitation of a trafficked person.
- 371. Habitual dealing in slaves.
- 372. Selling minor for purposes of prostitution, etc.
- 373. Buying minor for purposes of prostitution, etc.
- 374. Unlawful compulsory labour.

Sexual offences

- 375. Rape.
- 376. Punishment for rape.
- 376A. Punishment for causing death or resulting in persistent vegetative state of victim.
- 376B. Sexual intercourse by husband upon his wife during separation.
- 376C. Sexual intercourse by a person in authority.
- 376D. Gang rape.
- 376E. Punishment for repeat offenders.

Of Unnatural offences

- 377. Unnatural offences.

CHAPTER XVII OF OFFENCES AGAINST PROPERTY *Of Theft*

- 378. Theft.
- 379. Punishment for theft.
- 380. Theft in dwelling house, etc.
- 381. Theft by clerk or servant of property in possession of master.
- 382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.

Of Extortion

- 383. Extortion.
- 384. Punishment for extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death on grievous hurt.
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
- 388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.
- 389. Putting person in fear of accusation of offence, in order to commit extortion.

Of Robbery and Dacoity

- 390. Robbery.
 - When theft is robbery.
 - When extortion is robbery.
- 391. Dacoity.
- 392. Punishment for robbery.
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery.
- 395. Punishment for dacoity.

SECTIONS

- 396. Dacoity with murder.
- 397. Robbery, or dacoity, with attempt to cause death or grievous hurt.
- 398. Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399. Making preparation to commit dacoity.
- 400. Punishment for belonging to gang of dacoits.
- 401. Punishment for belonging to gang of thieves.
- 402. Assembling for purpose of committing dacoity.

Of Criminal Misappropriation of Property

- 403. Dishonest misappropriation of property.
- 404. Dishonest misappropriation of property possessed by deceased person at the time of his death.

Of Criminal Breach of Trust

- 405. Criminal breach of trust.
- 406. Punishment for criminal breach of trust.
- 407. Criminal breach of trust by carrier, etc.
- 408. Criminal breach of trust by clerk or servant.
- 409. Criminal breach of trust by public, servant. or by banker, merchant or agent.

Of the Receiving of Stolen Property

- 410. Stolen property.
- 411. Dishonestly receiving stolen property.
- 412. Dishonestly receiving property stolen in the commission of a dacoity.
- 413. Habitually dealing in stolen property.
- 414. Assisting in concealment of stolen property.

Of Cheating

- 415. Cheating.
- 416. Cheating by personation.
- 417. Punishment for cheating.
- 418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
- 419. Punishment for cheating by personation.
- 420. Cheating and dishonestly inducing delivery of property.

Of Fraudulent Deeds and Dispositions of Property

- 421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditor.
- 422. Dishonestly or fraudulently preventing debt being available for creditors.
- 423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
- 424. Dishonest or fraudulent removal or concealment of property.

Of Mischief

- 425. Mischief.
- 426. Punishment for mischief.
- 427. Mischief causing damage to the amount of fifty rupees.
- 428. Mischief by killing or maiming animal of the value of ten rupees.
- 429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.
- 430. Mischief by injury to works of irrigation or by wrongfully diverting water.
- 431. Mischief by injury to public road, bridge, river or channel.
- 432. Mischief by causing inundation or obstruction to public drainage attended with damage.
- 433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.
- 434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.
- 435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.
- 436. Mischief by fire or explosive substance with intent to destroy house, etc.
- 437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.
- 438. Punishment for the mischief described in section 437 committed by fire or explosive substance.
- 439. Punishment for intentionally running vessel aground, or ashore with intent to commit theft, etc.
- 440. Mischief committed after preparation made for causing death or hurt.

SECTIONS

- 441. Criminal trespass.
- 442. House-trespass.
- 443. Lurking house-trespass.
- 444. Lurking house-trespass by night.
- 445. House-breaking.
- 446. House-breaking by night.
- 447. Punishment for criminal trespass.
- 448. Punishment for house-trespass.
- 449. House-trespass in order to commit offence punishable with death.
- 450. House-trespass in order to commit offence punishable with imprisonment for life.
- 451. House-trespass in order to commit offence punishable with imprisonment.
- 452. House-trespass after preparation for hurt, assault or wrongful restraint.
- 453. Punishment for lurking house-trespass or house-breaking.
- 454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
- 455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
- 456. Punishment for lurking house-trespass or house-breaking by night.
- 457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
- 458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.
- 459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.
- 461. Dishonestly breaking open receptacle containing property.
- 462. Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

- 463. Forgery.
- 464. Making a false document.
- 465. Punishment for forgery.
- 466. Forgery of record of Court or of public register, etc.
- 467. Forgery of valuable security, will, etc.
- 468. Forgery for purpose of cheating.
- 469. Forgery for purpose of harming reputation.
- 470. Forged document.
- 471. Using as genuine a forged document or electronic record.
- 472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.
- 473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.
- 474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.
- 475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
- 476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
- 477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 477A. Falsification of accounts.

Of Property and Other Marks

- 478. *[Repealed.]*
- 479. Property mark.
- 480. *[Repealed.]*
- 481. Using a false property mark.
- 482. Punishment for using a false property mark.
- 483. Counterfeiting a property mark used by another.
- 484. Counterfeiting a mark used by a public servant.
- 485. Making or possession of any instrument for counterfeiting a property mark.
- 486. Selling goods marked with a counterfeit property mark.
- 487. Making a false mark upon any receptacle containing goods.
- 488. Punishment for making use of any such false mark.
- 489. Tampering with property mark with intent to cause injury.

SECTIONS

- 489A. Counterfeiting currency-notes or bank-notes.
- 489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.
- 489C. Possession of forged or counterfeit currency notes or bank-notes.
- 489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.
- 489E. Making or using documents resembling currency-notes or bank-notes.

CHAPTER XIX OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

- 490. *[Repealed.]*
- 491. Breach of contract to attend on and supply wants of helpless person.
- 492. *[Repealed.]*

CHAPTER XX OF OFFENCES RELATING TO MARRIAGE

- 493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.
- 494. Marrying again during life-time of husband or wife.
- 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.
- 496. Marriage ceremony fraudulently gone through without lawful marriage.
- 497. Adultery.
- 498. Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXA OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

- 498A. Husband or relative of husband of a woman subjecting her to cruelty.

CHAPTER XXI OF DEFAMATION

- 499. Defamation.
 - Imputation of truth which public good requires to be made or published.
 - Public conduct of public servants.
 - Conduct of any person touching any public question.
 - Publication of reports of proceedings of Courts.
 - Merits of case decided in Court or conduct of witnesses and others concerned.
 - Merits of public performance.
 - Censure passed in good faith by person having lawful authority over another.
 - Accusation preferred in good faith to authorised person.
 - Imputation made in good faith by person for protection of his or other's interests.
 - Caution intended for good of person to whom conveyed or for public good.
- 500. Punishment for defamation.
- 501. Printing or engraving matter known to be defamatory.
- 502. Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXII OR CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

- 503. Criminal intimidation.
- 504. Intentional insult with intent to provoke breach of the peace.
- 505. Statements conducing to public mischief.
 - Statements creating or promoting enmity, hatred or ill-will between classes.
 - Offence under sub-section (2) committed in place of worship, etc.

SECTIONS

506. Punishment for criminal intimidation.

If threat be to cause death or grievous hurt, etc.

507. Criminal intimidation by an anonymous communication.

508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.

509. Word, gesture or act intended to insult the modesty of a woman.

510. Misconduct in public by a drunken person.

CHAPTER XXIII OF ATTEMPTS OF COMMIT OFFENCES

511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.

THE INDIAN PENAL CODE

ACT NO. 45 OF 1860¹

[6th October, 1860.]

CHAPTER I

INTRODUCTION

Preamble.—WHEREAS it is expedient to provide a general Penal Code for ²[India]; It is enacted as follows:—

1. Title and extent of operation of the Code.—This Act shall be called the Indian Penal Code, and shall ³[extend to the whole of India ⁴[except the State of Jammu and Kashmir]].

2. Punishment of offences committed within India.—Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within ⁵[India] ⁶****.

3. Punishment of offences committed beyond, but which by law may be tried within, India.—Any person liable, by any ⁷[Indian law], to be tried for an offence committed beyond ⁸[India] shall be dealt with according to the provisions of this Code for any act committed beyond ⁸[India] in the same manner as if such act had been committed within ⁵[India].

⁹**[4. Extension of Code to extra-territorial offences.**—The provisions of this Code apply also to any offence committed by—

¹⁰[(1) any citizen of India in any place without and beyond India;

(2) any person on any ship or aircraft registered in India wherever it may be.]

¹¹[(3) any person in any place without and beyond India committing offence targeting a computer resource located in India.]

¹²[*Explanation.*—In this section—

(a) the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Code;

1. The Indian Penal Code has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared in force in—

Sonthal Parganas, by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s. 2;
Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2 and the Sch.;
Khondmals District, by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and the Sch; and
Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and the Sch.

It has been declared under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely: the United Provinces Tarai Districts, *see* Gazette of India, 1876, Pt. I, p. 505; the Districts of Hazaribagh, Lohardaga [now called the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44] and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum—*see* Gazette of India, 1881, Pt. I, p. 504.

It has been extended under s. 5 of the same Act to the Lushai Hills—*see* Gazette of India, 1898, Pt. II, p. 345.

The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s. 3 and Sch; to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I.; to Pondicherry by Reg. 7 of 1963, s. 3 and Sch. I and to Lakshadweep by Reg. 8 of 1965, s. 3 and Sch.

2. The words “British India” have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. The Original words have successively been amended by Act 12 of 1891, s. 2 and Sch. I, the A.O. 1937, the A.O. 1948 and the A.O. 1950 to read as above.

4. Subs. by Act 3 of 1951, s. 3 and the Sch., for “except Part B States”.

5. The original words “the said territories” have successively been amended by the A.O. 1937, the A.O. 1948, the A.O 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

6. The words and figures “on or after the said first day of May, 1861” rep. by Act 12 of 1891, s. 2 and the First Sch.

7. Subs. by the A.O. 1937, for “law passed by the Governor General of India in Council”.

8. The Original words “the limits of the said territories” have successively been amended by the A.O. 1937, the A.O.1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

9. Subs. by Act 4 of 1898, s. 2, for section 4.

10. Subs. by the A.O. 1950, for cls. (1) to (4).

11. Ins. by Act 10 of 2009, s. 51 (w.e.f. 27-10-2009).

12. Subs. by s. 51, *ibid.*, for the *Explanation* (w.e.f. 27-10-2009).

(b) the expression “computer resource” shall have the meaning assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);]

¹[*Illustration*]

²***A, ³[who is ⁴[a citizen of India]], commits a murder in Uganda. He can be tried and convicted of murder in any place in ⁵[India] in which he may be found.

⁶*

*

*

*

*

⁷[**5. Certain laws not to be affected by this Act.**—Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law.]

CHAPTER II

GENERAL EXPLANATIONS

6. Definitions in the Code to be understood subject to exceptions.—Throughout this Code every definition of an offence, every penal provision, and every *illustration* of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled “General Exceptions”, though those exceptions are not repeated in such definition, penal provision, or *illustration*.

Illustrations

(a) The sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that “nothing is an offence which is done by a person who is bound by law to do it”.

7. Sense of expression once explained.—Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

8. Gender.—The pronoun “he” and its derivatives are used of any person, whether male or female.

9. Number.—Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

10. “Man”. “Woman”.—The word “man” denotes a male human being of any age; the word “woman” denotes a female human being of any age.

11. “Person”.—The word “person” includes any Company or Association or body of persons, whether incorporated or not.

12. “Public”.—The word “public” includes any class of the public or any community.

13. [*Definition of “Queen”.*] *Omitted by the A. O. 1950.*

⁸[**14. “Servant of Government”.**—The words “servant of Government” denote any officer or servant servant continued, appointed or employed in India by or under the authority of Government.]

15. [*Definition of “British India”.*] *Rep. by the A. O. 1937.*

16. [*Definition of “Government of India”.*] *Rep., ibid.*

1. Subs. by Act 36 of 1957, s. 3 and Sch, II, for “*Illustrations*”

2. The brackets and letter “(a)” omitted by s. 3 and the Second Sch., *ibid.*

3. Subs. by the A.O. 1948, for “a coolie, who is a Native Indian subject”

4. Subs. by the A.O. 1950, for “a British subject of Indian domicile”.

5. The words “British India” have been successively amended by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

6. *Illustrations* (b), (c) and (d) omitted by the A.O. 1950.

7. Subs., *ibid.*, for section 5.

8. Subs., *ibid.*, for section 14.

Gaining wrongfully/Losing wrongfully.—A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

24. “Dishonestly”.—Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly”.

25. “Fraudulently”.—A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

26. “Reason to believe”.—A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing but not otherwise.

27. “Property in possession of wife, clerk or servant”.—When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

28. “Counterfeit”.—A person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

¹[*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

29. “Document”.—The word “document” denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words “pay to the holder” or words to that effect had been written over the signature.

²[**29A. “Electronic record”.**—The words “electronic record” shall have the meaning assigned to them in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

30. “Valuable security”.—The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or

1. Subs. by Act 1 of 1889, s. 9, for the *Explanation*.

2. Ins. by Act 21 of 2000, s. 91 and the First Sch. (w.e.f. 17-10-2000).

released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the unlawful holder of it, the endorsement is a “valuable security”.

31. “A will”.—The words “a will” denote any testamentary document.

32. Words referring to acts include illegal omissions.—In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

33. “Act”. “Omission”.—The word “act” denotes as well as series of acts as a single act: the word “omission” denotes as well a series of omissions as a single omission.

¹**[34. Acts done by several persons in furtherance of common intention.**—When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.]

35. When such an act is criminal by reason of its being done with a criminal knowledge or intention.—Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

36. Effect caused partly by act and partly by omission.—Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

37. Co-operation by doing one of several acts constituting an offence.—When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects the several doses of poison so administered to him. Here A and B intentionally cooperate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternatively for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B. A is guilty only of an attempt to commit murder.

38. Persons concerned in criminal act may be guilty of different offences.—Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

1. Subs. by Act 27 of 1870, s. 1, for s. 34.

39. “Voluntarily”.—A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

¹**[40. “Offence”.**—Except in the ²[Chapters] and sections mentioned in clauses 2 and 3 of this section, the word “offence” denotes a thing made punishable by this Code.

In Chapter IV, ³[Chapter VA] and in the following sections, namely, sections ⁴[64, 65, 66, ⁵[67], 71], 109, 110, 112, 114, 115, 116, 117,⁶[118, 119 and 120] 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word “offence” denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441, the word “offence” has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.]

41. “Special law”.—A “special law” is a law applicable to a particular subject.

42. “Local law”.—A “local law” is a law applicable only to a particular part of ⁷[⁸***⁹[India]].

43. “Illegal”. “Legally bound to do”.—The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be “legally bound to do” whatever it is illegal in him to omit.

44. “Injury”.—The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

45. “Life”.—The word “life” denotes the life of a human being, unless the contrary appears from the context.

46. “Death”.—The word “death” denotes the death of a human being unless the contrary appears from the context.

47. “Animal”.—The word “animal” denotes any living creature, other than a human being.

48. “Vessel”.—The word “vessel” denotes anything made for the conveyance by water of human beings or of property.

49. “Year”. “Month”.—Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

50. “Section”.—The word “section” denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

51. “Oath”.—The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

52. “Good faith”.—Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.

1. Subs. by Act 27 of 1870, s. 2, for section 40.

2. Subs. by Act 8 of 1930, s. 2 and the First Sch., for “Chapter”.

3. Ins. by Act 8 of 1913, s. 2.

4. Ins. by Act 8 of 1882, s. 1.

5. Ins. by Act 10 of 1886, s. 21 (I).

6. Ins. by Act 10 of 2009, s. 51 (w.e.f. 27-10-2009).

7. Subs. by the A.O. 1948, for “British India”.

8. The words “the territories comprised in” omitted by Act 48 of 1952, s. 3 and the Second Sch.

9. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the States” which had been subs. by the A.O. 1950, for “the Provinces”.

¹[**52A. “Harbour.”**—Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word “harbour” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

CHAPTER III
OF PUNISHMENTS

53. Punishments.—The punishments to which offenders are liable under the provisions of this Code are—

First.—Death;

²[*Secondly*.—Imprisonment for life;]

$$3_* \quad \quad \quad * \quad \quad \quad * \quad \quad \quad * \quad \quad \quad *$$

Fourthly.—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

Fifthly.—Forfeiture of property;

Sixthly.—Fine.

4[53A. Construction of reference to transportation.—(1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to “transportation for life” in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to “imprisonment for life”.

(2) In every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment) Act, ⁵[1955 (26 of 1955)], the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to “transportation” in any other law for the time being in force shall,—

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life;

(b) if the expression means transportation for any shorter term, be deemed to have been omitted.]

54. Commutation of sentence of death.—In every case in which sentence of death shall have been passed, ⁶[the appropriate Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55. Commutation of sentence of imprisonment for life.—In every case in which sentence of ⁷[imprisonment] for life shall have been passed, ⁸[the appropriate Government] may, without the consent

1. Ins. by Act 8 of 1942, s. 2.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “*Secondly.—Transportation*” (w.e.f. 1-1-1956).

3. Cl. *Thirdly* omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

4. Ins. by Act 26 of 1955, s. 117 and the Sch. (w.e.f. 1-1-1956).

5. Subs. by Act 36 of 1957, s. 3 and the Second Sch., for "1954".

6. Subs. by the A.O. 1950, for “the *Central Government or the Provincial Government of the Province* within which the offender shall have been sentenced”. The words in italics were subs. by the A.O. 1937, for “the Government of India or the Government of the place”.

7. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

8. Subs. by the A.O. 1950, for "*the Provincial Government of the Province* within which the offender shall have been sentenced".
The words in italics were subs. by the A.O. 1937, for "the Government of India or the Government of the place".

consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

¹**[55A. Definition of “appropriate Government”].**—In sections fifty-four and fifty-five the expression “appropriate Government” means,—

(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.]

56. [*Sentence of Europeans and Americans to penal servitude. Proviso as to sentence for term exceeding ten years but not for life.*] Rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (w. e. f. 6-4-1949).

57. Fractions of terms of punishment.—In calculating fractions of terms of punishment, ²[imprisonment] for life shall be reckoned as equivalent to ²[imprisonment] for twenty years.

58. [*Offenders sentenced to transportation how dealt with until transported.*] Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117 and the Sch. (w.e.f. 1-1-1956).

59. [*Transportation instead of imprisonment.*] Rep. by s.117 and the Sch., *ibid.* (w.e.f. 1-1-1956).

60. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.—In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

61. [*Sentence of forfeiture of property.*] Rep. by the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), s. 4.

62. [*Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment.*] Rep. by s. 4 *ibid.*

63. Amount of fine.—Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

64. Sentence of imprisonment for non-payment of fine.—³[In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable ⁴[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine.]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.—The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

66. Description of imprisonment for non-payment of fine.—The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

1. Subs. by the A. O 1950. Earlier ins by the A. O. 1937.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

3. Subs. by Act 8 of 1882, s. 2, for “In every case in which an offender is sentenced to a fine”.

4. Ins. by Act 10 of 1886, s. 21 (2).

67. Imprisonment for non-payment of fine, when offence punishable with fine only.—If the offence be punishable with fine only, ¹[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

68. Imprisonment to terminate on payment of fine.—The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

69. Termination of imprisonment on payment of proportional part of fine.—If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

70. Fine leviable within six years, of during imprisonment. Death not to discharge property from liability.—The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

71. Limit of punishment of offence made up of several offences.—Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

²[Where anything is 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, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences].

Illustrations

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But, if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.—In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

1. Ins. by Act 8 of 1882, s. 3.

2. Added by s. 4, *ibid*.

73. Solitary confinement.—Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months and¹[shall not exceed one] year

a time not exceeding three months if the term of imprisonment shall exceed one year.

74. Limit of solitary confinement.—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

²[**75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.**—Whoever, having been convicted,—

(a) by a Court in ³[India], of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, ⁴***

⁵*

*

*

*

*

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to ⁶[imprisonment for life], or to imprisonment of either description for a term which may extend to ten years.]

CHAPTER IV

GENERAL EXCEPTIONS

76. Act done by a person bound, or by mistake of fact believing himself bound, by law.—Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. Act of Judge when acting judicially.—Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

78. Act done pursuant to the judgment or order of Court.—Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice; if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

1. Subs. by Act 8 of 1862, s. 5, for “be less than a”.

2. Subs. by Act 3 of 1910, s. 2, for section 75.

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. The word “or” omitted by Act 3 of 1951, s. 3 and the Sch.

5. Cl. (b) omitted by s. 3 and the Sch., *ibid*.

6. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

79. Act done by a person justified, or by mistake of fact believing himself, justified, by law.—Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Illustration

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Accident in doing a lawful act.—Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.—Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) A, the captain of a steam vessel, suddenly, and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

82. Act of a child under seven years of age.—Nothing is an offence which is done by a child under seven years of age.

83. Act of a child above seven and under twelve of immature understanding.—Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

84. Act of a person of unsound mind.—Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

85. Act of a person incapable of judgment by reason of intoxication caused against his will.—Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

86. Offence requiring a particular intent or knowledge committed by one who is intoxicated.—In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

87. Act not intended and not known to be likely to cause death or grievous hurt, done by consent.—Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

88. Act not intended to cause death, done by consent in good faith for person's benefit.—Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.—Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person: Provided—

Provisos. *First.*—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

90. Consent known to be given under fear or misconception.—A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of insane person.—if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

Consent of child.—unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

91. Exclusion of acts which are offences independently of harm cause.—The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence “by reason of such harm”; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. Act done in good faith for benefit of a person without consent.—Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit: Provided—

Provisos. *First.*—That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housestop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

93. Communication made in good faith.—No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Act to which a person is compelled by threats.—Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. Act causing slight harm.—Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence

96. Things done in private defence.—Nothing is an offence which is done in the exercise of the right of private defence.

97. Right of private defence of the body and of property.—Every person has a right, subject to the restrictions contained in section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

98. Right of private defence against the act of a person of unsound mind, etc.—When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99. Acts against which there is no right of private defence.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act, may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to protection of the public authorities.

Extent to which the right may be exercised.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

100. When the right of private defence of the body extends to causing death.—The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.—An assault with the intention of committing rape;

Fourthly.—An assault with the intention of gratifying unnatural lust;

Fifthly.—An assault with the intention of kidnapping or abducting;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

¹[*Seventhly.*—An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.]

101. When such right extends to causing any harm other than death.—If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

102. Commencement and continuance of the right of private defence of the body.—The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

103. When the right of private defence of property extends to causing death.—The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:—

First.—Robbery;

Secondly.—House-breaking by night;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

104. When such right extends to causing any harm other than death.—If the offence, the committing of which, or the attempting to commit which occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

105. Commencement and continuance of the right of private defence of property.—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

1. Ins. by Act 13 of 2013, s. 2 (w.e.f. 3-2-2013).

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

106. Right of private defence against deadly assault when there is risk of harm to innocent person.—If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V

OF ABETMENT

107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

108. Abettor.—A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A consents with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

¹[108A. **Abetment in India of offences outside India.**—A person abets an offence within the meaning of this Code who, in ²[India], abets the commission of any act without and beyond ²[India] which would constitute an offence if committed in ²[India].

Illustration

A, in ²[India], instigates B, a foreigner in Goa, to commit a murder in Goa, A is guilty of abetting murder.]

109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

1. Added by Act 4 of 1898, s. 3.

2. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Punishment of abetment if person abetted does act with different intention from that of abettor.—Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

111. Liability of abettor when one act abetted and different act done.—When an Act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. Abettor when liable to cumulative punishment for act abetted and for act done.—If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitute a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.—When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Abettor present when offence is committed.—Whenever any person, who is absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

115. Abetment of offence punishable with death or imprisonment for life.—if offence not committed.—Whoever abets the commission of an offence punishable with death or ¹[imprisonment for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if act causing harm be done in consequence.—and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or ¹[imprisonment for life]. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Abetment of offence punishable with imprisonment—if offence be not committed.—Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

if abettor or person abetted be a public servant whose duty it is to prevent offence.—and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Abetting commission of offence by the public or by more than ten persons.—Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

118. Concealing design to commit offence punishable with death or imprisonment for life.—Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or ¹[imprisonment for life],

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

¹[voluntarily conceals by any act or illegal omission, or by the use of encryption or any other information hiding tool, the existence of a design] to commit such offence or makes any representation which he knows to be false respecting such design,

if offence be committed; if offence be not committed.—shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description, for a term which may extend to three years; and in either case shall also be liable to fine.

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

119. Public servant concealing design to commit offence which it is his duty to prevent.—Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

¹[voluntarily conceals, by any act or illegal omission or by the use of encryption or any other information hiding tool, the existence of a design] to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed.—shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

if offence be punishable with death, etc.—or, if the offence be punishable with death or ²[imprisonment for life], with imprisonment of either description for a term which may extend to ten years;

if offence be not committed.—or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

Illustration

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

120. Concealing design to commit offence punishable with imprisonment.—Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed; if offence be not committed.—shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

³[CHAPTER VA

CRIMINAL CONSPIRACY

120A. Definition of criminal conspiracy.—When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

1. Subs. by Act 10 of 2009, s. 51, for “voluntarily conceals, by any act or illegal omission, the existence of a design” (w.e.f. 27-10-2009).

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. Ins. by Act 8 of 1913, s. 3.

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

120B. Punishment of criminal conspiracy.—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, ¹[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.—Whoever wages war against the ²[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or ³[imprisonment for life] ⁴[and shall also be liable to fine].

⁵[*Illustration*]

⁶***A joins an insurrection against the ²[Government of India]. A has committed the offence defined in this section.

⁷*

*

*

*

*

⁸[**121A. Conspiracy to commit offences punishable by section 121.**—Whoever within or without ⁹[India] conspires to commit any of the offences punishable by section 121, ¹⁰*** or conspires to overawe, by means of criminal force or the show of criminal force, ¹¹[the Central Government or any ¹²[State] Government ¹³***], shall be punished with ¹⁴[imprisonment for life], or with imprisonment of either description which may extend to ten years, ¹⁵[and shall also be liable to fine].

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.]

122. Collecting arms, etc., with intention of waging war against the Government of India.—Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the ²[Government of India], shall be punished with

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

2. Subs. by the A. O. 1950, for “Queen”.

3. Subs. by 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

4. Subs. by Act 16 of 1921, s. 2, for “and shall forfeit all his property”.

5. Subs. by Act 36 of 1957, s. 3 and the Second Sch., for “*Illustrations*”

6. The brackets and letter “(a)” omitted by s. 3 and the Second Sch., *ibid*.

7. *Illustration (b)* omitted, by the A. O. 1950.

8. Ins. by Act 27 of 1870, s. 4.

9. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

10. The words “or to deprive the Queen of the sovereignty of the Provinces or of any part thereof” omitted by the A. O. 1950.

11. Subs. by the A. O. 1937, for “the G. of I. or any I. G”.

12. Subs. by the A. O. 1950, for “Provincial”.

13. The words “or the Government of Burma” omitted by the A. O. 1948.

14. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life or any shorter term” (w.e.f. 1-1-1956).

15. Ins. by Act 16 of 1921, s. 3.

¹[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, ²[and shall also be liable to fine].

123. Concealing with intent to facilitate design to wage war.—Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the ³[Government of India], intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.—Whoever, with the intention of inducing or compelling the ⁴[President] of India, or ⁵[Governor ^{6***}] of any ⁷[State], ^{8***} ^{9***} ^{10***} to exercise or refrain from exercising in any manner any any of the lawful powers of such ¹¹[President or ⁵[Governor ^{6***}]],

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such ¹¹[President or ⁵[Governor ^{6***}]],

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

¹²[**124A. Sedition.**—Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, ^{13***} the Government established by law in ¹⁴[India], ^{15***} shall be punished with ¹⁶[imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.]

125. Waging war against any Asiatic Power in alliance with the Government of India.—Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the ³[Government of India] or attempts to wage such war, or abets the waging of such war, shall be punished with ¹[imprisonment for life], to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Subs. by Act 16 of 1921, s. 2, for “and shall forfeit all his property”.

3. Subs. by the A. O. 1950, for “Queen”.

4. Subs. by the *ibid.*, for “Governor General”.

5. Subs. by Act 3 of 1951, s. 3 and the Sch., for “Governor”.

6. The words “or Rajpramukh” omitted by the A. O. 1956.

7. Subs. by the A. O. 1950, for “Province” which had been subs. by the A. O. 1937, for “Presidency”.

8. The words “or a Lieutenant-Governor” omitted by the A. O. 1937.

9. The words “or a Member of the Council of the Governor General of India” omitted by the A.O. 1948.

10. The words “or of the Council of any Presidency” omitted by the A. O. 1937.

11. The words “Governor General, Governor, Lieutenant-Governor or Member of Council” have successively been amended by the A.O. 1937, the A. O. 1948 and the A. O. 1950 to read as above.

12. Ins. by Act 27 of 1870, s. 5 and subs. by Act 4 of 1898, s. 4, for s. 124A.

13. The words “Her Majesty or” omitted by the A.O. 1950. The words “or the Crown Representative” ins. after the word “Majesty” by the A. O. 1937 were omitted by the A. O. 1948.

14. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

15. The words “or British Burma” ins. by the A. O. 1937 and omitted by the A. O. 1948.

16. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life or any shorter term” (w.e.f. 1-1-1956).

126. Committing depredation on territories of Power at peace with the Government of India.—Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the ¹[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

127. Receiving property taken by war or depredation mentioned in sections 125 and 126.—Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

128. Public servant voluntarily allowing prisoner of state or war to escape.—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with ²[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

129. Public servant negligently suffering such prisoner to escape.—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

130. Aiding escape of, rescuing or harbouring such prisoner.—Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in ³[India], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY, ⁴[NAVY AND AIR FORCE]

131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.—Whoever abets the committing of mutiny by an officer, soldier, ⁵[sailor or airman], in the Army, ⁶[Navy or Air Force] of the ¹[Government of India] or attempts to seduce any such officer, soldier, ⁵[sailor or airman] from his allegiance or his duty, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

⁷[*Explanation.*—In this section the words “officer”, ⁸[“soldier”, ⁹[“sailor”] and “airman”] include any any

1. Subs. by the A. O. 1950, for “Queen”.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “and Navy”.

5. Subs. by s. 2 and the First Sch., *ibid.*, for “or sailor”.

6. Subs. by s. 2 and the First Sch., *ibid.*, for “or Navy”.

7. Ins. by Act 27 of 1870, s. 6.

8. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “and soldier”.

9. Ins. by Act 35 of 1934, s. 2 and Sch.

person subject to the ¹[Army Act, ²[the Army Act, 1950 (46 of 1950)], ³[the Naval Discipline Act, ^{4***}the ^{4***}the ⁵Indian Navy (Discipline) Act, 1934 (34 of 1934)] ⁶[the Air Force Act or ⁷[the Air Force Act, 1950 (45 of 1950)]]], as the case may be[.]

132. Abetment of mutiny, if mutiny is committed in consequence thereof.—Whoever abets the committing of mutiny by an officer, soldier, ⁸[sailor or airman], in the Army, ⁹[Navy or Air Force] of the ¹⁰[Government of India], shall, if mutiny be committed in consequence of that abetment, be punished with death or with ¹¹[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.—Whoever abets an assault by an officer, soldier, ⁸[sailor or airman], in the Army, ⁹[Navy or Air Force] of the ¹⁰[Government of India], on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

134. Abetment of such assault, if the assault committed.—Whoever abets an assault by an officer, soldier, ⁸[sailor or airman], in the Army, ⁹[Navy or Air Force] of the ¹⁰[Government of India], on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

135. Abetment of desertion of soldier, sailor or airman.—Whoever, abets the desertion of any officer, soldier, ⁸[sailor or airman], in the Army, ⁹[Navy or Air Force] of the ¹⁰[Government of India], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

136. Harboursing deserter.—Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, ⁸[sailor or airman], in the Army, ⁹[Navy or Air Force] of the ¹⁰[Government of India], has deserted, harbours such officer, soldier, ⁸[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. Deserter concealed on board merchant vessel through negligence of master.—The master or person in charge of a merchant vessel, on board of which any deserter from the Army, ⁹[Navy or Air Force] of the ¹⁰[Government of India] is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

138. Abetment of act of insubordination by soldier, sailor or airman.—Whoever abets what he knows to be an act of insubordination by an officer, soldier, ⁸[sailor or airman], in the Army, ⁹[Navy or Air Force], of the ¹⁰[Government of India], shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

1. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “Articles or War for the better government of Her Majesty’s Army, or to the Articles of War contained in Act No. 5 of 1869”.

2. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Army Act, 1911”.

3. Ins. by Act 35 of 1934, s. 2 and the Sch.

4. The words “or that Act as modified by” omitted by the A. O. 1950.

5. Now *see* the Navy Act, 1957 (62 of 1957).

6. Subs. by Act 14 of 1932, s. 130 and the Sch., for “or the Air Force Act”.

7. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Air Force Act, 1932”.

8. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “or sailor”.

9. Subs. by s. 2 and the First Sch., *ibid.*, for “or Navy”.

10. Subs. by the A. O. 1950, for “Queen”.

11. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

¹**138A.** [*Application of foregoing sections to the Indian Marine Service.*] Rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

139. Persons subject to certain Acts.—No person subject to ²[the Army Act, ³[the Army Act, 1950 (46 of 1950)], the Naval Discipline Act, ⁴[⁵*** ⁶[the Indian Navy (Discipline) Act, 1934 (34 of 1934)], ⁷[the Air Force Act or ⁸[the Air Force Act, 1950 (45 of 1950)]]], is subject to punishment under this Code for any of the offences defined in this Chapter.

140. Wearing garb or carrying token used by soldier, sailor or airman.—Whoever, not being a soldier, ⁹[sailor or airman] in the Military, ¹⁰[Naval or Air] service of the ¹¹[Government of India], wears any garb or carries any token resembling any garb or token used by such a soldier, ⁹[sailor or airman] with the intention that it may be believed that he is such a soldier, ⁹[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII

OFFENCES AGAINST THE PUBLIC TRANQUILLITY

141. Unlawful assembly.—An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, ¹²[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. Being member of unlawful assembly.—Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Punishment.—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

144. Joining unlawful assembly armed with deadly weapon.—Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

1. Ins. by Act 14 of 1887, s. 79.

2. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy”.

3. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Army Act, 1911”.

4. Ins. by Act 35 of 1934, s. 2 and the Sch.

5. The words “or that Act as modified by” omitted by the A. O. 1950.

6. Now see the Navy Act, 1957 (62 of 1957).

7. Subs. by Act 14 of 1932, s. 130 and Sch., for “or the Air Force Act”.

8. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the Indian Air Force Act, 1932”.

9. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “or sailor”.

10. Subs. by s. 2 and the First Sch., *ibid.*, for “or Naval”.

11. Subs. by the A. O. 1950, for “Queen”.

12. Subs. by the A. O. 1950, for “the Central or any Provincial Government or Legislature”.

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.—Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

146. Rioting.—Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Punishment for rioting.—Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

148. Rioting, armed with deadly weapon.—Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

150. Hiring, or conniving at hiring, of persons to join unlawful assembly.—Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.—Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

152. Assaulting or obstructing public servant when suppressing riot, etc.—Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

153. Wantonly giving provocation with intent to cause riot—if rioting be committed; if not committed.—Whoever malignantly, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

¹[**153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.**—(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

1. Subs. by Act 35 of 1969, s. 2, for section 153A.

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, ¹[or]

¹[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) **Offence committed in place of worship, etc.**—Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

²[**153AA. Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.**—Whoever knowingly carries arms in any procession or organizes or holds or takes part in any mass drill or mass training with arms in any public place in contravention of any public notice or order issued or made under section 144A of the Code of Criminal Procedure, 1973 (2 of 1974) shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to two thousand rupees.

Explanation.—“Arms” means articles of any description designed or adapted as weapons for offence or defence and includes firearms, sharp edged weapons, lathis, *dandas* and sticks].

¹[**153B. Imputations, assertions prejudicial to national integration.**—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied, or deprived of their rights as citizens of India, or

(c) makes or publishes and assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

154. Owner or occupier of land on which an unlawful assembly is held.—Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station,

1. Ins. by Act 31 of 1972, s. 2.

2. Ins. by Act 25 of 2005, s. 44 (w.e.f. 23-6-2005).

and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

155. Liability of person for whose benefit riot is committed.—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

156. Liability of agent of owner or occupier for whose benefit riot is committed.—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

157. Harbours persons hired for an unlawful assembly.—Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

158. Being hired to take part in an unlawful assembly or riot.—Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both,

or to go armed.—and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

159. Affray.—When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray”.

160. Punishment for committing affray.—Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX

OFOFFENCES BY OR RELATING TO PUBLIC SERVANTS

161 to 165A. *Rep. by the Prevention of Corruption Act, 1988 (49 of 1988), s. 31.*

166. Public servant disobeying law, with intent to cause injury to any person.—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

¹[**166A. Public servant disobeying direction under law.**—Whoever, being a public servant,—

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or

(c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

166B. Punishment for non-treatment of victim.—Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 357C of the Code of Criminal Procedure, 1973 (2 of 1974), shall be punished with imprisonment for a term which may extend to one year or with fine or with both.]

167. Public servant framing an incorrect document with intent to cause injury.—Whoever, being a public servant, and being, as ²[such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

168. Public servant unlawfully engaging in trade.—Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

169. Public servant unlawfully buying or bidding for property.—Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

170. Personating a public servant.—Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

171. Wearing garb or carrying token used by public servant with fraudulent intent.—Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

³[CHAPTER IXA

OF OFFENCES RELATING TO ELECTIONS

171A. “Candidate”, “Electoral right” defined.—For the purposes of this Chapter—

⁴[(a) “candidate” means a person who has been nominated as a candidate at any election;]

1. Ins. by Act 13 of 2013, s. 3 (w.e.f. 03-02-2013).

2. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

3. Ins. by Act 39 of 1920, s. 2.

4. Subs. by Act 40 of 1975, s. 9, for cl. (a).

(b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171B. Bribery.—(1) Whoever—

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171C. Undue influence at elections.—(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action or the mere exercise or a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171D. Personation at elections.—Whoever at an election applies for a voting paper on votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

¹[Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.]

171E. Punishment for bribery.—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—“Treating” means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

171F. Punishment for undue influence or personation at an election.—Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

1. The proviso ins. by Act 24 of 2003, s. 5 (w.e.f. 22-9-2003).

171G. False statement in connection with an election.—Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

171H. Illegal payments in connection with an election.—Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171-I. Failure to keep election accounts.—Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

CHAPTER X

OF CONTEMPTSOFTHE LAWFUL AUTHORITYOF PUBLIC SERVANTS

172. Absconding to avoid service of summons or other proceeding.—Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to ¹[produce a document or an electronic record in a Court of Justice], with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

173. Preventing service of summons or other proceeding, or preventing publication thereof.—Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or ²[to produce a document or electronic record in a Court of Justice] with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

174. Non-attendance in obedience to an order from public servant.—Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

1. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “produce a document in a Court of Justice” (w.e.f. 17-10-2000).

2. Subs. by s. 91 and the First Sch., *ibid.*, for “to produce a document in a Court of Justice” (w.e.f. 17-10-2000).

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations

(a) A, being legally bound to appear before the ¹[High Court] at Calcutta, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before a ²[District Judge], as a witness, in obedience to a summons issued by that ²[District Judge] intentionally omits to appear. A has committed the offence defined in this section.

³**[174A .Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.—**Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.]

175. Omission to produce document to public servant by person legally bound to produce it.—Whoever, being legally bound to produce or deliver up any ⁴[document or electronic record] to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the ⁴[document or electronic record] is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration

A, being legally bound to produce a document before a ⁵[District Court], intentionally omits to produce the same. A has committed the offence defined in this section.

176. Omission to give notice or information to public servant by person legally bound to give it.—Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

⁶[or, if the notice or information required to be given is required by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898), with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

177. Furnishing false information.—Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

1. Subs. by the A. O. 1950, for "Supreme Court".

2. Subs. *ibid.*, for "Zila Judge".

3. Ins. by Act 25 of 2005, s. 44 (w.e.f. 23-6-2005).

4. Subs. by Act 21 of 2000, s. 91 and the First Sch., for "document" (w.e.f. 17-10-2000).

5. Subs. by the A.O. 1950, for "Zila Court".

6. Added by Act 22 of 1939, s. 2.

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under clause 5, section VII, ¹Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police-station, wilfully misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

²[*Explanation.*—In section 176 and in this section the word “offence” includes any act committed at any place out of ³[India], which, if committed in ³[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.]

178. Refusing oath or affirmation when duly required by public servant to make it.—Whoever refuses to bind himself by an oath ⁴[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

179. Refusing to answer public servant authorised to question.—Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

180. Refusing to sign statement.—Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.—Whoever, being legally bound by an oath ⁴[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath ⁴[or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

⁵[**182. False information, with intent to cause public servant to use his lawful power to the injury of another person.**—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

1. Rep. by Act 17 of 1862, s. VII and Sch.

2. Added by Act 3 of 1894, s. 5.

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. Ins. by Act 10 of 1873, s. 15.

5. Subs. by Act 3 of 1895, s. 1, for section 182.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations

(a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.]

183. Resistance to the taking of property by the lawful authority of a public servant.—Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

184. Obstructing sale of property offered for sale by authority of public servant.—Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

185. Illegal purchase or bid for property offered for sale by authority of public servant.—Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

186. Obstructing public servant in discharge of public functions.—Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

187. Omission to assist public servant when bound by law to give assistance.—Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

189. Threat of injury to public servant.—Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

190. Threat of injury to induce person to refrain from applying for protection to public servant.—Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

191. Giving false evidence.—Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations

(a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Fabricating false evidence.—Whoever causes any circumstance to exist or ¹[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement,] intending that such circumstance, false entry or false statement may appear in evidence

1. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding is said “to fabricate false evidence”.

Illustrations

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

193. Punishment for false evidence.—Whoever intentionally gives false evidence in any of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial¹ is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

194. Giving or fabricating false evidence with intent to procure conviction of capital offence.—Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital ²[by the law for the time being in force in ³[India]] shall be punished with ⁴[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

If innocent person be thereby convicted and executed.—and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.—Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which ²[by the law for the time being in force in ³[India]] is not capital, but punishable with ⁴[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

1. The words “or before a Military Court of Request” rep. by Act 13 of 1889, s. 2 and Sch.

2. Subs. by the A.O. 1948, for “by the law of British India or England”.

3. Subs. by Act 3 of 1951, s. 3 and the Sch., for “the States”.

4. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is ¹[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to ²[imprisonment for life] or imprisonment, with or without fine.

³[195A. Threatening any person to give false evidence.]—Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.]

196. Using evidence known to be false.—Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

197. Issuing or signing false certificate.—Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

198. Using as true a certificate known to be false.—Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

199. False statement made in declaration which is by law receivable as evidence.—Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

200. Using as true such declaration knowing it to be false.—Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life.—and if the offence is punishable with ¹[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Subs. by s. 117 and the Sch., *ibid.*, for “such transportation” (w.e.f. 1-1-1956).

3. Ins. by Act 2 of 2006, s. 2 (w.e.f. 16-4-2006).

description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Intentional omission to give information of offence by person bound to inform.—Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

203. Giving false information respecting an offence committed.—Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[*Explanation.*—In sections 201 and 202 and in this section the word “offence” includes any act committed at any place out of ²[India], which, if committed in ²[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.]

204. Destruction of document to prevent its production as evidence.—Whoever secretes or destroys any ³[document and electronic record] which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such ³[document or electronic record] with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

205. False personation for purpose of act or proceeding in suit or prosecution.—Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.—Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.—Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

1. Added by Act 3 of 1894, s. 6.

2. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “document” (w.e.f. 17-10-2000).

208. Fraudulently suffering decree for sum not due.—Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

209. Dishonesty making false claim in Court.—Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

210. Fraudulently obtaining decree for sum not due.—Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

211. False charge of offence made with intent to injure.—Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, ¹[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

212. Harboursing offender.—Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with ¹[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

²["Offence" in this section includes any act committed at any place out of ³[India], which, if committed in ³[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ³[India].]

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

2. Ins. by Act 3 of 1894, s. 7.

3. The words "British India" have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951 s. 3 and the Sch., to read as above.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to ¹[imprisonment for life], A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

213. Taking gift, etc., to screen an offender from punishment.—Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with ¹[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

214. Offering gift or restoration of property in consideration of screening offender.—Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or ²[restores or causes the restoration of] any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with ¹[imprisonment for life] or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

³[*Exception.*—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

⁴*

*

*

*

*

215. Taking gift to help to recover stolen property, etc.—Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

216. Harboursing offender who has escaped from custody or whose apprehension has been ordered.—Whenever any person convicted of a charged with an offence, being in lawful custody for that offence, escapes from such custody,

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Subs. by Act 42 of 1953, s. 4 and the Third Sch., for “to restore or cause the restoration of”.

3. Subs. by Act 8 of 1882, s. 6, for the original exception.

4. *Illustrations* rep. by Act 10 of 1882, s. 2 and the First Sch.

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

if a capital offence.—if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—if the offence is punishable with ¹[imprisonment for life] or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

²["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of ³[India], which, if he had been guilty of it in ³[India], would have been punishable as an offence, and for which he is, under any law relating to extradition, ⁴*** or otherwise, liable to be apprehended or detained in custody in ³[India], and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ³[India].]

Exception.—The provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

⁵[**216A. Penalty for harbouring robbers or dacoits.**—Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without ³[India].

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

⁵[**216B. Definition of "harbour" in sections 212, 216 and 216A.] Rep. by the Indian Penal Code (Amendment) Act, 1942 (8 of 1942), s. 3.**

217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.—Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

2. Ins. by Act 10 of 1886, s. 23.

3. The words "British India" have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. The words "or under the Fugitive Offenders Act, 1881," omitted by Act 3 of 1951, s. 3 and the Sch.

5. Ins. by Act 3 of 1894, s. 8.

that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.—Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.—Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

221. Intentional omission to apprehend on the part of public servant bound to apprehend.—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with ¹[imprisonment for life] or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence ²[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with ¹[imprisonment for life] or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to ¹[imprisonment for life] ^{3*** 4*** 5*** 6***} or imprisonment for a term of ten years, or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement or who ought to have been apprehended is subject by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years ²[or if the person was lawfully committed to custody].

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 27 of 1870, s. 8.

3. The words “or penal servitude for life” omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

4. The words “or to” omitted by Act 36 of 1957, s. 3 and the Second Sch.

5. The word “transportation” omitted by Act 26 of 1955, s. 117 and the Sch. (w.e.f. 1-1-1956).

6. The words “or penal servitude” omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

223. Escape from confinement or custody negligently suffered by public servant.—Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence ¹[or lawfully committed to custody], negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

224. Resistance or obstruction by a person to his lawful apprehension.—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. Resistance or obstruction to lawful apprehension of another person.—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with ²[imprisonment for life] or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

or, if the person to be apprehended, or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to ²[imprisonment for life], ^{3****}
^{4***} ^{5***} or imprisonment, for a term of ten years, or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with ²[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

⁶[**225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.**—Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine or with both; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

225B. Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.—Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in

1. Ins. by Act 27 of 1870, s. 8.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. The words “or to” omitted by Act 36 of 1957, s. 3 and the Second Sch.

4. The word “transportation” omitted by Act 26 of 1955, s. 117 and the Sch. (w.e.f. 1-1-1956).

5. The words “penal servitude” omitted by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

6. Subs. by Act 10 of 1886, s. 24(I), for section 225A which had been ins. by Act 27 of 1870, s. 9.

which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

226. *[Unlawful return from transportation.] Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117 and the Sch (w.e.f. 1-1-1956).*

227. Violation of condition of remission of punishment.—Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

228. Intentional insult or interruption to public servant sitting in judicial proceeding.—Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

¹**[228A. Disclosure of identity of the victim of certain offences, etc.]**—(1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an ²[offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E] is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—

(a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or

(b) by, or with the authorisation in writing of, the victim; or

(c) where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next of kin of the victim:

Provided that no such authorisation shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.

Explanation.—For the purposes of this sub-section, “recognised welfare institution or organisation” means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Explanation.—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.]

229. Personation of a juror or assessor.—Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

1. Ins. by Act 43 of 1983, s. 2.

2. Subs. by Act 13 of 2013, s. 4, for “offence under section 376, section 376A, section 376B, section 376C or section 376D” (w.e.f. 3-2-2013).

¹[**229A. Failure by person released on bail or bond to appear in court.**—Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Explanation.—The punishment under this section is—

(a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and

(b) without prejudice to the power of the court to order forfeiture of the bond.]

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

230. “Coin” defined.—²[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

³[**Indian coin.**—Indian coin is metal stamped and issued by the authority of the Government of India in order to be used as money; and metal which has been so stamped and issued shall continue to be Indian coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

Illustrations

(a) Cowries are not coin.

(b) Lumps of unstamped copper, though used as money, are not coin.

(c) Medals are not coin, inasmuch as they are not intended to be used as money.

(d) The coin denominated as the Company's rupee is ⁴[Indian coin].

⁵[(e) The “Farukhabad rupee”, which was formerly used as money under the authority of the Government of India, is ⁶[Indian coin] although it is no longer so used.]

231. Counterfeiting coin.—Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

232. Counterfeiting Indian coin.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting ⁴[Indian coin], shall be punished with ⁷[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Making or selling instrument for counterfeiting coin.—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

234. Making or selling instrument for counterfeiting Indian coin.—Whoever makes or mends, or performs any part of the process of making or mending or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be

1. Ins. by Act 25 of 2005, s. 44 (w.e.f. 23-6-2005).

2. Subs. by Act 19 of 1872, s. 1, for the first paragraph.

3. Subs. by the A. O. 1950, for the second paragraph.

4. Subs., *ibid.*, for “the Queen’s coin”.

5. Added by Act 6 of 1896, s. 1(2).

6. Subs. by the A. O. 1950, for “Queen’s coin”

7. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

used, for the purpose of counterfeiting ¹[Indian coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.—Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if Indian coin.—and if the coin to be counterfeited is ¹[Indian coin], shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

236. Abetting in India the counterfeiting out of India of coin.—Whoever, being within ²[India] abets the counterfeiting of coin out of ²[India] shall be punished in the same manner as if he abetted the counterfeiting of such coin within ²[India].

237. Import or export of counterfeit coin.—Whoever imports into ²[India], or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

238. Import or export of counterfeits of the Indian coin.—Whoever imports into ²[India], or exports therefrom, any counterfeit coin, which he knows or has reason to believe to be a counterfeit of ¹[Indian coin], shall be punished with ³[Imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

239. Delivery of coin, possessed with knowledge that it is counterfeit.—Whoever, having any counterfeit coin, which at the time when he became possessed of it, he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any persons or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.—Whoever, having any counterfeit coin which is a counterfeit of ¹[Indian coin], and which, at the time when he became possessed of it, he knew to be a counterfeit of ¹[Indian coin], fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.—Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.—Whoever, fraudulently or with intent that fraud may be committed, is in possession

1. Subs. by the A. O. 1950, for “the Queen’s coin”.

2. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of ¹[Indian coin], having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.—Whoever, being employed in any mint lawfully established in ²[India], does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

245. Unlawfully taking coining instrument from mint.—Whoever, without lawful authority, takes out of any mint, lawfully established in ²[India], any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

246. Fraudulently or dishonestly diminishing weight or altering composition of coin.—Whoever, fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of the coin.

247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.—Whoever fraudulently or dishonestly performs on ³[any Indian coin] any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

248. Altering appearance of coin with intent that it shall pass as coin of different description.—Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.—Whoever performs on ³[any Indian coin] any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

250. Delivery of coin, possessed with knowledge that it is altered.—Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. Delivery of Indian coin, possessed with knowledge that it is altered.—Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other

1. Subs. by the A. O. 1950, for “the Queen’s coin”.

2. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

3. Subs. by the A. O. 1950, for “any of the Queen’s coin”.

person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

252. Possession of coin by person who knew it to be altered when he became possessed thereof.—Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the section 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.—Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the section 247 or 249 has been committed having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

254. Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.—Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

255. Counterfeiting Government stamp.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue shall be punished with ¹[imprisonment for life] or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamps of one denomination to appear like a genuine stamp of a different denomination.

256. Having possession of instrument or material for counterfeiting Government stamp.—Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

257. Making or selling instrument for counterfeiting Government stamp.—Whoever makes or performs any part of the process of making, or buys, or sells, or disposes or, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

258. Sale of counterfeit Government stamp.—Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

259. Having possession of counterfeit Government stamp.—Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

260. Using as genuine a Government stamp known to be counterfeit.—Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue,

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

261. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.—Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

262. Using Government stamp known to have been before used.—Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

263. Erasure of mark denoting that stamp has been used.—Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

¹[**263A. Prohibition of fictitious stamps.**—(1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp ²[may be seized and, if seized] shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word “Government”, when used in connection with, or in reference to any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264. Fraudulent use of false instrument for weighing.—Whoever, fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

265. Fraudulent use of false weight or measure.—Whoever, fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

266. Being in possession of false weight or measure.—Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false,

1. Added by Act 3 of 1895, s. 2.

2. Subs. by Act 42 of 1953, s. 4 and the Third Sch., for “may be seized and”.

^{1***} intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

267. Making or selling false weight or measure.—Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

268. Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Negligent act likely to spread infection of disease dangerous to life.—Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

270. Malignant act likely to spread infection of disease dangerous to life.—Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

271. Disobedience to quarantine rule.—Whoever knowingly disobeys any rule made and promulgated ²[by the ^{3***} Government ^{4***}] for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

272. Adulteration of food or drink intended for sale.—Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

273. Sale of noxious food or drink.—Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

274. Adulteration of drugs.—Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

275. Sale of adulterated drugs.—Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells

1. The word “and” omitted by Act 42 of 1953, s. 4 and the Third Sch.

2. Subs. by the A. O. 1937, for “by the G. of I., or by any Government”.

3. The words “Central or any Provincial” omitted by the A. O. 1950.

4. The words “or the Crown Representative” omitted by the A. O. 1948.

the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

276. Sale of drug as a different drug or preparation.—Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

277. Fouling water of public spring or reservoir.—Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

278. Making atmosphere noxious to health.—Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

279. Rash driving or riding on a public way.—Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

280. Rash navigation of vessel.—Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

281. Exhibition of false light, mark or buoy.—Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

282. Conveying person by water for hire in unsafe or overloaded vessel.—Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

283. Danger or obstruction in public way or line of navigation.—Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished, with fine which may extend to two hundred rupees.

284. Negligent conduct with respect to poisonous substance.—Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

285. Negligent conduct with respect to fire or combustible matter.—Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

286. Negligent conduct with respect to explosive substance.—Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

287. Negligent conduct with respect to machinery.—Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

288. Negligent conduct with respect to pulling down or repairing buildings.—Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

289. Negligent conduct with respect to animal.—Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

290. Punishment for public nuisance in cases not otherwise provided for.—Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

291. Continuance of nuisance after injunction to discontinue.—Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

¹**[292. Sale, etc., of obscene books, etc.]**²[(1) For the purposes of sub-section (2), a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.]

³[(2)] Whoever—

(a) sells, lets to hire, distributes, publicity exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his

1. Subs. by Act 8 of 1925, s. 2, for s. 292.

2. Ins. by Act 36 of 1969, s. 2.

3. S. 292 renumbered as sub-section (2) thereof by s. 2, *ibid*.

possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this section,

shall be punished ¹[on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees].

²[*Exception.*—This section does not extend to—

(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern, or

(ii) which is kept or used *bona fide* for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]]

³[**293. Sale, etc., of obscene objects to young person.**—Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished ¹[on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees].]

⁴[**294. Obscene acts and songs.**—Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

⁵[**294A. Keeping lottery office.**—Whoever keeps any office or place for the purpose of drawing any lottery ⁶[not being ⁷[a State lottery] or a lottery authorised by the ⁸[State] Government], shall be punished

1. Subs. by Act 36 of 1969, s. 2, for certain words.

2. Subs. by s. 2, *ibid.*, for *Exception*.

3. Subs. by Act 8 of 1925, s. 2, for section 293.

4. Subs. by Act 3 of 1895, s. 3, for section 294.

5. Ins. by Act 27 of 1870, s. 10.

6. Subs. by the A. O. 1937, for “not authorized by Government”.

7. Subs. by Act 3 of 1951, s. 3 and the Sch., for “a lottery organized by the Central Government or the Government of a Part A State or a Part B State”.

8. Subs. by the A. O. 1950, for “Provincial”.

punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to one thousand rupees.]

CHAPTER XV

OF OFFENCES RELATING TO RELIGION

295. Injuring or defiling place of worship, with intent to insult the religion of any class.—Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[**295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.**—Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of ²[citizens of India], ³[by words, either spoken or written, or or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ⁴[three years], or with fine, or with both.]

296. Disturbing religious assembly.—Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

297. Trespassing on burial places, etc.—Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298. Uttering words, etc., with deliberate intent to wound religious feelings.—Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

Of offences affecting life

299. Culpable homicide.—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

1. Ins. by Act 25 of 1927, s. 2.

2. Subs. by the A. O. 1950, for “His Majesty’s subjects”.

3. Subs. by Act 41 of 1961, s. 3, for certain words.

4. Subs. by s. 3, *ibid.*, for “two years”.

Illustrations

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.—**When culpable homicide is not murder.**—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration

A, by instigation, voluntarily causes Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

301. Culpable homicide by causing death of person other than person whose death was intended.—If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

302. Punishment for murder.—Whoever commits murder shall be punished with death or ¹[imprisonment for life], and shall also be liable to fine.

303. Punishment for murder by life-convict.—Whoever, being under sentence of ¹[imprisonment for life], commits murder, shall be punished with death.

304. Punishment for culpable homicide not amounting to murder.—Whoever commits culpable homicide not amounting to murder, shall be punished with ¹[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

²[**304A. Causing death by negligence.**—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

³[**304B. Dowry death.**—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

Explanation.—For the purposes of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

305. Abetment of suicide of child or insane person.—If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or ¹[imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to ¹[imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life-convicts.—⁴[When any person offending under this section is under sentence of ¹[imprisonment for life], he may, if hurt is caused, be punished with death.]

Illustrations

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued A would be guilty of murder. A is liable to punishment under this section.

(b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place A has committed the offence defined by this section, though the death of the child does not ensue.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. Ins. by Act 27 of 1870, s. 12.

3. Ins. by Act 43 of 1986, s. 10 (w.e.f. 19-11-1986).

4. Added by Act 27 of 1870, s. 11.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of ¹[the first paragraph of] this section.

(d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

308. Attempt to commit culpable homicide.—Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he there by caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

309. Attempt to commit suicide.—Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year ²[or with fine, or with both.]

310. Thug.—Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.

311. Punishment.—Whoever is a thug, shall be punished with ³[imprisonment for life], and shall also be liable to fine.

*Of the causing of miscarriage, of injuries to unborn children, of the exposure
Of infants, and of the concealment of births.*

312. Causing miscarriage.—Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry, is within the meaning of this section.

313. Causing miscarriage without woman's consent.—Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with ³[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

314. Death caused by act done with intent to cause miscarriage.—Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

if act done without woman's consent.—and if the act is done without the consent of the woman, shall be punished either with ³[imprisonment for life], or with the punishment above mentioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Act done with intent to prevent child being born alive or to cause it to die after birth.—Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being

1. Ins. by Act 12 of 1891, s. 2 and the Second Sch.

2. Subs. by Act 8 of 1882, s. 7, for “and shall also be liable to fine”.

3. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

316. Causing death of quick unborn child by act amounting to culpable homicide.—Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

317. Exposure and abandonment of child under twelve years, by parent or person having care of it.—Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

318. Concealment of birth by secret disposal of dead body.—Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavors to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Hurt

319. Hurt.—Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

320. Grievous hurt.—The following kinds of hurt only are designated as “grievous”:—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

321. Voluntarily causing hurt.—Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt”.

322. Voluntarily causing grievous hurt.—Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration

A, intending of knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Punishment for voluntarily causing hurt.—Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

324. Voluntarily causing hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

325. Punishment for voluntarily causing grievous hurt.—Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

326. Voluntarily causing grievous hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

²**326A. Voluntarily causing grievous hurt by use of acid, etc.**—Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

326B. Voluntarily throwing or attempting to throw acid.—Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.—For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.]

327. Voluntarily causing hurt to extort property, or to constrain to an illegal to an act.—Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life" (w.e.f. 1-1-1956).

2. Ins. by Act 13 of 2013, s. 5 (w.e.f. 3-2-2013).

offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

328. Causing hurt by means of poison, etc., with intent to commit and offence.—Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with ¹[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

330. Voluntarily causing hurt to extort confession, or to compel restoration of property.—Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332. Voluntarily causing hurt to deter public servant from his duty.—Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

333. Voluntarily causing grievous hurt to deter public servant from his duty.—Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

334. Voluntarily causing hurt on provocation.—Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

335. Voluntarily causing grievous hurt on provocation.—Whoever ¹[voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.—The last two sections are subject to the same provisos as *Exception 1*, section 300.

336. Act endangering life or personal safety of others.—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.

337. Causing hurt by act endangering life or personal safety of others.—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

338. Causing grievous hurt by act endangering life or personal safety of others.—Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Of wrongful restraint and wrongful confinement

339. Wrongful restraint.—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

340. Wrongful confinement.—Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said “wrongfully to confine” that person.

Illustrations

(a) A causes Z to go within a walled space, and locks Z in Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts leave the building. A wrongfully confines Z.

341. Punishment for wrongful restraint.—Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

342. Punishment for wrongful confinement.—Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

1. Ins. by Act 8 of 1882, s. 8.

343. Wrongful confinement for three or more days.—Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

344. Wrongful confinement for ten or more days.—Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

345. Wrongful confinement of person for whose liberation writ has been issued.—Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

346. Wrongful confinement in secret.—Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

347. Wrongful confinement to extort property, or constrain to illegal act.—Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

348. Wrongful confinement to extort confession, or compel restoration of property.—Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Of Criminal Force and Assault

349. Force.—A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

350. Criminal force.—Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so

without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence. A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z, and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a Woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

351. Assault.—Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Punishment for assault or criminal force otherwise than on grave provocation.—Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful

discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, ¹[shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine].

²[**354A. Sexual harassment and punishment for sexual harassment.**—(1) A man committing any of the following acts—

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

354B. Assault or use of criminal force to woman with intent to disrobe.—Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

354C. Voyeurism.—Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purpose of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim’s genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. Stalking.—(1) Any man who—

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
 - (ii) monitors the use by a woman of the internet, email or any other form of electronic communication,
- commits the offence of stalking:

1. Subs. by Act 13 of 2013, s. 6, for “shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both” (w.e.f. 3-2-2013).

2. Ins. by s. 7, *ibid.* (w.e.f. 3-2-2013).

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.]

355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.—Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

356. Assault or criminal force in attempt to commit theft of property carried by a person.—Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

357. Assault or criminal force in attempt wrongfully to confine a person.—Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

358. Assault or criminal force on grave provocation.—Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same *Explanation* as section 352.

Of Kidnapping, Abduction, Slavery and Forced Labour

359. Kidnapping.—Kidnapping is of two kinds: kidnapping from ¹[India], and kidnapping from lawful guardianship.

360. Kidnapping from India.—Whoever conveys any person beyond the limits of ¹[India] without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from ¹[India].

361. Kidnapping from lawful guardianship.—Whoever takes or entices any minor under ²[sixteen] years of age if a male, or under ³[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

1. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

2. Subs. by Act 42 of 1949, s. 2, for “fourteen”.

3. Subs. by s. 2, *ibid.*, for “sixteen”.

362. Abduction.—Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

363. Punishment for kidnapping.—Whoever kidnaps any person from ¹[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

²**[363A. Kidnapping or maiming a minor for purposes of begging.**—(1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment for life, and shall also be liable to fine.

(3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging.

(4) In this section,—

(a) “begging” means—

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortunetelling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using a minor as an exhibit for the purpose of soliciting or receiving alms;

(b) “minor” means—

(i) in the case of a male, a person under sixteen years of age; and

(ii) in the case of a female, a person under eighteen years of age.]

364. Kidnapping or abducting in order to murder.—Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with ³[imprisonment for life] or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

(a) A kidnaps Z from ¹[India], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

⁴**[364A. Kidnapping for ransom, etc.**—Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or ⁵[any foreign State or international inter-governmental organisation or any other person] to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.]

1. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

2. Ins. by Act 52 of 1959, s. 2 (w.e.f. 15-1-1960).

3. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

4. Ins. by Act 42 of 1993, s. 2.

5. Subs. by Act 24 of 1995, s. 2, for “any other person”.

365. Kidnapping or abducting with intent secretly and wrongfully to confine person.—Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

366. Kidnapping, abducting or inducing woman to compel her marriage, etc.—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; ¹[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

²[**366A. Procurement of minor girl.**—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

366B. Importation of girl from foreign country.—Whoever imports into ³[India] from any country outside India ⁴[or from the State of Jammu and Kashmir] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, ⁵*** shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.—Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.—Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

369. Kidnapping or abducting child under ten years with intent to steal from its person.—Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

⁶[**370. Trafficking of person.**—(1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

First.—using threats, or

Secondly.—using force, or any other form of coercion, or

Thirdly.—by abduction, or

1. Added by Act 20 of 1923, s. 2.

2. Ins. by s. 3, *ibid.*

3. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

4. Ins. by Act 3 of 1951, s. 3 and the Sch.

5. Certain words omitted by s. 3 and the Sch., *ibid.*

6. Subs. by Act 13 of 2013, s. 8, for section 370 (w.e.f. 3-2-2013).

Fourthly.—by practising fraud, or deception, or

Fifthly.—by abuse of power, or

Sixthly.— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

Explanation 1.—The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2.—The consent of the victim is immaterial in determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

370A. Exploitation of a trafficked person.—(1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.]

371. Habitual dealing in slaves.—Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

372. Selling minor for purposes of prostitution, etc.—Whoever sells, lets to hire, or otherwise disposes of any ²[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation for life".

2. Subs. by Act 18 of 1924, s. 2, for certain words.

¹[*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi*-marital relation.]

373. Buying minor for purposes of prostitution, etc.—Whoever buys, hires or otherwise obtains possession of any ²[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

³[*Explanation I.*—Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.—“Illicit intercourse” has the same meaning as in section 372.]

374. Unlawful compulsory labour.—Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

⁴[*Sexual offences*

⁵[**375. Rape.**—A man is said to commit “rape” if he—

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

1. Added by Act 18 of 1924, s. 3

2. Subs. by s. 2, *ibid.*, for certain words.

3. Added by s. 4, *ibid.*

4. Subs. by Act 43 of 1983, s. 3, for the heading “*Of rape*” and ss. 375 and 376.

5. Subs. by Act 13 of 2013, s. 9, for sections 375, 376, 376A, 376B, 376C and 376D (w.e.f. 03-02-2013).

Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under eighteen years of age.

Seventhly.—When she is unable to communicate consent.

Explanation 1.—For the purposes of this section, “vagina” shall also include labia majora.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

376. Punishment for rape.—(1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

(a) being a police officer, commits rape—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(i) commits rape on a woman when she is under sixteen years of age; or

(j) commits rape, on a woman incapable of giving consent; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman,
shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

(a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) “police officer” shall have the same meaning as assigned to the expression “police” under the Police Act, 1861 (5 of 1861);

(d) “women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

376A. Punishment for causing death or resulting in persistent vegetative state of victim.—Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

376B. Sexual intercourse by husband upon his wife during separation.—Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Explanation.—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

376C. Sexual intercourse by a person in authority.—Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(d) on the management of a hospital or being on the staff of a hospital,

abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Explanation 1.—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

Explanation 2.—For the purposes of this section, *Explanation 1* to section 375 shall also be applicable.

Explanation 3.—“Superintendent”, in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand

home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.—The expressions “hospital” and “women's or children's institution” shall respectively have the same meaning as in *Explanation* to sub-section (2) of section 376.

376D. Gang rape.—Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

376E. Punishment for repeat offenders.—Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.]]

Of Unnatural Offences

377. Unnatural offences.—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

Of Theft

378. Theft.—Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

(d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the highroad, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefor committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. Punishment for theft.—Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

380. Theft in dwelling house, etc.—Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

381. Theft by clerk or servant of property in possession of master.—Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.—Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

(a) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion

383. Extortion.—Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits “extortion”.

Illustrations

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.

384. Punishment for extortion.—Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

385. Putting person in fear of injury in order to commit extortion.—Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

386. Extortion by putting a person in fear of death or grievous hurt.—Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

387. Putting person in fear of death or of grievous hurt, in order to commit extortion.—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.—Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with ¹[imprisonment for life], or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with ¹[imprisonment for life].

389. Putting person in fear or accusation of offence, in order to commit extortion.—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with ¹[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with ¹[imprisonment for life].

Of Robbery and Dacoity

390. Robbery.—In all robbery there is either theft or extortion.

When theft is robbery.—Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

offender, for that end voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.—Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying “Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees”. This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

391. Dacoity.—When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit “dacoity”.

392. Punishment for robbery.—Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

393. Attempt to commit robbery.—Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

394. Voluntarily causing hurt in committing robbery.—If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

395. Punishment for dacoity.—Whoever commits dacoity shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

396. Dacoity with murder.—If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or ¹[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

397. Robbery, or dacoity, with attempt to cause death or grievous hurt.—If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

398. Attempt to commit robbery or dacoity when armed with deadly weapon.—If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

399. Making preparation to commit dacoity.—Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

400. Punishment for belonging to gang of dacoits.—Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

401. Punishment for belonging to gang of thieves.—Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of *thugs* or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

402. Assembling for purpose of committing dacoity.—Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property

403. Dishonest misappropriation of property.—Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) A takes property belonging to Z out of Z's possession, in good faith believing at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) A and B, being, joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation with the meaning of this section.

Illustration

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security or a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations

(a) A finds a rupee on the high road, not knowing to whom the rupee belongs, A picks up the rupee. Here A has not committed the offence defined in this section.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

(b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

404. Dishonest misappropriation of property possessed by deceased person at the time of his death.—Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust

405. Criminal breach of trust.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust”.

¹[*Explanation 1*].—A person, being an employer ³[of an establishment whether exempted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or not] who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

⁴[*Explanation 2*].—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

Illustrations

(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a warehouse-keeper. Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

1. Ins. by Act 40 of 1973, s. 9 (w.e.f. 1-11-1973).

2. *Explanation* numbered as *Explanation 1* by Act 38 of 1975, s. 9 (w.e.f. 1-9-1975).

3. Ins. by Act 33 of 1988, s. 27 (w.e.f. 1-8-1988).

4. Ins. by Act 38 of 1975, s. 9 (w.e.f. 1-9-1975).

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, thought Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

406. Punishment for criminal breach of trust.—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

407. Criminal breach of trust by carrier, etc.—Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

408. Criminal breach of trust by clerk or servant.—Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

409. Criminal breach of trust by public servant, or by banker, merchant or agent.—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of Stolen Property

410. Stolen property.—Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which ^{2*** 3***}criminal breach of trust has been committed, is designated as “stolen property”, ⁴[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without ⁵[India]]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. Dishonestly receiving stolen property.—Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

412. Dishonestly receiving property stolen in the commission of a dacoity.—Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. The word “the” rep by Act 12 of 1891, s. 2 and the First Sch.

3. The words “offence of” rep by Act 8 of 1882, s. 9.

4. Ins. by s. 9, *ibid*.

5. The words “British India” have successively been subs. by the A. O. 1948, the A. O. 1950 and Act 3 of 1951, s. 3 and the Sch., to read as above.

413. Habitually dealing in stolen property.—Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

414. Assisting in concealment of stolen property.—Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Of Cheating

415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamond articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

416. Cheating by personation.—A person is said to “cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for or another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

417. Punishment for cheating.—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.—Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

419. Punishment for cheating by personation.—Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Of Fraudulent Deeds and Dispositions of Property

421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.—Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

422. Dishonestly or fraudulently preventing debt being available for creditors.—Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.—Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

424. Dishonest or fraudulent removal or concealment of property.—Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Mischief

425. Mischief.—Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations

- (a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water in to an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.
- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.
- (e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.
- (f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.
- (g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

426. Punishment for mischief.—Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

427. Mischief causing damage to the amount of fifty rupees.—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

428. Mischief by killing or maiming animal of the value of ten rupees.—Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of the ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.—Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

430. Mischief by injury to works of irrigation or by wrongfully diverting water.—Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

431. Mischief by injury to public road, bridge, river or channel.—Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

432. Mischief by causing inundation or obstruction to public drainage attended with damage.—Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.—Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.—Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.—Whoever commits mischief by fire or any explosive substance intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards ¹[or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

436. Mischief by fire or explosive substance with intent to destroy house, etc.—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.—Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

438. Punishment for the mischief described in section 437 committed by fire or explosive substance.—Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with ²[imprisonment for life]. or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.—Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

440. Mischief committed after preparation made for causing death or hurt.—Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass

441. Criminal trespass.—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit “criminal trespass”.

442. House-trespass.—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit “house-trespass”.

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

1. Ins. by Act 8 of 1882, s. 10

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation forlife” (w.e.f. 1-1-1956).

443. Lurking house-trespass.—Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit “lurking house-trespass”.

444. Lurking house-trespass by night.—Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit “lurking house-trespass by night”.

445. House-breaking.—A person is said to commit “house-breaking” who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. House-breaking by night.—Whoever commits house-breaking after sunset and before sunrise, is said to commit “house-breaking by night”.

447. Punishment for criminal trespass.—Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

448. Punishment for house-trespass.—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

449. House-trespass in order to commit offence punishable with death.—Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

450. House-trespass in order to commit offence punishable with imprisonment for life.—Whoever commits house-trespass in order to the committing of any offence punishable with ¹[imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451. House-trespass in order to commit offence punishable with imprisonment.—Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

452. House-trespass after preparation for hurt, assault or wrongful restraint.—Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

453. Punishment for lurking house-trespass or house-breaking.—Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.—Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description or a term which may extend to ten years, and shall also be liable to fine.

456. Punishment for lurking house-trespass or house-breaking by night.—Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.—Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.—Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with ¹[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.—If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

461. Dishonestly breaking open receptacle containing property.—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

462. Punishment for same offence when committed by person entrusted with custody.—Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO²*** PROPERTY MARKS

463. Forgery.—³[Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

464. Making a false document.—³[A person is said to make a false document or false electronic record—

First.—Who dishonestly or fraudulently—

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any ⁴[electronic signature] on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the ⁴[electronic signature],

with the intention of causing it to be believed that such document or part of document, electronic record or ⁴[electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with ⁴[electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his ⁴[electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception

1. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

2. The words “TRADE OR” omitted by Act 43 of 1958, s. 135 and Sch. (w.e.f. 25-11-1959).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

4. Subs. by Act 10 of 2009, s. 51, for “digital signature” (w.e.f. 27-10-2009).

practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]

Illustrations

(a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations

(a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate, to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

¹[*Explanation 3.*—For the purposes of this section, the expression “affixing ²[electronic signature]” shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

465. Punishment for forgery.—Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

466. Forgery of record of Court or of public register, etc.—³[Whoever forges a document or an electronic record], purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

¹[*Explanation.*—For the purposes of this section, “register” includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

467. Forgery of valuable security, will, etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with ⁴[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

468. Forgery for purpose of cheating.—Whoever commits forgery, intending that the ³[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469. Forgery for purpose of harming reputation.—Whoever commits forgery, ³[intending that the document or electronic record forged] shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

470. Forged document.—A false ⁵[document or electronic record] made wholly or in part by forgery is designated “a forged ⁵[document or electronic record]”.

471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any ⁵[document or electronic record] which he knows or has reason to believe to be a forged ⁵[document or electronic record], shall be punished in the same manner as if he had forged such ⁵[document or electronic record].

472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with ⁴[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

1. Ins. by Act 21 of 2000, s. 91 and the First Sch. (w.e.f. 17-10-2000).

2. Subs. by Act 10 of 2009, s. 51, for “digital signature” (w.e.f. 27-10-2009).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

4. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

5. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “document” (w.e.f. 17-10-2000).

473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it genuine.—¹[Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code], be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with ²[imprisonment for life], or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating ³[any document or electronic record] other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.—Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such document, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

⁴**[477A. Falsification of accounts.**—Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any ⁵[book, electronic record, paper, writing] valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in. any such ⁵[book, electronic record, paper, writing] valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

1. Subs. by Act 21 of 2000, s. 91 and the First Sch., for certain words (w.e.f. 17-10-2000).

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “any document” (w.e.f. 17-10-2000).

4. Added by Act 3 of 1895, s. 4.

5. Subs. by Act 21 of 2000, s. 91 and the First Sch., for “book, paper, writing” (w.e.f. 17-10-2000).

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

¹[Of²****Property and Other Marks*

478. [*Trade Mark.*] *Rep. by the Trade and Merchandise Marks Act, 1958 (43 of 1958), s. 135 and Sch. (w. e. f. 25-11-1959).*

479. Property mark.—A mark used for denoting that movable property belongs to a particular person is called a property mark.

480. [*Using a false trade mark.*] *Rep. by the Trade and Merchandise Marks Act, 1958 (43 of 1958), s. 135 and Sch. (w. e. f. 25- 11-1959).*

481. Using a false property mark.—Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

482. Punishment for using a false property mark.—Whoever uses ³***any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

483. Counterfeiting a property mark used by another.—Whoever counterfeits any ⁴***property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

484. Counterfeiting a mark used by a public servant.—Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

⁵[**485. Making or possession of any instrument for counterfeiting a property mark.**—Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

486. Selling goods marked with a counterfeit property mark.—⁶[Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

1. Subs. by Act 4 of 1889, s. 3, for the original heading and ss. 478 to 489.

2. The word "*Trade*" omitted by Act 43 of 1958, s. 135 and the Sch. (w. e. f. 25-11-1959).

3. The words "any false trade mark or" omitted by s. 135 and the Sch., *ibid.* (w. e. f. 25-11-1959).

4. The words "trade mark or" omitted by s. 135 and the Sch., *ibid.* (w. e. f. 25-11-1959).

5. Subs. by s. 135 and the Sch., *ibid.*, for s. 485 (w. e. f. 25-11-1959).

6. Subs. by s. 135 and the Sch., *ibid.*, for certain words (w. e. f. 25-11-1959).

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

487. Making a false mark upon any receptacle containing goods.—Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

488. Punishment for making use of any such false mark.—Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

489. Tampering with property mark with intent to cause injury.—Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

¹[*Of Currency-Notes and Bank-Notes*

489A. Counterfeiting currency-notes or bank-notes.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—For the purposes of this section and of sections 489B, ³[489C, 489D and 489E], the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.

489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

489C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

489D. Making or possessing instruments or materials for forging or counterfeiting currency notes or bank-notes.—Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

⁴[**489E. Making or using documents resembling currency-notes or bank-notes.**—(1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-note or bank-note shall be punished with fine which may extend to one hundred rupees.

1. Added by Act 12 of 1899, s. 2.

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation for life” (w.e.f. 1-1-1956).

3. Subs. by Act 35 of 1950, s. 3 and the Second Sch., for “489C and 489D”.

4. Ins. by Act 6 of 1943, s. 2.

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that that person caused the document to be made.]

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. [*Breach of contract of service during voyage or journey.*] *Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (3 of 1925), s. 2 and Sch.*

491. Breach of contract to attend on and supply wants of helpless person.—Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

492. [*Breach of contract to serve at distant place to which servant is conveyed at master's expense.*] *Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (3 of 1925), s. 2 and Sch.*

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

494. Marrying again during lifetime of husband or wife.—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

496. Marriage ceremony fraudulently gone through without lawful marriage.—Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

497. Adultery.—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Enticing or taking away or detaining with criminal intent a married woman.—Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[CHAPTER XXA

OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

CHAPTER XXI

OF DEFAMATION

499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations

(a) A says—“Z is an honest man; he never stole B's watch”; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

1. Ins. by Act 46 of 1983, s. 2.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—Imputation of truth which public good requires to be made or published.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception.—Public conduct of public servants.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception.—Conduct of any person touching any public question.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—Publication of reports of proceedings of courts.—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.—Merits of case decided in Court or conduct of witnesses and others concerned.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(b) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, inasmuch as the opinion which express of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—Merits of public performance.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z—"Z's book is foolish; Z must be a weak man. Z's book is indecent; Z must be a man of impure mind." A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(e) But if A says "I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.—Censure passed in good faith by person having lawful authority over another.—It is not defamation in a person having over another any authority, either conferred by law or

arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders, a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier- are within this exception.

Eighth Exception.—Accusation preferred in good faith to authorised person.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father-A is within this exception.

Ninth Exception.—Imputation made in good faith by person for protection of his or other's interests.—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations

(a) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception.—Caution intended for good of person to whom conveyed or for public good.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

500. Punishment for defamation.—Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

501. Printing or engraving matter known to be defamatory.—Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

502. Sale of printed or engraved substance containing defamatory matter.—Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[**505. Statements conducing to public mischief.**—²[(1)] Whoever makes, publishes or circulates any statement, rumour or report,—

(a) with intent to cause, or which is likely to cause, any officer, soldier, ³[sailor or airman] in the Army, ⁴[Navy or Air Force] ⁵[of India] to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to ⁶[three years], or with fine, or with both.

⁷[(2) **Statements creating or promoting enmity, hatred or ill-will between classes.**—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) **Offence under sub-section (2) committed in place of worship, etc.**—Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it ²[in good faith and] without any such intent as aforesaid.]

506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or ⁸[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

507. Criminal intimidation by an anonymous communication.—Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

1. Subs. by Act 4 of 1898, s. 6, for s. 505.

2. Section 505 re-numbered as sub-section (1) of that section by Act 35 of 1969, s. 3.

3. Subs. by Act 10 of 1927, s. 2 and the First Sch., for “or sailor”.

4. Subs. by s. 2 and the First Sch., *ibid.*, for “or Navy”.

5. Subs. by the A. O. 1950, for “of Her Majesty or in the Imperial Service Troops” The words “or in the Royal Indian Marine” occurring after the word “Majesty” omitted by Act 35 of 1934, s. 2 and Sch.

6. Subs. by Act 41 of 1961, s. 4, for “two years”.

7. Ins. by Act 35 of 1969, s. 3.

8. Subs. by Act 26 of 1955, s. 117 and the Sch., for “transportation” (w.e.f. 1-1-1956).

508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.—Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, ¹[shall be punished with simple imprisonment for a term which may extend to three years, and also with fine].

510. Misconduct in public by a drunken person.—Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.—Whoever attempts to commit an offence punishable by this Code with ²[imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with ³[imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

Illustrations

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

1. Subs. by Act 13 of 2013, s. 10, for "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both" (w.e.f. 3-2-2013).

2. Subs. by Act 26 of 1955, s. 117 and the Sch., for "transportation" (w.e.f. 1-1-1956).

3. Subs. by s. 117 and the Sch., *ibid.*, for certain words (w.e.f. 1-1-1956).



SUPREME COURT OF INDIA

HANDBOOK ON PRACTICE AND PROCEDURE AND OFFICE PROCEDURE



2017

CONTENTS

Page Nos.

Chapter I - Preliminary 1-4

1.	Seal of the Supreme Court	1
2.	Language	1
3.	Definition	1
	(i) Advocate	1
	(ii) Advocate on-record	1
	(iii) Appointed day	1
	(iv) Allocated Matter	1-2
	(v) Chief Justice	2
	(vi) Code	2
	(vii) Constitution	2
	(viii) Court and this Court	2
	(ix) Court appealed from	2
	(x) Court Fee	2
	(xi) High Court	2
	(xii) Interlocutory Application	2
	(xiii) Judge	3
	(xiv) Judgment	3
	(xv) Main Case	3
	(xvi) Minor	3
	(xvii) Miscellaneous Application	3
	(xviii) Not taken up case	3
	(xix) Prescribed	3
	(xx) Record	3
	(xxi) Respondent	3
	(xxii) The Rules and Rules of the Court	3
	(xxiii) Secretary General, Registrar and Registry	4
	(xxiv) Senior Advocate	4
	(xxv) Special Bench	4
	(xxvi) Taxing Officer	4
	(xxvii) Terminal List	4

Chapter II - Court and Jurisdiction 5-15

1.	Appellate Jurisdiction	5
2.	Extra-ordinary Appellate Jurisdiction	5
3.	Original Jurisdiction	5-6
4.	Extra-ordinary Original Jurisdiction	7
5.	Advisory Jurisdiction	7-8
6.	Inherent and Plenary Jurisdiction	8
7.	Notes	8-15
8.	Order XLVIII of the Rules	15

Chapter III - Classification of Cases	16-21
1. Arbitration Petition	16
2. Civil Appeal	16-17
3. Contempt Petition (Civil)	17
4. Contempt Petition (Criminal)	17-18
5. Criminal Appeal	18
6. Election Petition	18
7. Original Suit	19
8. Petition for Special Leave to Appeal	19
9. Special Reference Case	19
10. Transferred Case	19
11. Transfer Petition	20
12. Writ Petition	20-21
13. Review Petition	21
14. Curative Petition	21
15. General	21
Chapter IV - Constitution and Jurisdiction of Benches	22-29
1. Single Bench	22-25
2. Division Bench	25-26
3. Constitution Bench	26
4. Reference to Larger Bench	26
5. Review Petition	26-27
6. Curative Petition	27-28
7. General	28-29
Chapter V –Powers, Duties and Functions of the Registrar	30-37
1. Taxing Officer	35
2. Powers under Order V Rule 1 of the Rules	36-37
Chapter VI – Roster	38
Chapter VII - Working Hours and Vacation	39-41
1. Court	39
2. Offices of the Court	39
3. Vacation Court	40-41
4. Vacation Officer	41
Chapter VIII –Advocate, Vakalatnama and Memo of Appearance	42-47
1. Advocate on-Record	42-43
2. Advocate	44
3. Senior Advocate	44-45
4. Vakalatnama	45-46

5.	Memo of Appearance	46-47
6.	General	47
Chapter IX – Affidavits		48-51
Chapter X - Preparation for Filing of Cases		52-77
1.	Civil Matters	54-69
2.	Arbitration Petition	55
3.	Civil Appeal	56-58
4.	Election Petition	58-59
5.	Reference	59-60
6.	Petition for Special Leave to Appeal	60-64
7.	Original Suit	64-65
8.	Transfer Petition	65-66
9.	Review Petition	66-67
10.	Curative Petition	67
11.	Writ Petition	67-68
12.	Public Interest Litigation	68-69
13.	Interlocutory and Miscellaneous Applications	69
14.	Criminal Matters	69-74
15.	Criminal Appeal	69-71
16.	Petition for Special Leave to Appeal	71-72
17.	Jail Petition	72
18.	<i>Habeas Corpus</i>	72
19.	Transfer Petition	72
20.	Bail Application	72-74
21.	General	74-77
22.	Index	77
Chapter XI –Filing and Processing of Cases		78-97
1.	Filing Counter	79-82
(a)	Stage One	79-80
(b)	Stage Two	80
(c)	Stage Three	80-81
(d)	Stage Four	81-82
(e)	Stage Five	82
2.	eFiling	82-83
3.	Defective and Fresh Cases	83
4.	Caveat	83-85
5.	Miscellaneous Document Counter	85
6.	Registrar	85-87
7.	Judge in Chambers	87
8.	Elimination Section	87-88
9.	Coram by Filing Counter	88-89
10.	Modified Check List for Scrutiny and Processing of Main Cases	89-92
11.	Scrutiny and Processing of Applications	92-95
12.	General	95-97

Chapter XII - Limitation	98-101
Chapter XIII –Listing of Cases	102-115
1. Cause List and Listing	102-104
2. Mention Memo/Listing Proforma	104-105
3. Case, Coram and Listing	105-112
4. Note	112-113
5. Appearance in Court of Party in-person	113
6. General	113-115
Chapter XIV –Procedure After Listing	116-133
1. Original Records	121-124
2. Orders granting Stay, Bail, Release, etc.	124-125
3. Procedure where a case is not being diligently prosecuted	125
4. Writ Petition	125-126
5. Writ of <i>Habeas Corpus</i>	126
6. Contempt Petition	126-131
7. General	131-133
8. Note	133
Chapter XV – Jail Petitions	134-137
Processing	134-137
Chapter XVI –Constitution and Functions of the Judicial Branch	138-164
1. Preliminary	138-140
2. Dealing Assistant	140-144
3. Branch Officer	144-146
4. Court Master	146-150
5. Assistant Registrar	150-151
6. Deputy Registrar	151-152
7. Additional Registrar	152-153
8. Listing of Cases	154
9. Applications	154-155
10. Peremptory Order	155
11. Expeditious Communication of bail orders and Release orders	155-156
12. Inclusion of Documents in the Paper Books	156
13. Decree and Formal Order	157
14. Linked and Connected Cases	157-158
15. Translation	158-159
16. Consignment to the Record Room	159-161
17. General	161-164

Chapter XVII – Process, Warrants and Service of Documents	165-175
Chapter XVIII – Paper Books	176-179
General	178-179
Chapter XIX –Judgment, Decree, Order and Report	180-182
Chapter XX –Certified Copies	183-187
Chapter XXI – Records	188-193
1. Inspection or Search	188-189
2. Reconstruction	189
3. Preservation and Destruction	190-191
4. Part I	191-192
5. Registers	192
6. Part II	192-193
Chapter XXII - Payment into and out of Court of Suitor’s Funds	194-197
General	197
Chapter XXIII – Distribution of Work on Judicial Side	198-203
Chapter XXIV – Removal of Difficulties	204
Chapter XXV – Schedule	205-217
1. First Schedule	205-207
2. Second Schedule	207-210
3. Third Schedule	210-213
Part I – Original Jurisdiction	210
Part-II – Appellate Jurisdiction	210-213
4. Part-III Miscellaneous	213
5. Note	214
6. General	214
7. Part-IV – Subject Categories	214-217
Subject Categories	218-228
Forms	229-267
1. Application for the Registration of a Clerk	229
2. Form of Summons for an Order in Chambers	229-230
3. Notice of Appeal from Registrar	230-231
4. Notice of Motion	231-232
5. Form of Oath by Translator	232
6. Application for Production of Record	233
7. Notice to the Respondent of Lodgment of Petition of Appeal	233-234

8.	Memorandum of Appearance in Person	235
9.	Memorandum of Appearance through Advocate on-Record	235-236
10.	Certificate to the Advocate Appointed at the Cost of the State	236
11.	Notice to Respondent of Lodging of Appeal	236-237
12.	Summons for Disposal of Suit	237-238
13.	Notice of Appearance	238
14.	Summons for Directions	238-239
15.	Notice of Payment of Money into Court	239-240
16.	Acceptance of Sum paid into Court	240-241
17.	Notice to the Attorney-General for India of Reference under Article 143 of the Constitution of India	241
18.	Notice to Parties of Reference under Article 143 of the Constitution of India	241-242
19.	Summons to Attend Taxation	242-243
20.	Affidavit of Service of Summons	243-244
21.	Affidavit of Service by Post	244-245
22.	Certificate of Taxation	245
23.	Notice for Proceedings to Attorney-General for India or Advocate-General of a State	246
24.	Writ of Commission	247-248
25.	Form of Lodgment Schedule	248-249
26.	Deposit Repayment Order and Voucher	249-250
27.	Form of Bank Guarantee	250-251
28.	Form for petition or Special Leave to Appeal	251-253
29.	Application for Issue of Certified Copy/Unauthenticated "Copy"	253-254
30.	Appearance Slip	254
31.	Computer-Sheet	255-256
32.	Form for Writ Petition under Article 32 of the Constitution of India	256-257
33.	Form for Writ Petition under Article 32 relating to Public Interest Litigation	258-260
34.	Form of Caveat	260-261
35.	Form of Mention Memo/Listing Proforma	261-262
36.	Format of Inspection or Search of Records	262-263
37.	Notice to the Respondent to Show Cause under Order XXI Rule 9(1) of the Rules	263-265
38.	Notice to the Respondent to Show Cause under Order XLI Rule 2 of the Rules.	265-267
39.	Annexure I: PIL Guidelines	268-270

CHAPTER I PRELIMINARY

This Handbook on Practice and Procedure of the Court and Office Procedure on Judicial side containing orders issued, from time to time, is a ready reckoner in relation to the Supreme Court Rules, 2013, framed under Article 145 of the Constitution.

1. **Seal of the Court** – The official seal to be used in the Court shall be such as the Chief Justice may from time to time direct, and shall be kept in the custody of the Secretary General as per Order III, Rule 4 of the Rules.
2. **Language** - The language to be used in the Court and all proceedings in the Court, shall be in English, as per Article 348 of the Constitution read with Order VIII of the Rules.
3. **Definitions :-**
 - (i) ‘Advocate’ means a person whose name is entered on the roll of advocates prepared and maintained by a State Bar Council under the Advocates Act, 1961 (25 of 1961);
 - (ii) ‘Advocate-on-record’ means an advocate, who is entitled under the Rules to act as well as to plead for a party in the Court;
 - (iii) ‘Appointed day’ means, August 19, 2014, on which date the Rules came into force;
 - (iv) ‘Allocated matter’ means a matter, which, by virtue of the Rules, Roster, Practice and Procedure, Judgment or Order, is required to be heard by a Bench, and includes-
 - (a) an assigned case or specially directed case;
 - (b) case bearing single coram of a Judge;
 - (c) a part-heard case;

- (d) subsequent application for bail or suspension of sentence;
- (e) an application for cancellation of bail or suspension of sentence granted by the Court;
- (v) ‘Chief Justice’ means the Chief Justice of India and includes a Judge appointed under Article 126 of the Constitution to perform the duties of the Chief Justice;
- (vi) ‘Code’ means the Code of Civil Procedure, 1908 (5 of 1908) or the Code of Criminal Procedure, 1973 (2 of 1974), as the case may be;
- (vii) ‘Constitution’ means the Constitution of India;
- (viii) ‘Court’ and ‘this Court’ means the Supreme Court of India;
- (ix) ‘Court appealed from’ includes a Tribunal or any other judicial body from which an appeal is preferred to the Court;
- (x) “Court fee” means Court fee set out in the Third Schedule to the Rules;
- (xi) ‘High Court’ means-
 - (a) as respects anything done before the commencement of the Constitution, a High Court within the meaning of Section 219 of the Government of India Act, 1935; and
 - (b) as respects anything done or to be done after the commencement of the Constitution, a High Court established by or recognized under the Constitution;
- (xii) ‘Interlocutory application’ means an application filed in a pending main case praying for relief, interim or otherwise, from the Court;

- (xiii) 'Judge' means a Judge of the Court;
- (xiv) 'Judgment' includes decree, order, sentence or determination of any Court, Tribunal, Judge or Judicial officer;
- (xv) 'Main Case' or 'Case' means a case classified in Chapter II of this Handbook;
- (xvi) 'Minor' in relation to Order VII of the Rules means a person who has not attained majority within the meaning of Section 3 of the Indian Majority Act, 1875 (9 of 1875), where the appeal, petition or other proceeding relates to any of the matters mentioned in clauses (a) and (b) of Section 2 of that Act or to any other matter;
- (xvii) 'Miscellaneous Application' means interlocutory application/criminal miscellaneous petition/office report for directions in a dismissed/disposed of matter;
- (xviii) 'Not taken up case' means a case which could not be or was not taken up, for whatever reason, on the date of listing;
- (xix) 'Prescribed' means prescribed by or under the Rules or Practice and Procedure or administrative orders issued from time to time by the Chief Justice;
- (xx) 'Record' in Part II of the Rules means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before the Court at the hearing of the appeal;
- (xxi) 'Respondent' includes an intervener;
- (xxii) 'The Rules' and 'Rules of the Court' means the Supreme Court Rules, 2013, and include the forms appended to the Rules;

- (xxiii) (a) 'Secretary General' means the Secretary General of the Court;
 - (b) 'Registrar' means the Registrar of the Court and shall include Additional Registrar of the Court;
 - (c) 'Registry' means the Registry of the Court.
- (xxiv) 'Senior advocate' means any advocate so designated under subsection (2) of Section 16 of the Advocates Act, 1961 (25 of 1961), and all such advocates whose names were borne on the roll of the senior advocates of the Court immediately before the commencement of Chapter III of the Advocates Act, 1961;
- (xxv) 'Special Bench' means the Bench constituted by or under the orders of the Chief Justice to hear a case or particular class of cases;
- (xxvi) 'Taxing Officer' means the Officer of the Court whose duty is to tax costs of proceedings in the Court;
- (xxvii) 'Terminal List' means a list of cases ready for regular hearing year-wise in each class separately in the order of their registration.

CHAPTER II COURT AND JURISDICTION

The jurisdiction of the Supreme Court can be broadly categorised as under:

1. Appellate Jurisdiction --

- (i) appeals permitted under Articles 132, 133 and 134 of the Constitution read with Orders XIX and XX;
- (ii) appeals arising out of Statutes or any other law for the time being in force [refer to Orders XIX, XX, XXI, XXII, XXIII and XXIV of the Rules];
- (iii) appeals under Section 2 of the Supreme Court [Enlargement of Criminal Appellate Jurisdiction] Act, 1970; and read with Order XX of the Rules;
- (iv) appeals, upon grant of special leave to appeal, under Article 136 of the Constitution read with Orders XXI and XXII of the Rules.

2. Extra-ordinary Appellate Jurisdiction --

Petitions for special leave to appeal under Article 136 of the Constitution read with Orders XXI and XXII of the Rules.

3. Original Jurisdiction --

- (i) Petitions under Article 32 of the Constitution read with Order XXXVIII of the Rules for issue of directions or orders or writs, including the writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* for enforcement of the fundamental rights;
- (ii) Original suits under Article 131 of the Constitution read with Part III(A) Orders XXV to XXXVII of the Rules;

- (iii) Petitions under Article 139A(1) of the Constitution read with Order XL of the Rules seeking transfer of cases involving the same or substantial questions of law pending before the Supreme Court and one or more High Courts or before two or more High Courts;
- (iv) Petitions under Article 139A(2) of the Constitution read with Order XLI of the Rules seeking transfer of any case, appeal or other proceedings pending before any High Court to any other High Court;
- (v) Petitions under Section 25 of the Code of Civil Procedure, 1908 read with Order XLI of the Rules, seeking transfer of any suit, appeal or other proceeding from a High Court or other civil court in one State to a High Court or other civil court in any other State;
- (vi) Petitions under Section 406 of the Code of Criminal Procedure, 1973 read with Order XXXIX of the Rules, seeking transfer of any particular case or appeal from one High Court to another High Court or from a criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction, subordinate to another High Court;
- (vii) Petition under Part III of the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952) read with Article 71 of the Constitution and Order XLVI of the Rules relating to doubts and disputes in relation to the election of a President or Vice-President;
- (viii) Petition under Section 11(5) of the Arbitration and Conciliation Act, 1996, read with Appointment of Arbitrators by the Chief Justice of India Scheme, 1996, relating to appointment of an Arbitrator.

4. Extra-ordinary Original Jurisdiction --

- (i) Petitions under Article 32 of the Constitution read with Part III(B) Order XXXVIII of the Rules in the nature of public interest litigation seeking redressal of public injury, enforcement of a public duty or vindicating interest of public nature;
- (ii) Petitions under Article 32 of the Constitution seeking transfer of cases involving the State of Jammu and Kashmir.

5. Advisory Jurisdiction --

- (i) Reference by the President under Article 143(1) of the Constitution read with Order XLII of the Rules on a question of law or fact of public importance;
- (ii) Reference by the President under Article 143(2) of the Constitution read with Order XLII of the Rules of a dispute of the kind mentioned in the proviso to Article 131 of the Constitution;
- (iii) Reference by the President under Article 317(1) of the Constitution read with Order XLIII of the Rules in relation to an inquiry for removal of the Chairman or any other Member of a Public Service Commission from his office on the ground of misbehaviour;
- (iv) Reference by the President under Section 14(1) of the Right to Information Act, 2005 read with Order XLIII of the Rules;
- (v) Reference by the Governor under Section 17(1) of the Right to Information Act, 2005, or any Statute under Order XLIII of the Rules;
- (vi) Reference under Order XLIV of the Rules by the Central Government or Statutory Tribunals under the Statutes;

- (vii) Reference under Section 257 of the Income Tax Act, 1961 read with Order XLV of the Rules, by the Income Tax Appellate Tribunal through its President.

6. Inherent and Plenary Jurisdiction --

- (i) Petitions under Section 3 of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, read with Articles 129 and 142 of the Constitution;
- (ii) Applications for review under Article 137 of the Constitution read with Order XLVII of the Rules;
- (iii) Curative petitions under Order XLVIII of the Rules as per law laid down in the case of *Rupa Ashok Hurra vs. Ashok Hurra and Anr.* [2002 (4) SCC 388] to prevent abuse of the process of the Court and cure gross miscarriage of justice;
- (iv) Applications under Section 2 of the Supreme Court [Decrees and Orders] Enforcement Order, 1954.

Note

Article 129

The Supreme Court shall be the court of record and has all the powers of such a court, including the power to punish for contempt of itself.

Article 131

The Supreme Court has the original jurisdiction in any dispute between the Government of India and one or more States; or between the Government of India and any State or States on one side and one or more other States on the other; or between two or more States.

Article 132

An appeal shall lie to the Supreme Court from any judgment, decree or final order, in a civil, criminal or other proceeding, if the High Court certifies under Article 134A that the case involves a substantial question of law as to the interpretation of the Constitution.

Article 133

An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India, if the High Court certifies under Article 134A of the Constitution that the case involves a substantial question of law of general importance and, in the opinion of the High Court, the said question needs to be decided by the Supreme Court.

Notwithstanding anything contained in this Article, no appeal shall, unless Parliament by law or otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

Article 134

An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India, if the High Court has, on appeal, reversed an order of acquittal of an accused person and sentenced him to death; or has withdrawn for trial before itself any case from any court subordinate to its authority and has, in such trial, convicted the accused person and sentenced him to death; or if the High Court certifies under Article 134A that the case is a fit one for appeal to the Supreme Court, subject to the proviso thereunder.

Article 136

Notwithstanding anything contained in Chapter IV of the Constitution, the Supreme Court may in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal, except in relation to any court or tribunal constituted by or under any law relating to the armed forces.

Article 136 does not confer a right of appeal on any party but it confers a discretionary power on the Supreme Court to interfere in suitable cases.

The jurisdiction conferred by Article 136 is divisible into two stages; first stage is upto the disposal of prayer for special leave to file an appeal and the second stage commences if and when the leave to appeal is granted and special leave petition is converted into an appeal.

Under Article 136, the Supreme Court may reverse, modify or affirm the judgment, decree or order appealed against while exercising its appellate jurisdiction and not while exercising the discretionary jurisdiction disposing of petition for special leave to appeal. The doctrine of merger, therefore, applies to the former and not to the latter. Once leave to appeal has been granted and appellate jurisdiction of Supreme Court has been invoked, the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before the Supreme Court, the jurisdiction of the High Court to entertain a review petition is lost thereafter, as provided by sub-rule (1) of Rule (1) of Order 47 of the Code.

Article 137

Subject to the provisions of any law made by the Parliament or any rules made under Article 145, the Supreme Court shall have the power to review any judgment pronounced or order made by it.

The Supreme Court has held that “by describing an application as one for clarification or modification, though it is one for review, a party cannot be permitted to circumvent or bypass the circulation procedure and indirectly obtain a hearing in the open court. The Court has further held that what cannot be done directly cannot be permitted to be done indirectly and that an application for ‘clarification’, ‘modification’ or ‘recall’ cannot be entertained where, in sum and substance, the same is clever move for review [APSRTC and Others v. Abdul Kareem [2007 (2) SCC 466].

Article 139A(1)

Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn and the High Court shall, on receipt thereof, proceed to dispose of the case in conformity with such judgment.

Article 139A(2)

The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.

Article 141

The law declared by the Supreme Court is binding on all courts within the territory of India.

Article 142

The Supreme Court may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it and it shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Article 143

Where a question of law or fact, which is of public importance, has arisen or is likely to arise and if the President is of the view that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to it for consideration and the Supreme Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

Notwithstanding anything contained in the proviso to Article 131, the President may refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

Article 144

All civil and judicial authorities in the territory of India shall act in aid of the Supreme Court.

Article 145

Subject to the provisions of any law made by the Parliament, the Supreme Court may, from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court.

Article 32

The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by Part III of the Constitution.

Under the Extra-ordinary Original Jurisdiction, a writ petition in the nature of public interest litigation can be filed in the Supreme Court.

The Supreme Court shall, *inter alia*, have powers to transfer any case relating to the State of Jammu and Kashmir under Article 32 of the Constitution. [*Anita Kushwaha vs. Pushap Sudan* (Transfer Petition (C) No. 1343 of 2008)]

Even after a death sentence has been confirmed and is not open to review, the Supreme Court may, under Article 32 read with Article 21, commute the sentence of death into one of life imprisonment on

the ground of undue delay in execution of the death since it was confirmed. [*Jumman vs. State of Uttar Pradesh* [1991 (1) SCC 752].

Note

1. The matters of public interest generally include--
 - (i) bonded labour matters;
 - (ii) matters of neglected children;
 - (iii) exploitation of casual labourers and non-payment of wages to them (except in individual cases);
 - (iv) matters of harassment or torture of persons belonging to Scheduled Castes, Scheduled Tribes and Economically Backward Classes, either by co-villagers or by police;
 - (v) matters relating to environmental pollution, disturbance of ecological balance, drugs, food adulteration, maintenance of heritage and culture, antiques, forests and wild life;
 - (vi) petitions from riot victims; and
 - (vii) other matters of public importance.
2. The matters of private nature which do not fall within the contours of public interest litigation shall include --
 - (i) threat to or harassment of the petitioner by private persons;
 - (ii) seeking enquiry by an agency other than local police;
 - (iii) seeking police protection;
 - (iv) landlord tenant dispute;
 - (v) service matters;
 - (vi) admission to medical or engineering colleges; and
 - (vii) early hearing of cases pending in High Courts and subordinate courts.
3. The petitions received by post are scrutinized as per the prescribed guidelines* and only such of them, as are covered by the parameters laid down therein, are placed before the Judge nominated for the purpose.

* PIL Guidelines as at Annexure 1.

- 4.(a) Letter petitions received by post, even though not in public interest, can be treated as writ petitions, if so directed by the Judge nominated for the purpose.
- (b) The following individual cases can also be registered as writ petitions under Article 32 of the Constitution:
- (i) complaints about harassment or torture or death in jail or by police;
 - (ii) complaints of atrocities on women, such as harassment for dowry, bride burning, rape, murder and kidnapping;
 - (iii) complaints relating to family pensions; and
 - (iv) complaints of refusal by police to register the case.
- (c) In such cases, a Report from the concerned Authority shall be obtained before placing the matter before the Judge for consideration as to the registration of the case as a writ petition.

Order XLVIII of the Rules

After dismissal of a case in exercise of review jurisdiction under Article 137 of the Constitution, by way of circulation, a curative petition can be filed under the inherent jurisdiction of the Court to prevent abuse of its process and cure gross miscarriage of justice, as per the law laid down in the case of *Rupa Ashok Hurra vs. Ashok Hurra and Anr.* [2002 (4) SCC 388].

CHAPTER III

CLASSIFICATION OF CASES

A. The main cases shall ordinarily be classified and abbreviated as follows -

1.	Arbitration Petition	[fc]
2.	Civil Appeal	[ac]
3.	Contempt Petition (Civil)	[cc]
4.	Contempt Petition (Criminal)	[cr]
5.	Criminal Appeal	[ar]
6.	Election Petition	[ec]
7.	Original Suit	[oc]
8.	Petition for Special Leave to Appeal (Civil)	[sc]
9.	Petition for Special Leave to Appeal (Criminal)	[sr]
10.	Special Reference Case	[lc]
11.	Transferred Case (Civil)	[nc]
12.	Transferred Case (Criminal)	[nr]
13.	Transfer Petition (Civil)	[tc]
14.	Transfer Petition (Criminal)	[tr]
15.	Tax Reference Case	[xc]
16.	Writ Petition (Civil)	[wc]
17.	Writ Petition (Criminal)	[wr]
18.	Review Petition (Civil)	[rc]
19.	Review Petition (Criminal)	[rr]
20.	Curative Petition (Civil)	[qc]
21.	Curative Petition (Criminal)	[qr]

1. **Arbitration Petition** – A petition under Section 11(5) of the Arbitration and Conciliation Act, 1996, shall be registered as an Arbitration Petition.
2. **Civil Appeal** – Ordinarily, the following category of cases shall be registered as civil appeals:
 - (1) appeals by certificate under Articles 132 and 133 of the Constitution read with Order XIX of the Rules;
 - (2) appeal, upon grant of special leave to appeal, under Article 136 of the Constitution read with Order XXI of the Rules;
 - (3) appeal under Section 130E of the Customs Act, 1962;

- (4) appeal under Section 35L of the Central Excise and Salt Act, 1944;
 - (5) appeal under Section 23 of the Consumer Protection Act, 1986;
 - (6) appeal under Section 27A of the Consumer Protection Act, 1986;
 - (7) appeal under Section 19(1)(b) of the Contempt of Courts Act, 1971;
 - (8) appeal under Section 38 of the Advocates Act, 1961;
 - (9) appeal under Section 116A of the Representation of People Act, 1951;
 - (10) appeal under Section 18 of the Telecom Regulatory Authority of India Act, 1997;
 - (11) appeal under Section 15Z of the Securities and Exchange Board of India Act, 1992;
 - (12) appeal under Section 261 of the Income Tax Act, 1961;
 - (13) appeal under Section 53T of the Competition Act, 2002;
 - (14) appeals under Sections 30 and 31 of the Armed Forces Tribunal Act, 2007;
 - (15) appeal under Section 125 of the Electricity Act, 2003;
 - (16) appeal under Section 29(1) of the Wealth Tax Act, 1957;
 - (17) appeal under Section 22 of the National Green Tribunal Act, 2010;
 - (18) appeal under Section 10 of the Special Court (Trial of offences relating to Transaction in Securities) Act, 1992;
 - (19) appeal under Section 423 of the Companies Act, 2013;
 - (20) appeal under Sections 17 and 18 of the Airport Economic Regulatory Authority of India Act, 2008.
3. **Contempt Petition (Civil)** – A petition under Rule 3 of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, read with Section 2(b) of the Contempt of Courts Act, 1971, and Articles 129 and 142(2) of the Constitution shall be registered as a Contempt Petition (Civil).
4. **Contempt Petition (Criminal)** – A petition under Rule 3 of the

Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, read with Section 2(c) of the Contempt of Courts Act, 1971, and Articles 129 and 142(2) of the Constitution shall be registered as a Contempt Petition (Criminal).

5. **Criminal Appeal** – Ordinarily, the following cases shall be registered as criminal appeals --
 - (1) appeals by certificate under Articles 132(1) and 134(1)(c) read with Order XX of the Rules;
 - (2) appeal under Article 134(1)(a) and (b) or made any other provision of law under Order XX of the Rules;
 - (3) appeal, upon grant of special leave to appeal, under Article 136 of the Constitution read with Order XXII of the Rules;
 - (4) appeals under Sections 30 and 31 of the Armed Forces Tribunal Act, 2007;
 - (5) appeal under Section 10 of the Special Court (Trial of Offences relating to Transaction in Securities) Act, 1992; (Criminal);
 - (6) appeal under Section 374 of the Code of Criminal Procedure, 1973;
 - (7) appeal under Section 380 of the Code of Criminal Procedure, 1973;
 - (8) appeal under Section 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, as amended by the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972, read with Section 379 of the Code of Criminal Procedure, 1973;
 - (9) appeal under Section 19(1)(b) of the Contempt of Courts Act, 1971.
6. **Election Petition** – A petition under Part III of the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952) read with Article 71 of the Constitution and Order XLVI of the Rules relating to doubts and disputes in relation to the election of a President or Vice-President shall be registered as an Election Petition.

7. **Original Suit** – A suit filed under Article 131 of the Constitution shall be registered as Original Suit in relation to any dispute--
 - (i) between the Government of India and one or more States; or
 - (ii) between the Government of India and any State or States on one side and one or more other States on the other; or
 - (iii) between two or more States.
8. **Petition for Special Leave to Appeal** – A petition filed under Article 136 of the Constitution from an order of the High Court refusing to grant certificate under Article 134A of the Constitution or in any other case from any judgment, decree, determination, sentence or order passed or made by any Court or Tribunal, except relating to armed forces. It may be either civil or criminal.
9. **Special Reference Case** – Ordinarily, the following cases shall be registered as References:
 1. Reference under Articles 143(1) and (2) of the Constitution;
 2. Reference under Article 317(1) of the Constitution;
 3. Reference under Section 11 of the Competition Act, 2002;
 4. Reference under Section 14(1) of the Right to Information Act, 2005;
 5. Reference under Section 17(1) of the Right to Information Act, 2005;
 6. Reference under Section 257 of the Income Tax Act, 1961;
 7. Reference made by Central Government or Statutory Tribunals under Order XLIV of the Rules;
 8. Reference under Section 27(3A) of the Wealth Tax Act, 1957;
 9. Reference under Section 11(3) of the Companies Act, 2002;
 10. Reference under Section 7(1) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.
10. **Transferred Case** – A case under Article 139A(1) of the Constitution read with Order XL of the Rules, upon being transferred by the High Court to this Court, shall be registered as a Transferred Case.

11. Transfer Petition –

- (i) petition filed under Article 139A(1) of the Constitution of India shall be registered as Transfer Petition. It may be either civil or criminal;
- (ii) petition filed under Article 139A(2) of the Constitution of India shall be registered as Transfer Petition. It may be either civil or criminal;
- (iii) petition filed under Section 25 of the Code of Civil Procedure, 1908, shall be registered as Transfer Petition (Civil);
- (iv) petition filed under Section 406 of the Code of Criminal Procedure, 1973, shall be registered as Transfer Petition (Criminal); and
- (v) petition filed under Section 11 of the Terrorist Affected Areas (Special Courts) Act, 1984, shall be registered as Transfer Petition (Criminal).

Note

A transfer petition seeking transfer of a case relating to the State of Jammu and Kashmir shall be filed in terms of the ratio laid down in *Anita Kushwaha vs. Pushap Sudan* (Transfer Petition (C) No. 1343 of 2008).

12. Writ Petition –

- (i) petition under Article 32 of the Constitution relating to an infringement of a right in Part III of the Constitution in a civil case, other than *habeas corpus*, shall be registered as Writ Petition (Civil);
- (ii) petition under Article 32 of the Constitution relating to a criminal matter, including *habeas corpus*, shall be registered as Writ Petition (Criminal);
- (iii) petition under Article 32 of the Constitution of India relating

to public interest litigation shall be registered as Writ Petition (PIL). It may be either civil or criminal;

(iv) petition under Article 32 of the Constitution seeking transfer of a case relating to the State of Jammu and Kashmir and shall be registered as Writ Petition (Tr.). It may be either civil or criminal;

13. Any other case filed in this Court which does not fall under any of the above categories may be classified and registered in accordance with or under any other provision of law or orders of the Court or special or general orders of the Chief Justice passed in that behalf.
14. **Review Petition** – A petition under Article 137 of the Constitution read with Order XLVII of the Rules shall be registered as a Review Petition. It may be either civil or criminal.
15. **Curative Petition** – A petition under Order XLVIII of the Rules shall be registered as a Curative Petition. It may be either civil or criminal

General

The cases arising out of the Terrorist and Disruptive Activities (Prevention) Act, 1987, or the Monopolies and Restrictive Trade Practices Act, 1969, or under any other law, which have since been repealed, have not been indicated in the Chapter though cases arising therefrom, prior to repeal, are pending consideration of the Court.

CHAPTER IV

CONSTITUTION AND JURISDICTION OF BENCHES

I. Single Bench

1. Under Order V Rule (2) of the Rules, the powers of the Court in relation to the following matters may be exercised by a Single Judge sitting in Chambers, namely:

- (1) Application by advocate-on-record for leave to withdraw or for change or discharge of advocate-on-record.
- (2) Application for leave to compromise or discontinue an appeal where permission was granted to sue as an indigent person.
- (3) Application for striking out or adding party or for intervention in a suit, appeal or other proceeding.
- (4) Application for separate trials of causes of action.
- (5) Application for separate trials to avoid embarrassment.
- (6) Rejection of plaint.
- (7) Application for setting down for judgment in default of written statement.
- (8) Application for better statement of claim or defence.
- (9) Application for particulars.
- (10) Application for striking out any matter in a pleading.
- (11) Application for amendment of pleading and for enlargement of time to amend any pleading.
- (12) Application to tax bills returned by the Taxing Officer.
- (13) Application for review of taxation.
- (14) Application for enlargement or abridgement of time, except application for condonation of delay in filing Special Leave Petitions.
- (15) Application for issue of commissions.
- (16) Application for assignment of security Bonds.

- (17) Questions arising in taxation referred by the Taxing Officer.
- (18) Application for orders against clients for payment of costs.
- (19) Application for taxation and delivery of bill of costs and for delivery by an advocate of documents and papers.
- (20) Application for registration of advocates as advocates on record.
- (21) Application for leave to proceed as an indigent person.
- (22) Application for grant of bail where the petitioner is confined in jail for offence punishable with imprisonment upto seven years.
- (23) Application for stay of execution of a sentence or order in criminal proceedings.
- (24) Application by accused persons in custody for being produced before the Court at the hearing of the appeal.
- (25) Consent application in interlocutory matters.
- (26) Application by accused persons for engagement of advocate under rule 16 of Order XX.
- (27) Fixing the remuneration of a guardian *ad litem*.
- (28) Summons for non-prosecution, which includes the power of dismissal for non-prosecution.
- (29) Office Report on default.
- (30) Application for exemption from paying court fee or extension of time for paying court fee or for furnishing undertaking, bank guarantee or security.
- (31) Application for substitution, application for condonation of delay in seeking substitution and application involving setting aside abatement.
- (32) Application for condonation of delay in re-filing where the delay exceeds 60 days from the date of notifying the defects.
- (33) Application for refund of security.
- (34) Application for withdrawal of any appeal, petition or suit with the consent of all the appearing parties or where the other side has not appeared.

- (35) Application for exemption from surrendering, provided that not more than one opportunity be granted for surrendering. In case of refusal and/or if accused do(es) not surrender, the matter be placed before the Hon'ble Judge in Chambers for non-prosecution.
- (36) Issue of fresh summons and notices.
- (37) Application of a person who is not a party to the case, appeal or matter, for inspection or search or grant of copies for good cause shown.
- (38) Application by third parties for return of documents.
- (39) Application to appoint or discharge a next friend or guardian of a minor or a person of unsound mind and direct amendment of the record thereon.
- (40) Application for consolidation of appeals and writ petitions for purposes of hearing, and preparation of record.
- (41) Application for amendment of pleadings with the consent of all the appearing parties, or where the other side has not appeared.

Note :

- (i) "Office Report on Default" includes cases under Order III Rule 8(vii) proviso of the Rules.
 - (ii) An appeal shall lie to the Judge in Chambers against the order of the Registrar under Order V Rule 1 and Order VIII Rule 6(3) and (4) of the Rules within fifteen days from the date of such order.
 - (iii) The Judge in Chambers may at any time adjourn any matter and lay the same before the Court.
2. In exercise of powers conferred by Order II Rule 6 of the Rules, the Chief Justice may direct matters of urgent nature to be heard by a Judge sitting singly during summer vacation or winter holidays.
 3. Under Order VI Rule 6 of the Rules, the Vacation Judge sitting singly may, in addition to exercising all the powers of a Judge in Chambers under the Rules, exercise the powers of the Court in relation to the following matters, namely:

- (i) Applications for special leave to appeal in urgent cases where interim relief is prayed for subject to the condition that the Vacation Judge shall not decide such a petition if it raises substantial question of law as to the interpretation of the Constitution.
- (ii) Applications for stay of execution of a decree or order or stay of proceedings in civil matters.
- (iii) Applications for transfer of cases under Section 406 of the Code of Criminal Procedure, 1973 (2 of 1974).
- (iv) Applications for stay of proceedings in criminal matters.
- (v) Applications under Article 32 of the Constitution of an urgent nature which do not involve a substantial question of law as to the interpretation of the Constitution.
- (vi) Issue of a rule *nisi* in urgent applications under Article 32 of the Constitution which involve a substantial question of law as to the interpretation of the Constitution.
- (vii) Applications of an urgent nature for transfer of cases under Section 25 of the Code of Civil Procedure, 1908 (5 of 1908).
- (viii) Issue of notice in applications of an urgent nature under Article 139A(1) of the Constitution; and
- (ix) Applications of an urgent nature for transfer of cases under Article 139A(2) of the Constitution.

II. Division Bench

- (i) Under Order VI Rule 1 of the Rules, subject to other provisions of the Rules, every cause, appeal or matter shall be heard by a Bench consisting of not less than two Judges nominated by the Chief Justice.
- (ii) Every cause, appeal or other proceedings arising out of a case in which death sentence has been confirmed or awarded by the High Court shall be heard by a Bench consisting of not less than three Judges.

- (iii) In exercise of powers conferred by Order II Rule 6 of the Rules, the Chief Justice may direct matters of urgent nature to be heard by a Division Court during the vacation.

III. Constitution Bench

- (i) Every case involving a substantial question of law as to the interpretation of the Constitution under Article 145(3) or any Reference made under Article 143 of the Constitution shall be heard by a Bench consisting of not less than five Judges.
- (ii) Every petition calling in question the election of the President and Vice-President under Article 71 of the Constitution read with Part III of the Presidential and Vice-Presidential Elections Act, 1952, shall be posted before a Bench of five Judges under Order XLVI of the Rules.
- (iii) The Chief Justice may, from time to time, constitute a Bench consisting of five or more Judges for the purpose of hearing any other cause, appeal or matter.

IV. Reference to Larger Bench

- (i) A Division Bench of two or more Judges may refer any cause, appeal or other proceeding, pending before it, to a larger Bench of not less than five Judges involving a substantial question of law as to the interpretation of the Constitution, as per proviso to Article 145(3) of the Constitution.
- (ii) Where, in the course of hearing of any cause, appeal or other proceeding, the Division Bench considers that the case should be dealt with by a larger Bench, it shall refer the case to the Chief Justice, who shall thereupon constitute such a Bench for hearing it.
- (iii) If a Bench of less than three Judges, hearing a cause, appeal or matter, is of the opinion that the accused should be sentenced to death, it shall refer the case to the Chief Justice, who shall

thereupon constitute a Bench of not less than three Judges for hearing it.

- (iv) After the Reference is answered by a larger Bench, wherever required, the case shall be placed before the Chief Justice for listing before an appropriate Bench for hearing and decision in accordance with the opinion of the larger Bench.

V. Review Petition

- (i)(a) An application for review under Order XLVII of the Rules read with Article 137 of the Constitution and shall, as far as practicable, be circulated to the same Judge or Bench of Judges that delivered the judgment or order sought to be reviewed:

Provided that in case of non-availability of a Judge or Judges of the Bench, by reason of retirement or otherwise, an application for review shall be heard by a Judge or Bench of Judges, as may be ordered by the Chief Justice.

- (b) Unless otherwise ordered by the Court, an application for review shall be disposed of by circulation without any oral arguments.

In the case of Mohd. Arif @ Ashfaq vs. The Registrar, Supreme Court of India & Others in 2014 9 SCC 737, the Supreme Court held that :-

“.....in review petitions arising out of those cases where the death penalty is awarded, it would be necessary to accord oral hearing in the open court.....”

- (c) Where an application for review of any judgment and order has been made and disposed of, no further application for review shall be entertained in the same matter.
- (ii)(a) An application seeking a review, clarification or modification of an award, passed by a Bench of Lok Adalat, shall be placed before the same Bench at any subsequent Lok Adalat for consideration.

- (b) Where any of the members comprising such Bench is/are not available, the application shall be placed before the Chief Justice for constitution of a Bench of Lok Adalat for consideration.
- (c) In case settlement, by consent, is not arrived at on the application for review, clarification or modification before the Lok Adalat, the same shall be placed, as per roster, before the Division Bench or as ordered by the Chief Justice.

VI. Curative Petition

A curative petition under Order XLVIII of the Rules shall be first circulated to, and heard by, a Bench of the three senior-most Judges and the Judges, who passed the judgment or order complained of, if available.

Unless otherwise ordered by the Court, a curative petition shall be disposed of by circulation, without any oral arguments.

If the Bench before which the petition was circulated concludes, by a majority, that the matter needs hearing, then it shall be listed before the same Bench, as far as possible.

VII. General

- (1) **Part-heard case** - A part-heard case shall be listed before the same Bench in seisin of the case:

Provided that if the case could not be disposed of on account of the retirement or non-availability of a Judge or released from part-heard, it shall be listed for hearing before a Bench, subject to any directions of the Chief Justice or as per roster.

- (2) **Contempt Petition (Civil)** - A contempt petition under Rule 3 of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, read with Articles 129 and 142(2) of the Constitution complaining disobedience or non-compliance of a judgment/order

passed by the Court or wilful breach of an undertaking given to a Court shall be listed before the Bench which passed the judgment/order alleged to have been disobeyed and not complied with.

- (3) **Contempt Petition (Criminal)** - A contempt petition under Rules (2) and (3) of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, read with Articles 129 and 142(2) of the Constitution shall be listed before the Bench where contempt was committed in view or presence or hearing of the Court or as per the directions of the Chief Justice.

Notwithstanding anything contained in this Chapter, the Chief Justice may, by a special or general order, direct a particular class or classes of cases to be listed before a particular Bench.

CHAPTER V

POWERS, DUTIES AND FUNCTIONS OF THE REGISTRAR

The Registrar shall have the following powers, duties and functions, subject to any further special or general orders of the Chief Justice:

1. to exercise the functions of the Secretary General, in his absence, upon being nominated by the Chief Justice;
2. to order affixation of seal on a certified copy issued by the Court;
3. to keep a list of all cases pending before the Court, and shall, at the commencement of each term, prepare, publish and port on the official website, a list of all cases ready for regular hearing in each class separately, to be called the 'Terminal List';
4. to prepare, publish and port on the official website at the end of each week, a list of cases, from out of the Terminal List, to be heard in the following week, as far as possible in the order in which they appear in Terminal List, subject to the directions of the Chief Justice, if any, and out of the Weekly List, shall publish at the end of each day, a Daily List of cases to be heard by the Court on the following day;
5. to prepare, publish and port on the official website, Advance List, Daily List and Supplementary List of the admission hearing cases;
6. to publish such other Lists, subject to general or special orders of the Chief Justice;
7. to require any plaint, petition of appeal, petition or other proceeding presented to the Court to be amended in accordance with the practice and procedure of the Court or to be represented after such requisition as the Registrar is empowered to make in relation thereto has been complied with;
8. to fix the date of hearing of appeals, petitions or other proceedings and issue notices thereof;
9. to settle the index in cases where the record is prepared in the Court;
10. to make an order for change of advocate on-record with the consent of the advocate-on-record;
11. to direct any formal amendment of record;

12. to grant leave to inspect and search the records of the Court and order the grant of copies of documents to parties to proceedings, without interfering or dispensing with any mandatory requirement of the Rules;
13. to allow from time to time on a written request any period or periods not exceeding twenty eight days in aggregate for furnishing information or for doing any other act necessary to bring the plaint, appeal or other proceeding in conformity with the Rules and practice of the Court;
14. to require the Supreme Court Legal Services Committee to assign an advocate in a petition/appeal to a party in-person;
15. to interact with a party, who wants to appear and argue the case in-person, and give opinion by way of office report whether the party in-person will be able to give necessary assistance to the Court for proper disposal of the case or an advocate may be appointed as *amicus curiae*;
16. to communicate to all the High Courts and the Secretary to the Bar Council of India as also the Secretary of the State Bar Council concerned the name of an advocate, who has been designated as a senior advocate and the date on which he was so designated;
17. to publish list of touts under Order IV Rule 14 of the Rules and port it on the official website as also, by general or special order, exclude such persons from the precincts of the Court whose names are included in the list of touts;
18. to pass orders, for reasons to be recorded in writing, declining to register a document, where the party fails to take any steps for removal of the defect within a period not exceeding twenty eight days in aggregate under Order VIII Rules 6(3) and (4) of the Rules;
- 19.(i) to decide the question of, and determine, deficient or proper amount of the court fee payable and if the court fee paid on account of *bona fide* mistake is insufficient, to call upon that party to make good the deficiency within a period not exceeding three months;
- (ii) to make a declaration and forward a requisition for recovery of deficient court fee to the Central Government, from the person liable to pay, as arrear of land revenue, if the deficiency is not made good within a period of three months;
20. to allow a party to any cause, appeal or matter, on an application, to search or inspect all pleadings and other documents or records in the case, on payment of the prescribed fee and charges;

21. to permit, in his discretion, any record to be sent to any Court, Tribunal or other public Authority on requisition received from such Court, Tribunal or Authority;
22. to reconstruct the record with the approval of the Chief Justice, in case the record is lost or irretrievably misplaced;
23. to settle the decree in terms of Order XII of the Rules;
24. to certify the accounts every month, duly checked and tallied with the monthly statements of receipts and payments received from the Pay and Accounts Officer of the Court;
25. to refuse to receive a petition on the ground that it discloses no reasonable cause or is frivolous or contains scandalous matter under Order XV Rule 5 of the Rules;

[The petitioner may, within fifteen days, impugn the order of the Registrar, by way of motion, to the Court.]

26. to report to the Court, in the form of special case, as to the nature of the proceedings based on a question of law and the record that may be necessary for discussion of the case under Order XIX Rule 5 of the Rules;
27. to issue summons to show cause before the Court why the appeal should not be dismissed for non-prosecution, if the appellant is not prosecuting the appeal with due diligence;
28. to pass orders, who is the proper person to be substituted or entered on the record in place of, or in addition to, the party on record and the name of such person shall thereupon be substituted or entered on the record:

Provided that no such order of substitution shall be made where a question arises whether or not the person is the legal representative of the deceased party or a question involving setting aside the abatement of the cause is involved.

29. to prepare roster under the directions of the Chief Justice;
30. to accept Bank Guarantee furnished by a party “till the disposal of the case” under Form No.27 appended to the Rules;
31. to order an engagement of an advocate from the panel of the Supreme Court Legal Services Committee or assign a panel advocate maintained by the Registry at the cost of the State in a jail petition/appeal;

32. to call, wherever necessary, from the proper officer of the Court appealed from, the relevant documents for determination of the case, upon receipt of the jail petition/appeal;
33. to direct in which of the newspapers publication, referred to in Order V Rule 20 and in the proviso to Rule 9A of Order XLV of the Code, shall be made, unless specifically directed by the Court;
34. to direct issue of notice by *Dasti*;
35. to give notice to the Attorney General for India on receipt of a Reference under Article 143 of the Constitution to appear before the Court on a day specified in the notice to take the directions of the Court as to the parties who shall be served with notice of such Reference;
36. to transmit to the President the Report of the Court after hearing of the Reference under Article 143 of the Constitution;
37. to give, in a Reference under Order XLIII of the Rules, notice to the person sought to be removed from the concerned office and to the Attorney General for India or the Advocate General of the particular State or to such person as the Statute under which the Reference is made, so provides, to appear before the Court on a day specified in the notice to take directions of the Court in the matter of the inquiry in a Reference under Article 317(1) of the Constitution or any Statute or a Reference made by the Governor under any Statute;
38. to record evidence in a Reference, except under Article 143 of the Constitution, and in original suit under Article 131 of the Constitution, wherever necessary;
39. to place before the Chief Justice the Reference under Section 257 of the Income Tax Act, 1961, for the purpose of assigning the case to a Bench of not less than three Judges;
40. to transmit a copy of the order made in a Reference under Section 257 of the Income Tax Act, 1961, to the Income Tax Appellate Tribunal under the seal of the Court;
41. (a) to receive election petition under Order XLVI of the Rules relating to the election of the President and Vice- President under Part-III of the Presidential and Vice-Presidential Elections Act, 1952;

- (b) to require the petitioner to deposit a sum of Rs. 50,000/-, in cash or by Bank draft either with himself or an officer nominated by him as security for the payment of all costs that may become payable by the petitioner;
 - (c) to require an affidavit as regards service of notice on the Secretary to the Election Commission, the Returning Officer and to the Attorney General for India to be filed with him within five days of the presentation of the petition or within such further time, as the Court may allow;
 - (d) to send a copy of the order made in the election petition to the Central Government for publication in the official gazette;
- 42. to receive, register and number a plaint presented to him and to sign the list of documents annexed thereto, if, he on examination, finds it to be correct;
 - 43. to consider an application to be excused from compliance with the requirements of any of the Rules under Order LV of the Rules and to take instructions of the Judge in Chambers thereon and communicate the same to the parties but, if, in his opinion, it is desirable that the application should be dealt with in open Court, he may direct the applicant to serve the other party with a notice of motion returnable before the Court;
 - 44. (a) to direct any paper assigned to Part II to be transferred to Part I for being preserved permanently under Order LVI of the Rules;

(b) to decide, on a reference being made, the Part under which a record, which do not fall either under Part I or Part II as classified in the Rules, should be included;
 - 45. to decide any dispute regarding subject category and valuation;
 - 46. to sign warrants of arrest; bond and bail bond after arrest under a warrant; and warrant of commitment for contempt in Form Nos. II, III and IV appended to the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975;
 - 47. to require Additional Registrar/Deputy Registrar to submit report as regards examination of files relating to 'Not Ready' cases and directions and guidance given to the subordinate officers/officials to make them 'Ready' for being submitted to the Secretary General;
 - 48. to pass orders to 'Lodge' a letter petition if, on scrutiny, the same is not found to be covered under the Public Interest Litigation guidelines;

49. to perform any other duties as may be assigned by the Secretary General or the Chief Justice.

Taxing Officer

The Chief Justice may appoint the Registrar or such other officer as the Taxing Officer of the Court, who shall decide, *inter alia*, the following questions relating to the court fee:

- (i) Where, in his opinion, a fee ought to be allowed for any matter not provided for in the Rules or a question arises in taxation, he may refer such matter to the Judge in Chambers for orders, wherever he considers it necessary.
- (ii) Wherever, at the stage of scrutiny, a question as regards proper court fee is raised and the document is insufficiently stamped, he shall decide such question before the document or the proceeding is acted upon in the Registry.
- (iii) Where, during the course of pendency of a suit, appeal or proceedings, if, on account of mistake or inadvertence, a document which ought to be stamped in a certain manner has been received and acted upon without it being stamped or that the court fee paid thereon initially was insufficient, he, after hearing the party, shall record a declaration to that effect and determine the amount of deficiency in court fee.
- (iv) If the court fee paid is insufficient, he, after hearing the advocate on-record or the party in-person, as the case may be, shall decide the dispute and, if required, call upon the party concerned to make good the deficiency within a period not exceeding three months in any case.
- (v) If, after the conclusion of the proceedings, the deficiency is not made good within three months of the declaration made, he shall forward a requisition for recovery of the deficient court fee to the Central Government, which shall recover the amount from the person liable to pay as arrear of land revenue.
- (vi) He shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, and shall not allow any costs, charges and expenses which appear to him to have been incurred or increased unnecessarily or through negligence or mistake.

Powers under Order V Rule 1 of the Rules

The Registrar shall exercise powers of the Court under Order V Rule 1 of the Rules in relation to the following matters, namely:

- (1) Application for discovery and inspection.
- (2) Application for delivery of interrogatories.
- (3) Application for substituted service, or for dispensing with service of notice of the appeal on any of the respondents to the appeal under Rule 7 of Order XIX.
- (4) Application for time to plead, for production of documents, and generally relating to the conduct of cause, appeal or matter *save* those coming under Rule 2 of the Order.
- (5) Application for leave to take documents out of the custody of the Court.
- (6) Questions arising in connection with the payment of court fees.
- (7) Application for the issue of a certificate regarding any excess court fee paid under a mistake.
- (8) Application for requisitioning records from the custody of any Court or other authority.
- (9) Application for condoning delay in paying deficit court fees.
- (10) Application for condonation of delay in filing statement of case, provided that where the Registrar does not think fit to excuse the delay, he shall refer the application to the Court for Orders.
- (11) Application for appointment and for approval of a translator or interpreter.
- (12) Application for withdrawal of appeal by an appellant prior to his lodging the petition of appeal.
- (13) Application for production of documents outside Court premises.
- (14) Application for payment into Court.
- (15) Application for payment out of Court of money or security, or interest or dividend on securities.
- (16) Application for extending returnable dates of warrants.
- (17) Application for refund of security deposit or part thereof, or for payment out of security deposit.
- (18) Application for directions regarding preparation of record.

- (19) Application for exemption from filing of certified copies of judgments, decrees, orders, certificates or orders granting certificate:

Provided that application for exemption from filing of certified copies of judgments or orders accompanying a special leave petition shall be posted before the Court along with the Special Leave Petition.

- (20) Application for condonation of delay in re-filing, provided the delay does not exceed 60 days from the date of notifying the defects.
- (21) Application for condonation of delay in filing process fee.
- (22) Application for extension of time for filing pleadings, provided that the Registrar shall not grant more than one extension for the purpose exceeding four weeks.
- (23) Application for cancellation of date on the written joint request of the appearing parties, provided the matter has not appeared in the final cause-list, on the date of filing of application.
- (24) Office Report for renewal of Fixed Deposit Receipts and Bank Guarantees, subject to directions otherwise by the Court.
- (25) Application for exemption from filing official translation.
- (26) Application for exemption from filing process fee and/or spare copies.
- (27) All uncontested Interlocutory Applications of formal nature.
- (28) Any matter which in accordance with orders or directions issued by the Court, is required to be dealt with by the Registrar.
- (29) Imposing costs on the party in default of compliance of the orders passed by the Registrar.
- (30) Pre-final hearing matter to certify that the matter is ready in all respects to list the same before the Court for final hearing.

Note

The Registrar may, and if so directed by the Judge in Chambers, shall, at any time adjourn any matter and lay the same before the Judge in Chambers.

CHAPTER VI ROSTER

1. The roster shall be prepared by the Registrar (J-I) under the orders of the Chief Justice. It may contain general or special instructions regarding assignment/allocation of work to a Bench and includes allocation of work of a Bench, on account of non-availability, to another Bench.
2. In order to meet contingencies, the Chief Justice may, from time to time, direct the Registrar (J-I) to prepare roster instructions or amendments for re-allocation of judicial work.
3. The roster instructions and amendments shall be prepared in such a manner so as to ensure that no judicial time is wasted.
4. Where a Bench directs listing of a case before another Bench, particular Bench, appropriate Bench or larger Bench, as the case may be, the Registrar (J-I) shall place the matter before the Chief Justice for orders.

CHAPTER VII

WORKING HOURS AND VACATION

A. Court

1. The Court shall sit in two terms annually, first commencing from the termination of the summer vacation and ending with the day immediately preceding such day in December, as the Court may fix for the commencement of the Christmas and New Year holidays; and the second commencing from the termination of the Christmas and New Year holidays and ending with the commencement of the summer vacation.
2. The Benches, ordinarily, sit from 10.30 a.m. to 4.00 p.m. on Tuesday, Wednesday and Thursday and from 10.30 a.m. till the work is over on Monday and Friday.
3. The Court shall not, ordinarily, sit on Saturday, nor any other day notified as Court holiday in the Official Gazette.

Provided that the Court may sit on a Saturday, holiday or after Court hours on a working day, to hear a matter of urgent nature under the orders of the Chief Justice.

B. Offices of the Court

1. Except during vacation and on Saturdays and holidays, the offices of the Court shall, subject to any order of the Chief Justice, remain open from 10.00 a.m. to 5.00 p.m. but only work of urgent nature shall be admitted after 4.30 p.m.
2. Except on days which are holidays, the offices of the Court shall remain open from 10.00 a.m. to 1.00 p.m. on Saturdays but only work of urgent nature be admitted after 12.00 noon.
3. A counter, however, shall remain open from 5:00 p.m. to 7:00 p.m. for the purpose of filing of fresh cases where limitation expires on the date of filing.

C. Vacation Court

1. The Chief Justice may appoint one or more Judges to hear, during summer vacation or winter holidays, all matters of urgent nature which, under the Rules, may be heard by a Judge sitting singly, and, wherever necessary, may likewise appoint a Division Court for the hearing of such cases during the vacation, which are required to be heard by a Bench of Judges.
2. The Division Courts shall sit regularly during summer vacation to hear urgent admission matters as well as old regular hearing cases identified by the Registry.
3. The Registrar shall prepare, publish and port on the website the Advance List of such cases/matters.
4. Ordinarily, urgent admission hearing cases shall be heard on Mondays and left over matters, if any, be included in the list of the following working day. Old regular hearing cases be ordinarily heard from Tuesday to Friday.
5. No admission hearing case be entertained and considered for listing during vacation or holidays, unless it is, *inter alia*, accompanied by an affidavit indicating all the material facts necessary for formation of opinion about urgency, such as:
 - a) nature of the matter;
 - b) date of the impugned order, if any;
 - c) reason for not filing it before the vacation/holidays, if the impugned order was made or the cause of action arose on an earlier date;
 - d) latest date upto which the matter can be heard in view of the urgency indicated; and
 - e) nature of interim order sought in the matter.
6. The following cases shall be considered as cases of urgent nature:
 - (i) cases in which death penalty has been awarded;
 - (ii) petitions for *habeas corpus* and matters relating to it;
 - (iii) cases relating to imminent apprehension of demolition of

- property;
 - (iv) cases relating to dispossession/eviction;
 - (v) cases relating to violation of human rights;
 - (vi) cases relating to and of public importance; and
 - (vii) cases seeking anticipatory bail and cases filed against order refusing/granting bail.
7. The following category of cases shall not be treated as cases of urgent nature for listing during vacation or holidays:
- (i) cases arising out of interlocutory orders;
 - (ii) cases relating to remand orders;
 - (iii) cases relating to pre-deposit of tax, penalty, etc., under specified statutes;
 - (iv) cases arising out of life sentence or sentences for more than one year;
 - (v) service matters involving transfer and/or reversion, dismissal and removal from service;
 - (vi) transport matters, except those relating to cancellation of permits and requiring urgent interim orders; and
 - (vii) cases relating to decrees and their execution.
8. Notwithstanding anything contained hereinabove, the Chief Justice may, by a special or general order, constitute a Bench of any composition and direct a particular case or a particular class or classes of cases to be listed before a particular Bench.

D. Vacation Officer

1. A Vacation Officer shall be appointed for each month and his name, address and telephone numbers be ported on the website for the purpose of hearing cases of urgent nature on a Saturday, holiday or after court hours on a working day.
2. The procedure for consideration and listing of cases of urgent nature during the summer vacation and holidays shall apply *mutatis mutandis* to cases of urgent nature under clause (1) above.

CHAPTER VIII

ADVOCATE, VAKALATNAMA AND MEMO OF APPEARANCE

I. Advocate on-Record

- (a) An advocate on-record shall, on his filing a memorandum of appearance on behalf of a party accompanied by a vakalatnama duly executed by the party, be entitled--
 - (i) to act as well as to plead for the party in the case and to conduct and prosecute before the Court all proceedings that may be taken in respect of the said case or any application or miscellaneous application connected with the same or any decree or order passed therein, including proceedings in taxation, applications for review and curative petitions; and
 - (ii) to deposit and receive money on behalf of the said party.
- (b) No advocate other than an advocate on-record shall be entitled to file an appearance or act for a party in the Court.
- (c) Every advocate on-record shall keep such books of account as may be necessary to show and distinguish in connection with his practice as an advocate on-record--
 - (i) moneys received from or on account of and the moneys paid to or on account of each of his clients; and
 - (ii) the moneys received and the moneys paid on his own account.
- (d) Every advocate on-record shall, before taxation of the Bill of Costs, file with the Taxing Officer a certificate showing the amount of fee paid to him or agreed to be paid to him by his client.
- (e) No person having an advocate on-record shall file a vakalatnama authorizing another advocate on-record to act for him in the same case *save* with the consent of the former advocate on-record or by leave of the Judge in Chambers, unless the former advocate on-record is dead, or is unable, by reason of infirmity of mind or body, to continue to act.

- (f) Where a party changes his advocate on-record, the new advocate on-record shall give notice of the change to all other parties appearing in the case.
- (g) No advocate on-record may, without the leave of the Court, withdraw from the conduct of any case by reason only of non-payment of fees by his client.
- (h) An advocate on-record who, on being designated as a senior advocate or on being appointed as a Judge or for any other reason, cease to be an advocate on-record for any party in a case shall forthwith inform the party concerned that he has ceased to represent the said party as advocate on-record in the case.
- (i) No person having an advocate on-record shall be heard in-person *save* by special leave of the Court.
- (j) No advocate on-record shall authorize any person whatsoever, except another advocate on-record, to act for him in any case.
- (k) No advocate other than the advocate on-record for a party shall appear, plead and address the Court in a case unless he is instructed by the advocate on-record or permitted by the Court.
- (l) An advocate on-record shall be personally liable to the Court for the due payment of all fees and charges payable to the Court.
- (m) An advocate on-record shall notify to the Registrar his/her eMail address and the address of his office in Delhi and every change of such address, and any notice, writ, summons, or other document sent on such eMail address or served on him or his clerk at the address so notified by him shall be deemed to have been properly served.
- (n) An advocate on-record shall not involve in mere name lending without any further participation in the proceedings of the case as it would constitute misconduct or conduct unbecoming of an advocate on-record.

II. Advocate

- (i) Subject to the provisions of the Rules, an advocate, whose name is entered on the roll of any State Bar Council maintained under the Advocates Act, 1961 (25 of 1961), as amended, shall be entitled to appear before the Court.

Provided that an advocate whose name is entered on the roll of any State Bar Council maintained under the Advocates Act, 1961, for less than one year, shall be entitled to mention cases in Court for the limited purpose of asking for time, date, adjournment and similar such orders, but shall not be entitled to address the Court for the purpose of any effective hearing:

Provided further that the Court may, if it thinks desirable to do so for any reason, permit any person to appear and address the Court in a particular case.

- (ii) An advocate, other than a senior advocate, may, on his fulfilling the conditions laid down in Order IV Rule 5 of the Rules, be registered in the Court as an advocate on-record.

III. Senior Advocate

- (i) The Chief Justice and the Judges may, with the consent of the advocate, designate an advocate as senior advocate if, in their opinion, by virtue of his ability, standing at the Bar or special knowledge or experience in law, the said advocate deserves such a distinction.
- (ii) A senior advocate, on being so designated, shall not appear as senior advocate till he reports to the Registry that parties represented by him earlier as advocate on-record have been informed about his designation as senior advocate and that necessary arrangements have been made for the parties to make appearance before the Court in all the cases represented by him till then.

A senior advocate shall not--

- (i) file a vakalatnama or act in any Court or Tribunal in India;
- (ii) appear without an advocate on-record in the Court or without a junior in any other Court or Tribunal in India;
- (iii) accept instructions to draw pleadings or affidavit, advise on evidence or do any drafting work of an analogous kind in any Court or Tribunal in India or undertake conveyancing work of any kind whatsoever but this prohibition shall not extend to settling any such matter as aforesaid in consultation with a junior; and
- (iv) accept directly from a client any brief or instructions to appear in any Court or Tribunal in India.

Note

Every advocate appearing before the Court shall wear such robes and costumes as may, from time to time, be directed by the Court.

III. Vakalatnama

- (a) Every vakalatnama in any cause, appeal or matter shall be executed by the party:

Provided that a person, other than a party to the cause, appeal or matter, may file vakalatnama on the basis of Power of Attorney but shall annex original Power of Attorney with the vakalatnama.

- (b) A vakalatnama filed by the State or its instrumentality under Article 12 of the Constitution or any body corporate shall be signed by the appropriate authority with official seal.
- (c) A vakalatnama shall –
 - (i) be filed on demy-foolscap size paper and one side of the paper be used;
 - (ii) mention the name, age, father's name and address of the person(s) appointing the advocate as also the serial number in the array of parties;
 - (iii) contain State Bar Council Enrolment Number, postal address, telephone number, mobile number, eMail address

- and registration number of the advocate on-record accepting the vakalatnama, for service;
- (iv) mention name of the person(s) executing the vakalatnama and advocate accepting the same, below their respective signatures;
 - (d) The Advocates Welfare Fund Stamp shall be pasted on the header of the vakalatnama, without covering any part of the text.
 - (e) Wherever a vakalatnama is found to be defective in any respect, the case in which it has been filed shall be dealt with as a defective case.
 - (f) Where the vakalatnama is executed in the presence of the advocate on-record, he shall certify that it was executed in his presence.
 - (g) Where the advocate on-record merely accepts the vakalatnama which is already duly executed in the presence of a Notary or an advocate, he shall make an endorsement thereon that he has satisfied himself about the due execution of the vakalatnama.

IV. Memo of Appearance

- (i) A memo of appearance shall, *inter alia*, consist of a declaration signed by the advocate on-record that he has been authorized, instructed and engaged to appear, act and plead for the party.
- (ii) Where the party has personally authorized, instructed and engaged the advocate on-record, memo of appearance shall be counter-signed by the party. Where the party is illiterate, thumb impression or other mark of the party on the memo of appearance shall be attested by at least two literate witnesses, who shall furnish their names and addresses, including police station in case of a criminal matter.
- (iii) Where a person, other than a party to the cause, appeal or matter, has authorized, instructed and engaged the advocate on-record on behalf of a party, the memo of appearance shall be accompanied by the Power of Attorney signed by the party authorizing such person to authorize, engage and instruct an advocate on-record to appear,

act and plead on his behalf. Such Power of Attorney shall clearly state the nature of relationship of such person with the party.

- (iv) If such authorization is not accompanied by Power of Attorney, the matter shall be dealt with as a defective case.

General

Constituted Attorney cannot appear before the Court in a case.

CHAPTER IX AFFIDAVITS

1. An affidavit for the purpose of any cause, appeal or matter before the Court may be sworn before a Notary or any authority mentioned in Section 139 of the Code or before a Registrar of the Court duly authorized in this behalf by the Chief Justice, or before an Oath Commissioner generally or specially authorized in that behalf by the Chief Justice.
2. Every affidavit shall be headed “In the Supreme Court of India” and shall be filed in the cause, appeal or matter for which it is sworn.
3. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation, if any, and the true place of abode of the deponent.

Every person or place referred to in an affidavit shall be fully described in such a manner so as to clearly establish the identity.

4. An affidavit shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications or miscellaneous applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.
5. An affidavit requiring interpretation to the deponent shall be interpreted by an interpreter nominated or approved by the Court, if made within the State of Delhi, and if made elsewhere, shall be interpreted by a competent person who shall certify that he has correctly interpreted the affidavit to the deponent.
6. Where the deponent is a pardahnashin lady, she shall affirm or take oath before a lady Registrar of this Court, which shall include an Additional Registrar, duly authorized by the Chief Justice, or before a lady Oath Commissioner, and shall also be identified by a person to whom she is known and the person shall prove the identification by a separate affidavit.
7. Every exhibit annexed to an affidavit shall be marked with the title and number of the cause, appeal or matter and shall be initialled and

dated by the authority before whom it is sworn.

8. No affidavit having any interlineation, alteration or erasure shall be filed in Court unless the interlineation or alteration is initialled or unless, in the case of an erasure, the words or figures written on the erasure are rewritten in the margin and initialled by the authority before whom the affidavit is sworn.

No correction in the affidavit after filing shall be permitted, except on an application supported by affidavit of the affiant. Such correction shall be made in the case of --

- (i) an affidavit, by filing a fresh affidavit of the affiant; and
 - (ii) a document, by the party or advocate providing the document.
9. An affidavit may be refused to be received by the Registrar where, in his opinion, the interlineations, alterations, or erasures are so numerous as to make it expedient that the affidavit should be rewritten.
10. Where a special time has been limited for filing affidavits, no affidavit filed after that time shall be used, except by leave of the Court.
11. Where an affidavit is filed in a pending case, it shall mention the case number and names of the first party on either side.
12. In the verification of petitions, pleadings or other proceedings, statements based on personal knowledge shall be distinguished from the statements based on information and belief. In the case of statements based on information, the deponent shall disclose the source of his information, including official records.
13. In case of affidavits filed in respect of a minor or a person of unsound mind under Order VII of the Rules, the proposed guardian/affiant shall state “that he has no interest in the matter in question in the appeal or petition adverse to that of the minor and that he is a fit and proper person to be so appointed”. The affidavit shall also state –

- (a) that the affiant has obtained consent of the person proposed to be appointed as guardian for the case and that the latter has consented to act as such;
 - (b) whether the minor has an appointed guardian or declared guardian, and if so, who that person is;
 - (c) if not, who is the natural guardian, and in the absence of a natural guardian, who actually has the custody of the minor; and
 - (d) where any person other than one of the above is proposed as guardian for the suit, the reason for not proposing the person omitted.
- 14. Nothing in this Chapter shall be deemed to limit the power of the Court to call for an affidavit in any case and to strike out from the affidavit any averment which is scandalous, frivolous, vexatious and irrelevant or which is otherwise an abuse of the process of the Court at the cost of the offending party.
- 15. The affidavit accompanying a petition for review made upon the ground of the discovery of new and important matter of evidence within the meaning of Order XLVII Rule 1 of the Code shall state in clear terms what such new and important matter of evidence is, the effect or purport thereof and that the same, after the exercise of due diligence, was not within the knowledge of the petitioner or could not be produced by him at the time when the order was made or the judgment was delivered. The documents, if any, relied upon shall be annexed to the petition.
- 16. The affidavit, accompanying a main case, an interlocutory application or a miscellaneous application dismissed for -
 - (i) default of appearance, or
 - (ii) failure to take any step within the specified time,
 - (a) shall state the circumstances under which such default was made, and
 - (b) whether or not the party whose main case or interlocutory application or miscellaneous

application was dismissed, had previous to such dismissal, engaged an advocate to conduct the main case or interlocutory application or miscellaneous application.

17. 'Affidavit' includes a petition or other document required to be sworn or verified and 'sworn' includes affirmed.
18. The affidavit, accompanying a curative petition, shall state in clear terms that the petition is governed by the judgment of the Court in the case of *Rupa Ashok Hurra vs. Ashok Hurra and Anr.*[2002 (4) SCC 388].

CHAPTER X

PREPARATION FOR FILING OF CASES

1. Every main case shall be accompanied by a 'computer sheet' in Form No.31, on demy-foolscap size or standard A4 size paper, duly filled in by the plaintiff, petitioner, appellant or by his advocate on-record or by his duly authorised agent, containing following information--
 - (i) Class of the Case;
 - (ii) Case number (to be filled by the Registry);
 - (iii) Name of the first party on either side;
 - (iv) Date of filing;
 - (v) Date of Registration (to be filled by the Registry);
 - (vi) Subject Matter;
 - (vii) Provision of law;
 - (viii) Subject Category Code (as per Annexure);
 - (ix) Name and State Bar Council Enrolment Number as also Advocate on-record Registration Number;
 - (x) Particulars of the High Court, lower Court, Authority or Tribunal etc.;
 - a) name,
 - b) designation,
 - c) case, file/order number,
 - d) date of impugned judgment/order.
 - (xi) Whether the party is desirous of getting the matter settled through any of the alternative modes of dispute resolution;
 - (xii) Caveat notice, whether received;
 - (xiii) Name and signature of the advocate on-record filing the main case.
2. Every plaint, petition, application and other document shall be presented by the plaintiff, petitioner, applicant, appellant, defendant or respondent in-person or by his duly authorised agent or by an advocate on-record duly appointed by him for the purpose.
3. No plaint, petition, appeal, application, pleading, affidavit or other document, except original exhibits and certified copies of public documents, shall be received, unless it is fairly and legibly written, type-written or lithographed in double-line spacing, on one side of

standard petition paper, demy-foolscap size, or of the size of 29.7 cm x 21 cm, or paper, which is ordinarily used in the High Courts for the purpose.

4. Copies filed for the use of the Court shall be neat, clear, sharp and legible without any inter-lining, encircling or unwanted remark on the documents. They shall be certified to be true copies by the advocate on-record or by the party in-person, as the case may be.
5. No document in language other than English shall be used for the purpose of any proceedings before the Court, unless it is accompanied by:
 - (a) a translation agreed to by both parties; or
 - (b) a translation certified to be true translation by a translator appointed by the Court; or
 - (c) the said document is translated by a translator appointed or approved and notified by the Court.
6. Every memorandum of appeal, petition or application, shall be headed “In the Supreme Court of India”.
7. Immediately below the heading, the jurisdiction, case number and the cause title under which the main case is filed shall be mentioned in that order.
- 8(i) In a pending main case, no interlocutory application, affidavit in opposition, rejoinder affidavit, affidavit or any other document shall be filed, unless a copy thereof has been previously served on the advocate on-record, or his registered clerk, of the opposite party or parties, as the case may be, or party in-person, who has entered appearance.

The advocate on-record or his registered clerk served with such copy shall acknowledge the receipt of the same by endorsement on the filing memo, writing his full name below the signature along with registration number and phone number.

- (ii)(a) A notice of motion shall be instituted in the suit or case in which the application seeking *ad interim ex-parte* relief is intended to be made and shall state the time and place of application and the nature of the order sought.

- (b) It shall be addressed to the party or parties intended to be affected by it, unless represented by an advocate on-record, in which case it shall be addressed to the advocate on-record.
- (c) It shall be signed by the advocate on-record of the party instituting the motion or by the party in-person.

Note

Where the Court orders filing of an affidavit, a copy of the affidavit so filed shall be served on the advocate on-record of the opposite party or his registered clerk or the party in-person, as the case may be, a week before the date of hearing or within such time, as may be specified by the Court or Rules or otherwise required in the given situation:

Provided that where the advocate on-record for the opposite party or his registered clerk or party in-person refuses to accept a copy, he may record his reasons for such refusal on the filing memo.

- (iii) No interlocutory application, affidavit in opposition, rejoinder affidavit, affidavit or document, shall be accepted at the Filing Counter without such acknowledgement, receipt or endorsement and no undertaking to effect the service later shall be entertained.

CIVIL MATTERS

The cause title of every memorandum of appeal or petition shall contain--

- (1) the name, description, registered address, fax number with S.T.D. code and eMail address, if any, of each appellant, petitioner or applicant, as the case may be, where such appellant, petitioner or applicant is a private person;
- (2) the name, description, registered address, fax number with S.T.D. code and eMail address, if known, of each person arrayed as respondent or opposite party, where such respondent or opposite party is a private person;
- (3) the status (whether plaintiff, defendant, petitioner, appellant, respondent, applicant or non-applicant, etc.) of the parties in the

Court(s) below;

- (4) the status (whether plaintiff, defendant, petitioner, appellant, respondent, applicant or non-applicant, etc.) of the parties in appeal, petition, suit, or application in the case of review or curative petition, as the case may be.

Arbitration Petition

1. A petition under Section 11(5) of the Arbitration and Conciliation Act, 1996, read with the Appointment of Arbitrators by the Chief Justice of India Scheme, 1996, shall set out concisely, in separate paragraphs, facts and particulars of the case in chronological order. It shall, *inter alia*, be accompanied by –
 - (a) the original arbitration agreement or a duly certified copy thereof;
 - (b) the names and addresses of the parties to the arbitration agreement;
 - (c) the names and address of the Arbitrators, if any, already appointed;
 - (d) the name and address of the person or institution, if any, to whom or which any function has been entrusted by the parties to the arbitration agreement under the appointment procedure agreed upon by them;
 - (e) the qualifications required, if any, of the arbitrators by the agreement of the parties;
 - (f) a brief written statement describing the general nature of the dispute and the points at issue;
 - (g) the relief or remedy sought; and
 - (h) an affidavit, supported by the relevant document, to the effect that the condition to be satisfied under sub-section (4) or sub-section (5) or sub-section (6) of Section 11, as the case may be, before making the petition, has been satisfied.
 - (i) The petition shall be lodged along with five copies of the petition and all the documents which accompany it;
2. The petitioner shall deposit, along with the petition, an amount of Rs.15,000/- towards the costs involved in processing the petition.

Civil Appeal

1. Every memo of petition of appeal, with necessary modifications and adaptation, shall be filed in Form No.28. No separate application for interim relief shall be filed and interim prayer, if any, shall be incorporated in the Form.
2. The petition of appeal, shall recite succinctly and in chronological order with relevant dates, the principal steps in the proceedings leading up to the appeal from the commencement thereof till the grant of the certificate of leave to appeal to the Court or all the relevant facts leading up to the order appealed from/complained of, as the case may be, and shall state the grounds on which the judgment under appeal is assailed.
3. The petition of appeal shall state the amount or value of the subject-matter of the suit or case in the Court of first instance and in the High Court, and the amount or value of the subject-matter in dispute before the Court with particulars showing how the said valuation has been arrived at. Where the appeal is incapable of valuation, it shall be so stated:

Provided that an appeal under Section 23 of the Consumer Protection Act, 1986 (68 of 1986) shall be accompanied by a Bank draft for Rupees fifty thousand or fifty percent of the amount, whichever is less, required to be paid by the person intending to appeal, in terms of the order of the National Consumer Disputes Redressal Commission, drawn in favour of the Registrar, Supreme Court of India, payable at New Delhi:

Provided further that in case of appeal by indigent person, it shall be accompanied by an affidavit from the appellant disclosing all the property to which he is entitled and the value thereof other than his necessary wearing apparel and his interest in the subject-matter of the intended appeal and stating that he is unable to provide security or surety for the cost of respondent and pay Court fees.

4. The petition of appeal shall be accompanied by a certified copy of—

- (i) judgment and decree or order appealed from or authenticated copy of the order complained of, as the case may be;
- (ii) certificate granted by the High Court under Order XIX of the Rules; and
- (iii) the order granting the said certificate.

In cases where, according to the practice prevailing in the High Court, the decree or order is not required to be drawn up, it shall be so stated upon affidavit.

5. In appeals falling under any of the categories enumerated in Order XIX Rule 6 of the Rules, however, in addition to the documents mentioned above, a certified copy (or uncertified copy, if such copy is affirmed to be true copy upon affidavit) of the judgment or order and also of the decree of the Court immediately below or such a copy of the order of the Tribunal, Government Authority or person, as the case may be, shall also be filed.

Note

The following categories of appeals have been enumerated in Order XIX Rule 6 of the Rules:

- (a) an appeal from any judgment, decree or final order of a High Court summarily dismissing the appeal or the matter, as the case may be, before it;
 - (b) an appeal on a certificate granted by a High Court under Article 134A of the Constitution being a certificate of the nature referred to in clause (1) of Article 132 or clause (1) of Article 133 of the Constitution or under any other provision of law if the High Court has not recorded the reasons or the grounds for granting the certificate.
 - (c) an appeal under clause (b) of sub-section (1) of Section 19 of the Contempt of Courts Act, 1971 (70 of 1971).
6. Where at any time between the grant of Certificate under Article 134A of the Constitution for leave to appeal to the Court or making of the impugned judgment and order, as the case may be, and the filing of the petition of appeal, any party to the proceeding in the

Court below dies, the petition of appeal may be filed by or against the legal representative, as the case may be, of the deceased party:

Provided that the petition of appeal is accompanied by a separate application, duly supported by an affidavit, praying for bringing on record such person as the legal representative of the deceased party and setting out the facts showing him to be the proper person to be entered on the record as such legal representative.

7. Any grounds which can be raised only with the leave of the Court may be raised by filing a separate application seeking leave to appeal on those grounds.

Election Petition

1. A petition calling in question an election of the President or the Vice-President may be made on one or more of the grounds specified in sub-section (1) of Section 18 and Section 19 of the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952) by any candidate at such election, or by twenty or more electors joined together as petitioners in the case of Presidential or Vice-Presidential election, as the case may be.
2. The petitioner shall state the right of the petitioner under the Act and briefly set forth the facts and grounds relied on by him to sustain the relief or reliefs claimed by him.
3. The petition shall be divided into paragraphs, numbered consecutively, each paragraph being confined to a distinct portion of the subject and shall be printed or typed legibly on one side of standard A-4 size paper.
4. The allegations of fact contained in the petition shall be verified by an affidavit to be made personally by the petitioner or by one of the petitioners, if more than one:

Provided that where the petitioner is unable to make such affidavit by reason of absence, illness or other sufficient cause, it may, with the sanction of the Judge in Chambers to be given at the time of the presentation of the petition, be made by any person duly

authorised by the petitioner and competent to make the same.

5. Every petition calling in question an election shall bear a certificate from a senior advocate to the effect that the petition discloses one or more substantial questions for challenging the election of the President or the Vice-President, as the case may be.
6. Upon the presentation of the petition, the petitioner shall deposit a sum of Rupees fifty thousand in cash or by bank draft with the Registrar or officer nominated by him as security for the payment of all costs that may become payable by the petitioner.

The election petition shall be prepared, processed, listed and heard in accordance with Order XLVI of the Rules.

Reference

1. The President may refer a question of law or fact of public importance which has arisen or is likely to arise or a dispute of the kind mentioned in the proviso to Article 131 of the Constitution to the Court under Article 143 of the Constitution read with Order XLII of the Rules to obtain the opinion of the Court.
2. The President under Article 317(1) of the Constitution or any Statute or the Governor under any Statute read with Order XLIII of the Rules may make a Reference containing grounds for inquiry and the charges against the person sought to be removed, along with the documents relied upon, in the matter of the inquiry.
3. The Central Government or Statutory Tribunal, as the case may be, may, under the provisions of any Act enabling such a Reference, make a Reference to the Court under Order XLIV of the Rules containing, *inter alia*, all the relevant facts of the case, definite charges against the person sought to be removed from the concerned office by virtue of the enabling provision for such removal and the statement of grounds on which each such charge is based.

Along with the order of Reference, seven copies thereof and eight copies of the transcript in English of the documents relating to the grounds on which the removal of the person is sought, one of which shall be duly authenticated, shall be transmitted to the Court.

- 4.(a) The Income Tax Appellate Tribunal, through its President, may make a Reference in the form of Statement of Case under Section 257 of the Income Tax Act, 1961, read with Order XLV of the Rules containing numbered paragraphs setting out all relevant facts and proceedings, having a bearing on the question(s) raised in chronological order with relevant dates. It shall contain an account of the conflict in the decisions of the High Courts necessitating the Reference.
- (b) Along with the order of Reference, the following documents shall be submitted:
- (i) A copy of the order of the Income Tax Officer;
 - (ii) Memorandum of appeal to the Appellate Assistant Commissioner;
 - (iii) A copy of the order of the Appellate Assistant Commissioner;
 - (iv) Memorandum of appeal to the Appellate Tribunal;
 - (v) A copy of the order of the Income Tax Appellate Tribunal under Section 254 of the Income Tax Act, 1961;
 - (vi) A copy of the application for reference under Section 256 of the Income Tax Act, 1961; and
 - (vii) Such other documents, as, in the opinion of the Income Tax Appellate Tribunal, may be required by the Supreme Court at the hearing of the reference.
- (c) The Tribunal shall transmit to the Court three copies of the transcript in English of the documents, one of which shall be duly authenticated.

Note

The References shall be forwarded to, and received by, the Registrar of the Court.

Petition for Special Leave to Appeal

- 1.(a) The petition for special leave to appeal invoking the extra-ordinary appellate jurisdiction under Article 136 of the Constitution read with Order XXI of the Rules shall be filed in Form No. 28. No separate application for interim relief need be filed and interim prayer, if any, be incorporated in the Form.
- (b) The petition shall be accompanied by-

- (i) a certified copy of the judgment or order appealed from; and
 - (ii) an affidavit in support of the statement of facts contained in the petition.
 - (c) It shall be accompanied by list of dates in chronological order with relevant material facts or events pertaining to each of the dates.
 - (d) It shall be confined only to the pleadings before the Court/Tribunal whose order is challenged. Additional grounds may, however, be urged with due notice to the respondent and with leave of the Court.
 - (e) (i) Copies of such petition/documents, which were part of the record in the case before the Court/Tribunal below, as may be necessary to answer the question of law arising for consideration in the petition or to make out the grounds urged in the petition, may be produced as annexures to the petition. The documents filed as annexures shall be arranged in chronological order and numbered as Annexure 1, 2, 3 and so on and shall indicate page numbers. They shall be indexed separately and not collectively.

(ii) The petitioner may produce any document not part of the records in the Court/Tribunal below by making a separate application seeking leave of the Court to produce additional document stating the reasons for not producing it in the Court/Tribunal below and the necessity for its production in the Court.

(iii) The English version of the relevant provisions of the Constitution, statutes, ordinances, rules, regulations, bye laws, orders, etc., referred to in the impugned judgment or order, shall be filed as appendix to the petition.
 - (f) Every petition shall be supported by the affidavit of the petitioners or one of the petitioners, as the case may be, or by any person authorized by the petitioner in which the deponent shall state that the facts stated in the petition are true and the statement of dates and facts furnished along with the petition are true to his knowledge and/or information and belief.
2. No petition shall be entertained by the Registry unless it contains a statement as to whether the petitioner had filed any petition for

special leave to appeal against the impugned judgment or order earlier and, if so, with what result, duly supported by an affidavit of the petitioner or his *paikar* only.

3. The petition shall contain a statement as to whether the matter was contested in the Court appealed from and if so, the full name and address of all the contesting parties shall be given in the statement of facts in the petition.
4. It shall contain a statement as to whether a letters patent appeal or writ appeal lies against the impugned judgment or order and whether the said remedy has been availed.
5. No annexures to the petition shall be accepted unless they are certified copies of documents which have formed part of the record of the case in the Court appealed from:

Provided that uncertified copies of documents may be accepted as annexures, if such copies are affirmed to be true copies upon affidavit.

6. Where any person is sought to be impleaded in the petition as the legal representative of any party to the proceedings in the Court below, the petition shall contain a prayer for bringing on record such person as the legal representative and shall be supported by an affidavit setting out the facts showing him to be the proper person to be entered on the record as such legal representative.
7. Where at any time between the filing of the petition and the hearing thereof, the record becomes defective by reason of the death or change of status of a party to the appeal or for any other reason, an application shall be made to the Court stating who is the proper person to be substituted or entered on the record in place of or in addition to the party on record.
8. The petition shall state the amount or value of the subject-matter in the same terms as stated in clause 3 of the civil appeal hereinbefore.
9. In cases relating to Motor Vehicles Act, 1988, the following particulars shall be furnished:

- (i) Particulars of the Award:
 - (a) Case number:
 - (b) Date of the Award:
 - (c) Award passed under Section 163-A/166 of the Motor Vehicles Act, 1988:
 - (d) Name of the Member:
 - (e) Designation and place of sitting of the Tribunal:
- (ii) Particulars of the Accident:
 - (a) Time and date :
 - (b) Place :
Near Village/Locality :
Tehsil and District :
- (iii) Particulars of the offending vehicle:
 - 1. Registration No.
 - 2. Kind of Vehicle
 - 3. Owned by.(Appellant/Respondent No.)
 - 4. Driven by.....(Appellant/Respondent No.)
 - 5. Insured with (Appellant/Respondent No.)
- (iv) Name and description of the injured/deceased person:
 - 1. Name
 - 2. Age.....
 - 3. Father's/husband's name
 - 4. Occupation
 - 5. Address
- (v) (1) In fatal accident cases:
 - (a) Annual income of the deceased: Rs.....
(As adjudged by the Tribunal)
 - (b) Annual dependency of the claimant Rs.....
(As assessed by the Tribunal)
 - (c) Multiplier applied by the Tribunal
 - (d) Number of dependants and their
relationship with deceased
 - (e) Amount of compensation Rs.....
awarded by Tribunal
 - (f) Payable by
- (2) In non-fatal accident cases :
 - (a) Nature of injuries suffered

- with percentage of disability
(As adjudged by Tribunal)
- (b) Amount of expenses on treatment Rs.....
awarded by the Tribunal
- (c) Amount of damages as loss of Rs.....
Income, awarded by Tribunal
- (d) Amount of general damages Rs.....
awarded by Tribunal
- (e) Total compensation awarded Rs.....
- (f) Payable by.....
- (3) In cases of damage to property:
 - (a) Particulars of Property.....
 - (b) Nature of damage to the Property.....
(As adjudged by Tribunal)
 - (c) Total compensation awarded
 - (d) Payable by
- (vi) Details of Interest awarded by the Tribunal:
 - (1) Date from which interest is awarded.....
 - (2) Rate at which interest has been awarded.....%
- (vii) (1) Total amount of compensation awarded by High Court.
- (2) Date from which interest awarded.....
- (3) Rate at which interest has been awarded.....%
- (4) Multiplier applied by the High Court.....
- (5) Gross total.....
- (6) Amount, if any, already paid to the claimant(s)
.....
- (viii) Relief Claimed in appeal:
 - (1) Enhancement/Reduction of
amount of compensation by Rs.....
 - (2) Exoneration/liability of insurer
 - (3) Award of interest at the rate of.....%
 - (4) Any other relief

Original Suit

1. A suit shall be instituted by the presentation of a plaint to the Registrar under Order XXVI of the Rules.

2. Two or more plaintiffs may join in one suit in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist. Similar shall be the case with defendants against whom any right to relief is alleged to exist.
3. A plaint shall contain the following particulars --
 - (a) names of the plaintiff and of the defendant;
 - (b) facts constituting the cause of action and when it arose;
 - (c) facts showing that the Court has jurisdiction; and
 - (d) declaration or relief which the plaintiff claims.
4. The plaintiff shall endorse on the plaint, or annex thereto a list of the documents, if any, which he has produced along with it.
5. Every pleading shall contain **only** a statement in a concise form of the material facts on which the party pleading relies, but not the evidence by which those facts are to be proved, nor any argumentative matter, and shall be divided into paragraphs numbered consecutively.
6. Every pleading shall be signed by an advocate-on-record on behalf of the Attorney General for India or by an advocate-on-record on behalf of the Advocate General for the State, as the case may be.

Note

Under Order XXIX of the Rules, 'pleading' means plaint or written statement.

Transfer Petition

1. (i) A petition under Article 139A(1) of the Constitution read with Order XL of the Rules shall set out concisely, in separate paragraphs --
 - (a) facts and particulars of the cases, pending before the Supreme Court and one or more High Courts or, as the case may be, before two or more High Courts;

- (b) names and addresses of the parties;
 - (c) question(s) of law involved; and
 - (d) statement that the same or substantially the same questions of law are involved in all the cases and that such questions are substantial questions of general importance.
- (ii) (a) In the case of a petition made by the Attorney General for India, no affidavit shall be necessary in support of the petition but it shall be accompanied by a certificate of the advocate on-record to the effect that such questions are substantial questions of general importance in terms of Article 139A(1) of the Constitution.
- (b) In the case of a petition made by a party to a case, it shall be accompanied by an affidavit in support thereof and also by a certificate, as stated in clause (1) above.
2. A petition under Article 139A(2) of the Constitution and/or Section 25 of the Code filed under Order XLI of the Rules shall state succinctly and clearly all relevant facts and particulars of the case, the names of the High Court or other Civil Court in which the case is pending and the Court to which the transfer is sought and the grounds on which the transfer is sought supported by an affidavit.

Review Petition

An application for review under Article 137 of the Constitution read with Order XLVII of the Rules shall be filed on the grounds mentioned in Order XLVII Rule 1 of the Code, namely, discovery of new and important matter or evidence which, after exercise of due diligence was not within the knowledge or could not be produced by the petitioner at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason.

It shall be accompanied by --

- (i) a certified copy or authenticated copy of the order or judgment sought to be reviewed; and
- (ii) a certificate of the advocate on-record certifying that it is the first application for review and is based on the grounds admissible under

the Rules.

Curative Petition

1. A curative petition shall be governed by the judgment of the Court in the case of *Rupa Ashok Hurra v. Ashok Hurra and Anr.* [2002 (4) SCC 388] and as per Order XLVIII of the Rules.
2. It shall contain specifically that no new grounds have been taken and the grounds mentioned in the petition had been taken in the application for review, which was dismissed by circulation.
3. It shall be accompanied by --
 - (i) a certificate of the senior advocate that the petition meets the requirements delineated in the case mentioned in clause (1) above;
 - (ii) a certified or authenticated copy of the judgment or order complained of; and
 - (iii) a certificate of the advocate on-record to the effect that it is the first curative petition in the impugned matter.

I. Writ Petition

1. A petition under Article 32 of the Constitution read with Order XXXVIII Rule 1 of the Rules for a direction or order or writ, including writs in the nature of *mandamus*, prohibition, *quo warranto* and *certiorari* or any of them, shall be filed in Form No. 32 setting out the name and description of the petitioner(s) and respondents(s), the nature of fundamental right infringed, the relief sought and the grounds on which it is sought.
2. The petition shall be --
 - (a) accompanied by original or certified copy or true copy of the order or decision, if any, complained of;
 - (b) supported by an affidavit verifying the facts relied upon.
3. The petitioner shall state whether the petitioner has moved the High Court for similar relief and, if so, with what result.
4. When a petitioner relies upon document(s) in his possession or power, he shall file those documents along with the petition. Where

such document is handwritten or is not fairly legible, it shall be accompanied by true, typed or printed copy thereof:

Provided that where such documents are not in his possession, the petition shall annex a list of such documents to the petition.

II. Public Interest Litigation

1. A writ petition in public interest invoking extraordinary original jurisdiction under Article 32 of the Constitution read with Order XXXVIII Rules 1 and 12(1)(d) and (2) of the Rules shall be filed in Form No. 33 and shall disclose --
 - (a) the full name of the petitioner, his complete postal address, eMail address, phone number, proof regarding personal identification, occupation and annual income, PAN number and National Unique Identity Card number, if any;
 - (b) the facts constituting the cause of action;
 - (c) the nature of injury caused or likely to be caused to the public;
 - (d) the nature and extent of personal interest, if any, of the petitioner(s);
 - (e) details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the public interest litigation; and
 - (f) whether the concerned Government Authority was moved for relief(s) sought in the petition and if so, with what result.
2. It shall be accompanied by an affidavit stating that the petitioner has no personal gain, private motive or oblique reason in filing such petition.
3. It shall contain a statement/declaration of the petitioner that, to his knowledge, the issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by the petitioner or

by any other person and in case such an issue was dealt with or a similar or identical petition was filed earlier, its status and the result thereof.

Interlocutory and Miscellaneous applications

In interlocutory application and miscellaneous application, so filed in a main case, the class and number of such main case shall be set out in the cause title.

CRIMINAL MATTERS

The cause title of every memorandum of appeal or petition shall contain--

- (i) the name, description and address with police station of each appellant or petitioner;
- (ii) the name, description and address with police station of each person, who is proposed to be made the opposite party;
- (iii) the status (whether prosecution, complainant, applicant, accused or non-applicant, etc.) of the parties in the court below, wherever required.

Criminal Appeal

1. The memo of petition of appeal shall, with necessary modifications and adaptations, be filed in Form No.28 in accordance with the provisions contained in clause (2) below.
2. It shall state succinctly and briefly, in chronological order, the principal steps in the proceedings from its commencement till its conclusion in the Court appealed from and shall state clearly in the following order --
 - (a)
 - (i) the name of the Judge and designation of the Court;
 - (ii) date of the impugned judgment/order; and
 - (iii) case number in which such judgment/order was passed by the original and/or appellate Court.
 - (b) facts of the case, in brief;
 - (c) question(s) of law;
 - (d) grounds, *in seriatim*;
 - (e) grounds for interim relief;

- (f) main prayer; and
- (g) interim relief, if any.
- 3. It shall contain the provisions of law under which the conviction has been recorded and the details of the sentence imposed, including fine, if any.
- 4. It shall be accompanied by a certified copy of the judgment or order appealed from and in the case of an appeal on a certificate, the certificate granted by the High Court and the order granting the said certificate.
- 5. In appeals falling under any of the categories enumerated in Order XX Rule 5(1) of the Rules, in addition to the documents mentioned above, a certified copy (or uncertified copy, if such copy is affirmed to be true copy upon affidavit) of the judgment or order of the Court immediately below shall also be filed.

Note

The following categories of appeals have been enumerated in Order XX Rule 5 of the Rules:

- (a) an appeal from any judgment, final order or sentence in a criminal proceeding of a High Court summarily dismissing the appeal or the matter, as the case may be, before it;
- (b) an appeal on a certificate granted by a High Court under Article 134A of the Constitution being a certificate of the nature referred to in clause (1) of Article 132 or sub-clause (c) of clause (1) of Article 134 of the Constitution or under any other provision of law if the High Court has not recorded the reasons or the grounds for granting the certificate;
- (c) an appeal under clause (b) of sub-section (1) of Section 19 of the Contempt of Courts Act, 1971 (70 of 1971).
- 6. (a) A memorandum of appeal against conviction shall contain a declaration that the convicted person is in custody or has surrendered after the conviction as also the prison in which he is lodged.
- (b) Where the appellant has not surrendered to the sentence, the petition of appeal shall not be accepted by the Registry, unless it is accompanied by an application for exemption from surrendering.
- (c) A certified copy of the order of the Court in which the

appellant has surrendered or a certificate of the competent officer of the Jail in which he is undergoing the sentence shall be filed as the proof of surrender.

- (d) A mere attestation of the signatures on the vakalatnama from the Jail authorities shall not be considered as sufficient proof of surrender.

Petition for Special Leave to Appeal

1. The petition for special leave to appeal shall be filed in Form No.28 in accordance with the provisions contained in Order XXI Rule 3(1) of the Rules with necessary modifications and adaptations.
2. The petition shall be accompanied by --
 - (i) a certified copy of the judgment or order appealed from; and
 - (ii) an affidavit in support of the statement of facts contained in the petition.
3. Every such memorandum shall contain the provision(s) of law under which the conviction has been recorded and the details of the sentence imposed, including fine, if any.
4. No petition shall be entertained by the Registry unless it contains a statement as to whether the petitioner had filed any petition for special leave to appeal against the impugned judgment or order earlier, and if so, with what result, duly supported by an affidavit of the petitioner or his pairakar only.
5. (a) It shall be confined only to the pleadings before the Court/Tribunal whose order is challenged and the other documents relied upon in those proceedings.

(b) No additional facts, documents or grounds shall be stated or relied upon without express prior permission of the Court obtained on an application made for this purpose.
6. No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record in the Court appealed from:

Provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

7. The provisions as regards surrender in clause (6) of 'Criminal Appeal' in this Chapter shall apply *mutatis mutandis* to the petition for special leave to appeal. A similar declaration as regards confinement shall also be made in case of a petitioner seeking relief under Section 389 or Section 439 of the Code.

Jail Petition

The subject has been dealt with independently in Chapter XV.

Habeas Corpus

1. A petition for writ of *habeas corpus* under Order XXXVIII of the Rules shall be accompanied by an affidavit of the person restrained setting out the nature and circumstances of the restraint:

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the petition shall be accompanied by an affidavit to the like effect made by some other person acquainted with the facts and such affidavit shall also state the reason why the person restrained is unable to make the affidavit.

2. The petition shall state whether the petitioner has moved the High Court concerned for similar relief and, if so, with what result.

Transfer Petition

A petition under Section 406 of the Code read with Order XXXIX of the Rules shall state concisely in separate paragraphs the facts and particulars of the case, the name of the High Court or other criminal court in which the case is pending, and the Court to which the transfer is sought and the grounds on which the relief is sought supported by an affidavit or affirmation.

Bail Application

1. An application under Section 389 or 438 or 439 of the Code

and a petition in relation thereto shall contain information in the following manner:

Particulars of Crime	Particulars of Impugned Order
Crime No.....	Bail Application / Case No.....
Police Station.....	Date of the Order:.....
Offence u/s.....	Jail in which the prisoner is lodged, wherever applicable.....

- (a) An application under Section 389 of the Code seeking suspension of the sentence pending appeal and release on bail shall be accompanied by an affidavit of the applicant or his *paikar* acquainted with the facts of the case.
 - (b) An application under Section 438 of the code seeking anticipatory or pre-arrest bail shall be supported by an affidavit of the applicant or his *paikar* acquainted with the facts of the case.
 - (c) An application under Section 439 of the Code seeking bail on the instructions of a person other than the accused confined in prison shall be accompanied by an affidavit of the *paikar*.
2. Where the number of accused is more than one, the affidavit shall state that, to the best of the knowledge of the affiant, no bail application has been moved by any of the co-accused persons and, if such an application has been moved, details (such as, case number, whether pending; if not, the date of the order deciding the application) shall also be disclosed in the following manner:

S. No.	Name of the accused	Date of Application, If Known	Case Number	Date of the Order	Bench

3. No application under Section 389, 438 or 439 of the Code for the suspension of sentence and release on bail or grant of anticipatory bail or bail respectively, shall be entertained,

unless it contains an averment that a similar application relating to the same subject matter has or has not been made to the Court, and, if made, the date of filing, date of disposal and result thereof shall also be disclosed in the following manner:

S. No.	Name of the accused	Date of Application, If Known	Case Number	Date of the Order	Bench

4. Every subsequent application under Section 389 or 438 or 439 of the Code shall be accompanied by certified copies or true copies of the orders deciding earlier application(s).

GENERAL

1. No miscellaneous application for intervention, impleadment or direction by a third party shall be entertained, unless otherwise directed by the Court.
2. In the absence of a provision in any Statute or Rule for filing a main case, application for leave to file such case shall accompany the main case.
3. No case or document shall be accepted, unless prescribed court fee is paid.
4. No application or miscellaneous application shall be entertained where review of a judgment or order is sought and where provisions of Order XLVII of the Rules are attracted. In such a case, application for review shall be filed.
5. No miscellaneous application for restoration or recall shall be entertained in a main case dismissed peremptorily on account of failure to take steps within the specified period, unless the defects, so notified, have been cured.
6. A petition for special leave to appeal may be preferred against an interlocutory order made in a case under Section 21 of Consumer Protection Act, 1986.
7. An application for condonation of delay under Section 20 of the

Contempt of Courts Act, 1971, shall accompany a contempt petition in case such proceeding has been initiated after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

8. Where limitation has not been prescribed by the Rules or under any other provision of law, every interlocutory application or miscellaneous application shall be filed within thirty days from the date of the order or the cause and shall be accompanied by an application for condonation of delay in case the same is barred by limitation.
9. A copy of the judgment, referred to in the impugned order and reported in the journal, need not be filed, except in cases where the judgment has been reported in a local law journal, a photocopy or a typed authenticated copy thereof shall be filed.
10. Under Order XVI Rule 4(1) of the Rules, an appellant, whose appeal has been dismissed for default of appearance, may, within thirty days of the order, present a petition praying that the appeal may be restored.
11. Under Order XVI Rule 4(2) of the Rules, where an appeal is heard *ex parte* and judgment is pronounced against the respondent, he may apply to the Court to re-hear the appeal.
12. Under Order XX Rule 11 of the Rules, where an appeal has been dismissed for non-prosecution in terms of Rule 10 thereof, the appellant may, within thirty days of the order, present a petition praying that the appeal may be restored.
13. No petition shall lie against the President and Governors and Rajpramukhs of the States as they are not answerable for the duties of their offices under Article 361 of the Constitution.
14. No Judicial Officer, who has disposed of the case in the Court below, shall be impleaded as the contesting party respondent in the main case.
15. No writ of *mandamus* shall lie for an order of restatement to an office, which is essentially of a private character, nor can such an

application be maintained to secure the performance of obligations owed by a company towards its workmen or to resolve any private dispute.

16. Whenever the correctness of the judgment of this Court is involved in a writ petition, the certificate by the advocate on-record filing the petition shall invariably accompany the petition as under:

“Though he advised the petitioner that the judgment of this Court binds them and cannot canvass its correctness and still, in spite of such advice, the party insisted upon filing the writ petition.”

17. The case shall contain the date of drafting that may be of the same or prior to the date of filing.
18. The affidavit enclosed with the petition shall be of the same or subsequent date of the drafting of the petition and shall contain the date, number of paragraphs and pages of the petition.
19. Vakalatnama shall be of the same or the date prior to the drafting date of the petition.
20. The date of attestation on the vakalatnama by the Jail Superintendent shall be the same or subsequent to the date on which it was executed by the accused person.
21. In case of re-filing, the advocate on-record shall give a certificate that the defects communicated have been removed and no addition or alteration in the case, as originally filed, has been made. In case of material changes, such as, facts, paragraphs or page numbers, fresh affidavit shall be filed.
22. Upon re-filing of the case, the advocate on-record or advocate or party in-person, as the case may be, shall get an endorsement from the counter Assistant on the converse of the token that the case has been re-filed. He shall take back the paper book of the defective case retained by the Registry on the same day. No request for return of such paper book shall be accepted after two days.
23. The case file/paper book shall have one common index, as given below, having running pagination as per Column (iii), corresponding to the documents and/or applications to be kept in

Part I of the case file. The applications to be listed before the Court and Judge in Chamber/Court of Registrar shall be placed in Part I and Part II respectively. No applications included in Part II shall form part of the paper book.

INDEX

Sl. No.	Particulars of Document	Page No. of part to which it belongs		Remarks
		Part I (Contents of Paper Book)	Part II (Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
1.	O/R on Limitation	A	A	
2.	Listing Proforma	A1-A2	A1-A2	
3.	Cover Page of Paper Book		A-3	
4.	Index of Record of Proceedings		A-4	
5.	Limitation Report prepared by the Registry		A-5	
6.	Defect List		A-6	
7.	Note Sheet		NS1 to ..	
8.	List of Dates	B-Q		
9.	Impugned Order	1-14 (*)		
10.	SLP with affidavit	15-45 (*)		
11.	Appendix	46-47 (*)		
12.	Annexure P-1	48-59 (*)		
13.	Annexure P-2	60-68 (*)		
14.	Application for c/delay	69-74 (*)		
15.	F/M		75 (*)	
16.	V/A		76-77 (*)	
17.	Letter to Advocate		78 (*)	
18.	I.A. for Substitution		79-83 (*)	
19.	I.A. for c/delay in filing substitution application		84-87 (*)	
20.	I.A's to be listed before the Hon'ble Court	88-90 (*)		

Note : (*) Page numbering is for illustration only.

CHAPTER XI

FILING AND PROCESSING OF CASES

- I. 1. Every main case, interlocutory application, miscellaneous application or other documents shall be presented by the party in-person or by his duly authorised agent or by his advocate-on-record at the Filing Counter during working hours and shall, wherever necessary, be accompanied by the documents required under the Rules.
2. Every appeal, petition or other proceeding by a minor shall be instituted or defended in his name by his next friend or guardian, as the case may be.
3. A party, adjudged as an indigent person in the courts below, may present the document before the Judicial authority of the place where he resides, and the said Judicial authority, after attesting the document and endorsing under his seal and signature the date of presentation, shall transmit the same to the Court by Registered Post Acknowledgement Due at the expense of the party concerned.

The date of endorsement by the Judicial authority shall be taken as the date of filing in this Court.

4. A plaint, petition or appeal not presented at the Filing Counter shall not ordinarily be accepted, unless directed by the Chief Justice or a Judge nominated by the Chief Justice for the purpose.
5. A petition received from a prisoner through Officer in-Charge of the jail shall be treated as lodged in the Court.
6. A *suo motu* petition, in pursuance of the order of the Chief Justice or a Judge of the Court or an order of the Court to treat a petition as public interest litigation shall be treated as a petition or letter petition, as the case may be.
7. A case presented through eFiling shall be treated as lodged in the Court.
8. The following cases shall be presented before the Registrar (J-I) --
- (i) an election petition under Article 71 of the Constitution read with Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952)

calling in question the election of a President and Vice-President.

- (ii) Reference made by the President under Article 143 of the Constitution.
 - (iii) Reference made by the President under Article 317(1) of the Constitution or any Statute or by Governor under any Statute.
 - (iv) Reference made by the Central Government/Statutory Tribunal under the provisions of any Act enabling the making of such Reference.
 - (v) Reference made by the Income Tax Appellate Tribunal, through its President, under Section 257 of the Income Tax Act, 1961.
 - (vi) Complaint under Order XXVI of the Rules.
9. No unsigned documents and documents with improper binding shall be accepted at the Filing Counter.
10. No opinion given by a former Judge or senior advocate in a case shall be annexed to any case, interlocutory application or miscellaneous application. If any such opinion is filed, it shall be treated as a defect and shall be notified. Unless the defect is removed, the case shall not be registered.
11. No undertaking in any manner whatsoever in respect of filing of a case shall be accepted.

II. Filing Counter

Stage One

Every main case, except otherwise provided, shall be presented to a dealing Assistant at the Filing Counter, who shall --

- (i) identify the person filing the case on production of identity card in case of advocate on-record, advocate authorized in that behalf or his registered clerk or on identification of Aadhar Card or any other permissible identification in respect of a party in-person;
- (ii) enter in the computer complete description of the first petitioner/applicant/appellant and first respondent/non-applicant and names of

their advocates;

- (iii) in case of writ petition and transfer petition, check details through cause title and filing memo respectively;
- (iv) check vakalatnama and affidavit duly signed and executed;
- (v) generate Diary number and stamp the date of filing;
- (vi) cancel the court fee stamps by punching out the figure-head so as to leave the amount designated on the stamp untouched or by locking eCourt fee;

Stage Two

On receipt of the case, the Assistant shall--

- (i) enter in the computer details of the case, if any, out of which the main case has arisen.
- (ii) enter F.I.R. details, in case of criminal matters;
- (iii) enter details of the Court, wherefrom and to which Court transfer is sought, in transfer petitions;
- (iv) check whether any similar or link case has been filed or disposed of on the basis of filing memo;
- (v) in case of writ petition/transfer petition, check through cause title of the case whether any similar case is pending or has been disposed of;
- (vi) check whether any caveat has been lodged in the case;
- (vii) enter data as regards additional parties;

Stage Three

After receipt of a main case, the scrutiny Assistant shall--

- (i) scrutinize the case as to whether it conforms with the Rules and practice of the Court or is defective;
- (ii) count the value of court fees stamps affixed on the memo of appeal, petition or interlocutory application, miscellaneous application, affidavit, vakalatnama or document separately;

- (iii) extract subject category of the case;
- (iv) generate limitation report;
- (v) if the case is found to be defective, the scrutiny Assistant shall enter the defects in the computer and notify them to enable the advocate on-record or the party, as the case may be, to remove the defects within a period of twenty eight days in aggregate;
- (vi) if the case is not found to be defective and is found to be in order, the scrutiny Assistant shall open the file in respect of Part-I and Part-II documents.
- (vii) place such cases, as he considers to be not maintainable for any reason, before the Branch Officer, who shall place the same before the senior officers for orders;
- (viii) where the dealing Assistant is of the opinion that court fee payable in a main case cannot be determined for any reason or a question as regards thereto arises, he shall place the matter, through senior officers, before the Registrar/Taxing Officer, who may, in his discretion, require the parties to produce the relevant records to enable him to decide the question of court fee.

Stage Four

On receipt of the case from the scrutiny Assistant, the Branch Officer or any other superior officer shall make verification/confirmation of --

- (i) scrutiny of the main case;
- (ii) subject category and sub-category of the main case;
- (iii) limitation;
- (iv) tagging on the basis of identical, similar or linked case;
- (v) section and provision(s) of law under which the case is filed.

If the main case along with interlocutory applications conforms to the requirements of the Rules and practice and procedure, the main case shall be registered. The officer shall cause to enter the said details in the computer.

If a main case is re-filed after removal of the defect(s), it shall be checked and registered, provisionally, by the scrutiny Assistant if the defect(s) notified has been removed, subject to verification and confirmation by a superior officer.

Note

No case shall be tagged or linked to a case, unless ordered by the Court. Any subsequent case, which is identical, similar or linked to a case, shall be informed, by way of office report to the Court and a remark may be given in the computer.

Stage Five

- (i) Consequent upon registration of a main case, all papers and documents forming part of the case file shall be scanned/digitized.
- (ii) Office report, if required, shall be prepared in the defect-free main case and case file be sent to the concerned Court Master of the Bench on its first listing.

III. eFILING

Any party or advocate on-record may file a case through eFiling by accessing www.sci.gov.in.

- 1. A case can be filed by paying prescribed court fee and printing charges @ Re. 1.50 per page.
- 2. No additional court fee or processing fee is required to be paid for eFiling.
- 3. A password be given to every advocate on-record by the Registry.
- 4. A party in-person is required to submit proof of his identity, such as Aadhar Card, Ration Card, PAN Card, Identity Card or Voter Identity Card by scanning the document.
- 5. The text of the case as also application, affidavit in opposition, caveat or additional documents can be typed on the computer, whereas documents, including affidavits and vakalatnamas, shall be scanned.
- 6. A party shall convert the text and scanned documents into PDF/A file and upload the same on the server.

7. A unique reference number be given to every user for each case.
8. A case filed through eFiling be scrutinized at the Filing Section in order to ensure that it is in conformity with the Rules and practice of the Court.
9. The defect(s), if any, and the Diary number allotted to the case be communicated to the party in-person or advocate on-record, as the case may be, through eMail and he may remove the defect(s) by accessing his case using the Diary number through re-filing option available in the eFiling Menu.
10. The notice of hearing to the party in-person, office report and communications to the party shall be sent through eMail on the eMail I.D. furnished by him.

IV. Defective and Fresh cases

- (i) A defect-free main case shall be listed before the Court through automatic allocation, unless otherwise ordered.
- (ii) The Branch Officer shall, if he is of the view that the objection regarding maintainability taken by the scrutiny Assistant is sustainable, he shall place the case before the In-Charge, Filing Counter, who shall place the same before the Registrar or the Judge in Chambers, as the case may be, on the said aspect.
- (iii) Every main case shall be posted before the Court, Judge in Chambers or the Registrar under the signature of the Branch Officer at the Filing Counter.
- (iv) Wherever any party dies after the filing of a case but before its first listing before the Court, the original cause title shall be retained and directions on the application to bring on record the legal representative(s), if any, filed shall be sought from the Court through appropriate office report. If such application is allowed by the Court, the cause title shall be suitably amended thereafter.

V. Caveat

1. A person claiming a right to appear before the Court on the hearing of a petition may lodge a caveat in the matter, where such a petition

is expected to be lodged or has been lodged.

2. The caveator shall forthwith, after lodging his caveat, give notice thereof to the petitioner, if the petition has been lodged.
3. Where, after a caveat has been lodged, any petition is filed in any matter, the Registrar shall serve a notice of lodging of the petition on the caveator.
4. Where a notice of any caveat has been served on the petitioner, he shall forthwith furnish the caveator, at the caveator's expense, with a copy of the petition and copies of any papers lodged by the petitioner in support of his petition.
5. A person intending to lodge a caveat shall furnish the following particulars in Form No.34:
 - (i) date of judgment/order;
 - (ii) name of the Court appealed from;
 - (iii) cause title and case number, if any;
 - (iv) designation of the Authority; and
 - (v) particulars of the order, etc.
6.
 - (a) Where the caveator is represented by an advocate on-record, his vakalatnama shall accompany the caveat.
 - (b) If the caveat is filed by the party in-person, his full postal address, telephone number, mobile number, eMail address, fax number with S.T.D. Code, if any, shall be furnished along with memo of appearance.
7. Where a caveat has been lodged, it shall not remain in force after the expiry of ninety days from the date of lodgment unless the petition has been made before the expiry of the said period.
8. The caveat shall be presented at the caveat counter. The dealing Assistant shall enter the caveat in special application software customized for caveat matching. He shall enter the details of the Court appealed from in the computer and lock eCourt fee. If the main case has already been filed, the dealing Assistant shall generate and issue caveat notice as also enter 'IN' code. Where the main case is filed subsequently, the computer software would

alert the Assistant about the subsistence of a caveat. In such a case, 'IN' code shall be entered in the computer barring automatic listing and caveat notice shall be issued.

Note

In the last paragraph of every main case, the appellant/petitioner shall unequivocally state that no notice of lodging a caveat by the opposite party is received by him or if notice of caveat is received, whether the appellant/petitioner has furnished the copies of the memo of appeal/petition together with copies of the annexure, if any, to the caveator.

VI. Miscellaneous Document Counter

Interlocutory applications, miscellaneous applications, documents, affidavits in opposition, replies, rejoinder affidavits, vakalatnamas, memos and process applications, etc., filed in a main case shall be received by a dealing Assistant at the Miscellaneous Document Counter, who shall --

- (1) enter the details of interlocutory applications, miscellaneous applications, documents, affidavits in opposition, replies, vakalatnamas, memos and process applications, etc., in the computer and write automatically generated annual serial number on such documents;
- (2) after entry in the computer, the receiving Assistant shall send the main case accompanied by interlocutory application(s) to the scrutiny Assistant.

All other subsequently filed interlocutory applications and documents, affidavits in opposition, rejoinder affidavits, vakalatnamas and memos, etc., shall be sent to the concerned Judicial branch for process.

VII. Registrar

1. If the defects are removed within sixty days from the date of notifying the defects, but after the expiry of the stipulated period of twenty eight days, an application seeking condonation of delay in re-filing the case shall be filed and listed before the Court of Registrar under Order V Rule 1(20) of the Rules.

2. A daily cause list of all cases under Order V Rule 1(20) of the Rules listed before the Court of Registrar shall be published and files of all such cases shall be sent to such Court by the Filing Counter.
3. The Registrar (J-I) shall require the State and its instrumentalities under Article 12 of the Constitution to furnish the names, addresses and eMail I.Ds. of all the advocates on-record authorised to appear for them. He shall maintain a register of all such advocates on-record and shall effect changes from time to time in case of re-allocation or re-assignment of work to the advocates on-record by the States and their instrumentalities.
4. The State and its instrumentalities shall furnish their eMail I.Ds to Registrar (J-I) who shall get the same updated in the computer system. The Departments would also be able to get information about the cases filed against them, which would enable them to prepare for the cases well in advance, even at the stage of first listing.
- 5.(a) Where a main case has been filed by a party in-person along with an application seeking permission to appear and argue in-person or in case where a person has filed caveat in-person, the file of such case shall be placed before the Registrar for interaction and opinion in terms of Order IV Rule 1(c) proviso of the Rules.
 - (b) Provided that no interaction with an advocate, appearing as party in-person, shall take place, subject to filing proof of his registration as advocate on-record or enrolment with the State Bar Council under the Advocates Act, 1961.
 - (c) Consequent upon such interaction, the main case shall be listed before the Court for admission along with opinion by way of office report.
6. When a jail petition/appeal, wherein the accused is unrepresented, or a case filed by a party in-person or where a party in-person as respondent is not represented by an advocate on-record is placed before the Registrar, he may require the Supreme Court Legal

Services Committee to assign an advocate, who may assist the Court on behalf of such person, within a week from the date of receipt of communication in that regard.

The Registrar, in case of a jail petition/appeal, can also assign an advocate to the prisoner from the approved panel of advocates maintained by the Registry.

VIII. Judge in Chambers

- 1.(a) If a case filed, on scrutiny, is found to be defective and defects are not removed till ninety days from the date of communication of the defects, it shall be listed with office report on default before the Judge in Chambers for appropriate orders.
- (b) If the defects are removed after sixty days from the date of notifying the defects, an application seeking condonation of delay in re-filing the main case shall be filed and listed before the Judge in Chambers under Order V Rule 2(32) of the Rules.
- (c) Where a period for removal of the defect(s) has been stipulated by the Judge in Chambers, the record of the case shall be sent to the concerned dealing Assistant, who shall get the defect(s) rectified and certified by the Section Officer within the stipulated period, failing which the case shall be sent for listing before the Judge in Chambers for orders on default.
2. If the defect(s) is removed, the case shall be sent for listing before the Court for admission.
3. For the purpose of placement in chronological order for listing, a defective case shall be deemed to have been filed on the date on which the defect has been rectified and shall ordinarily be listed on the date on which defect-free cases filed on the date of such rectification are to be listed.

IX. Elimination Section

- (i) Where the cases are dismissed *in limine* by the Court, the files of such cases shall be sent to the Elimination Section directly from the Court. However, where notices have been directed to be issued or

where the cases have been admitted for hearing, the files of such cases shall be sent to the concerned Judicial branches for follow-up action.

- (ii) A communication shall be sent as regards the order of dismissal to the Court appealed from.
- (iii) The respondents, who contested the case in the Court appealed from, shall be informed about the decision on the case after it is heard *ex parte*, if the case stands dismissed in terms of Order XXI of Rule 9(3) of the Rules.
- (iv) The order passed by the Court and the letter of communication to the Court appealed from or any other document, if required, shall be scanned/digitized.
- (v) The case files shall then be consigned to the Record Room, under acknowledgment, after completing all formalities.

Note

Communication be made to a party or advocate on-record through SMSs on the mobile phone numbers or eMails on the eMail I.Ds. furnished at the time of filing of the case or application or documents, wherever applicable.

Coram by Filing Counter

1. Subject to the orders of the Court, every case arising out of or relating to--
 - (a) the same or common impugned judgment or order;
 - (b) a separate order solely relying upon a particular judgment;
 - (c) sequel or identical, having same status, or similar matter;
 - (d) same cause of action;
 - (e) between cross parties; or
 - (f) an order of the Bench disobeyed, in case of contempt petition;

be tagged or linked together for the purpose of coram and the same coram be updated for listing with office report.

- 2.(a) The In-charge, Filing Counter, shall apprise the Registrar (J-I) about the filing of important and sensitive cases and, if he is of the same view, he shall place such cases before the Chief Justice for information and order, if any.
- (b) Such cases shall be listed in accordance with the directions of the Chief Justice, if any, or as per subject category through automatic allocation.

Modified Check List for Scrutiny and Processing of Main Cases

1.	(i) Whether appeal/petition for special leave to appeal has been filed in Form No.28 with certificate?	Yes/No
	(ii) Whether the prescribed court fee has been paid?	Yes/No
2.	(i) Whether proper and required number of paper-books (1+3) have been filed?	Yes/No
	(ii) Whether brief list of dates/events has been filed?	Yes/No
	(iii) Whether paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index?	Yes/No
3.	Whether the contents of the petition/appeal, applications and accompanying documents are clear, legible and typed in double space on one side of the paper?	Yes/No
4.	Whether the petition and the application bear the signatures of the counsel/in-person?	Yes/No
5.	Whether an affidavit of the petitioner in support of the petition/appeal/application has been filed, properly attested and identified?	Yes/No
6.	If there are any vernacular documents/portions/lines and translation of such documents are not filed, whether application for exemption from filing Official Translation, with affidavit and court fee, has been filed?	Yes/No/ NA
7.	If a party in the court below has died, whether application for bringing LRs on record indicating the	Yes/No/ NA

	date of death, relationship, age and addresses along with affidavit and court fee has been filed?	
8.	(i) Whether the Vakalatnama has been properly executed by the petitioners/appellants and accepted and identified by the Advocate and Memo of Appearance filed?	Yes/No
	(ii) If a petitioner is represented through power of attorney, whether the original power of attorney in English/translated copy has been filed and whether application for permission to appear before the court has also been filed?	Yes/No
	(iii)(a) Whether the petition is filed by a body registered under any Act or Rules?	Yes/No
	(b) If yes, is copy of the Registration filed?	Yes/No
	(iv)(a) Whether the person filing petition for such incorporated body has authority to file the petition?	Yes/No
	(b) If yes, is proof of such authority filed?	Yes/No
9.	Whether the petition/appeal contains a statement in terms of Order XXI/XXII of Supreme Court Rules as to whether the petitioner has filed any petition against the impugned order/judgment earlier, and if so, the result thereof stated in the petition?	Yes/No
10.	Whether the certified copy of the impugned judgment has been filed and if certified copy is not available, whether an application for exemption from filing certified copy has been filed?	Yes/No
11.	Whether the particulars of the impugned judgment passed by the Court(s) below are uniformly written in all the documents?	Yes/No
12.	(i) Whether the addresses of the parties and their representation are complete and set out properly and whether detailed cause title has been mentioned in the	Yes/No

	impugned judgment and if not, whether the memo of parties has been filed, if required?	
	(ii) Whether the cause title of the petition/appeal corresponds to that of the impugned judgment and names of parties therein?	Yes/No
13.	Whether in case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate?	Yes/No
14.	If the petition/appeal is time barred, whether application for condonation of delay mentioning the number of days of delay with affidavit and court fee has been filed?	Yes/No/ NA
15.	Whether the annexures referred to in the petition are true copies of the documents before the Court below and are filed in chronological order as per list of dates?	Yes/No
16.	Whether the petition/appeal is confined only to the pleadings in the Court/Tribunal below and – if not, whether application for taking additional grounds/documents with affidavit and court fee has been filed?	Yes/No
17.	(i) In SLP/Appeal against the order passed in Second Appeal whether copies of the orders passed by the Trial Court and First Appellate Court have been filed?	Yes/No/ NA
	(ii) Whether required copy of the judgment/order/ notification/ award etc. is not filed?	Yes/No/ NA
18.	In matters involving conviction whether separate proof of surrender in respect of all convicts or application for exemption from surrendering has been filed in terms of Order XX/XXII of the Supreme Court Rules? (Copy of surrender proof to be included in the paper books.)	Yes/No/ NA
	Whether in case where proof of surrender/separate certificate from the jail Authority has not been filed, an application for exemption from filing separate	Yes/No

	proof of surrender has been filed?	
19.	In case of quashing of FIR whether a copy of the petition filed before the High Court under section 482 of Cr.P.C. has been filed?	Yes/No
20.	In case of anticipatory bail whether a copy of FIR or translated copy has been filed?	Yes/No
21.	(i) Whether the complete listing proforma has been filled in, signed and included in the paper-books? (ii) If any identical matter is pending/disposed of by Supreme Court, whether complete particulars of such matters have been given?	Yes/No Yes/No/ NA

Scrutiny and Processing of Applications

The following requirements shall be ensured for the purpose of registration of an interlocutory application or miscellaneous application, wherever applicable, in terms of the following check list:

1. Whether prescribed Court fee has been paid, wherever applicable?
2. Whether case number has been correctly mentioned?
3. Whether cause title of the parties is correct?
4. Whether the applicant is a party in the main case or not?
5. Whether memo of parties has been filed, in case of application for directions?
6. Whether particulars of the impugned order are correct?
7. Whether the provision of the Rules under which an application is filed has been mentioned?
8. Whether the application has been filed by the advocate on-record in the main case; if not, whether 'No Objection Certificate' has been taken from the earlier advocate on-record, subject to the exception in Order IV Rule 15 of the Rules?
9. Whether a copy of the application has been served on the opposite parties, who have entered appearance?
10. Whether copies of annexures, if filed, along with the application have been certified to be true copies?

11. Whether annexures marked in the index and body of the application have been put in chronological order?
12. Whether custody certificate from jail authority has been filed in case of bail application?
13. Whether application for exemption from filing certified copy or official translation has been filed, wherever required?
14. Whether contents of the application and annexures are clear, sharp, legible, in proper font size and in double space on one side of the paper?
15. Whether relief sought by the petitioner/applicant has been clearly stated?
16. Whether details of the case and particulars of the Trial Court/High Court or this Court in the prayer portion have been corrected mentioned?
17. Whether the main prayer clearly indicates the purpose of the application?
18. Whether affidavit has been duly filled/signed by the party and notarized by the Notary or any other Authority under Order IX Rule 7 of the Rules, without manual corrections, unless initialled?
19. Whether the application has been properly worded without any unnecessary remarks against the Bench or any Judge?
- 20.(a) In case of application for intervention or impleadment, it should be clearly mentioned whether impleadment is sought as respondent or petitioner; or intervenor, as the case may be.
 - (b) Whether full address of the party seeking impleadment or intervention has been given?
21. No impleadment or intervention application shall be entertained in a disposed of main case, unless otherwise ordered by the Court.
- 22.(a) In case of application for substitution, proper heading shall be given and it should clearly indicate as to which petitioner or respondent has died.
 - (b) The particulars of legal representative(s) of the deceased party should be stated, such as, relationship, address, minor or major, age and lineage.

- (c) Death certificate having proper particulars, including name, parentage, age and date of death should be filed.
- (d) If the application for substitution is filed by the proposed legal representative of the deceased party, it shall be accompanied by vakalatnama, except in the case of an application filed by a party other than the proposed legal representative of the deceased party.
- (e) If the application for substitution is barred by limitation, it shall be accompanied by an application to set aside the abatement and application for condonation of delay in filing the said applications, wherever applicable.
- (f) Delay shall be calculated from the date of death of a party or abatement, as the case may be.

Note

If an application for substitution to bring on record a legal representative of a deceased party is not filed within ninety days from the date of death, the case automatically abates. Within sixty days from the date of abatement, an application to set aside the abatement along with application for substitution shall be filed. Thereafter, an application under Section 5 of the Limitation Act seeking condonation of delay shall also accompany the applications.

- 23.(a) If a miscellaneous application for restoration, recall or rehearing a case or application has been filed after the expiry of a period of thirty days from the date of order, it shall be accompanied by an application for condonation of delay.
- (b) A Record of Proceeding or order dismissing or disposing of the main case shall be annexed to the application.
- (c) If a case or an application has been dismissed peremptorily for non-compliance in default or failure to take any steps, the compliance shall be pre-requisite for filing and registration of the miscellaneous application.
- (d) If a miscellaneous application has been filed after the expiry of a period of two months from the date of the order, the paper books of the main case shall also be filed by the party or advocate on-record,

except in case of a transfer petition, where the paper books shall be filed after one month.

- (e) If a miscellaneous application is filed within two months from the date of the order and within one month in case of transfer petition, the paper books of the main case shall be immediately requisitioned from the Paper Books Section, so that they may not be destructed after the stipulated period of preservation.
- 24.(a) In case an application is found to be defective, notice under Order VIII Rule 6(3) and (4) of the Rules shall be given to the applicant requiring him to cure the defect(s) within a period not exceeding twenty eight days, in aggregate.
- (b) In case the defects are not removed within the period stipulated in the notice, the application shall be placed before the Registrar for orders under the said provision.
25. In case an application discloses no reasonable cause or is frivolous or contains scandalous matter, it shall be placed before the Registrar for appropriate orders under Order XV Rule 5 of the Rules.

General

1. Wherever Bar Council of India has been arrayed as a party respondent, it shall be indicated in the office report.
2. No document, viz., affidavit, affidavit in opposition, rejoinder affidavit, etc., shall be accepted if the date on which it is sworn is not mentioned on the affidavit.
3. If an affidavit contains any blank portions in the body or in the affirmation clause, which have not been duly filled, such affidavit shall not be accepted.
4. No rejoinder or sur-rejoinder shall be accepted without the leave of the Court.
5. In case common affidavit in opposition or rejoinder affidavit or other affidavit or document has been filed by or on behalf of a party in a group of cases, it shall be ensured that sufficient number of copies for each of the cases shall be filed.

6. In cases, like References and *suo motu* petitions, where there is no rival party, the cause title shall be in accordance with the subject matter, viz.,

In Re.:

“Death of 25 chained inmates in Asylum in
Tamil Nadu”

7. The advocates on-record are required to inform the Registrar (J-I) –
 - (a) the particulars of the cases which have become infructuous by efflux of time;
 - (b) the cases filed against interlocutory/interim orders of the Court appealed from where the main case is pending or disposed of;
 - (c) the cases involving identical/similar question(s) of law which have not been tagged or linked together.
8. Before accepting any document, such as, affidavit in opposition, rejoinder affidavit, affidavit and other documents, it shall be ensured that it has been served on the opposite party and the filing memo contains such endorsement.
9. One petition for special leave to appeal/appeal against a common judgment/order passed by the Court appealed from in more than one case can be filed but separate diary numbers be given in accordance with the number of orders impugned.
10. Three sets of paper books, excluding the original, shall be accepted in a case, except in case of an arbitration petition and a case relating to a Constitution Bench.
11. A vakalatnama filed on behalf of the respondent(s) shall not be accepted in a case where neither notice has been issued nor the case has been admitted, unless it is filed along with a caveat. If filed, such vakalatnama shall not be placed on the file of the case and shall not be recognized by the Registry.
12. Any party in-person requiring any information in regard to a case shall contact the Public Relation Officer, who may collect the information from the concerned branch and furnish the same to the

party in-person. The communication shall be made in writing by the branch with the said party and no interaction shall take place with the officer/officials of the concerned branch.

CHAPTER XII LIMITATION

Nature of the Case	Period of limitation
Writ Petition (Civil)	No limitation
Writ Petition (Criminal)	No limitation
Transfer Petition (Civil)	No limitation
Transfer Petition (Criminal)	No limitation
Election Petition	30 days from the date of publication of declaration of the name of the returned candidate.
Original Suit	As per Limitation Act
Petition for Special Leave to Appeal (Civil)	(i) 90 days from the date of the impugned order. (ii) 60 days from the date of refusal of certificate of fitness to appeal.
Petition for Special Leave to Appeal (Criminal)	(i) 60 days from the date of the impugned order in cases involving sentence of death. (ii) 60 days from the date of refusal of certificate of fitness to appeal. (iii) 90 days from the date of the impugned order excluding cases involving sentence of death.
Civil Appeal by Certificate of fitness under Articles 132(1) and 133(1) of the Constitution	60 days from the date of grant of certificate of fitness to appeal.
(i) Criminal Appeal by Certificate of fitness under Articles 132(1) and 134(1)(c) of the Constitution (ii) Criminal Appeal under Article 134(1)(a) and (b) of the Constitution or under any other provision of law	(i) 60 days from the date of grant certificate of fitness to appeal. (ii) 60 days from the date of judgment, final order or sentence.
Appeal under Section 2 of the Supreme Court (Enlargement	60 days from the date of the judgment, final order or sentence.

of Criminal Appellate Jurisdiction) Act, 1970	
Appeal under Section 10 of the Special Court (Trial of Offences relating to Transactions in Securities) Act, 1992	30 days from the date of the order.
Appeal under Section 38 of the Advocates Act, 1961	60 days from the date of communication of the order.
Appeal under Sections 23 and 27A of the Consumer Protection Act, 1986	30 days from the date of the impugned order.
Appeal under Section 116A of the Representation Act, 1951	30 days from the date of the order.
Appeal under Section 130E of the Customs Act, 1962	60 days from the date of the order passed by the High Court certifying the case to be a fit case for appeal to Supreme Court or the order passed by the Customs, Excise and Service Tax Appellate Tribunal.
Appeal under Section 35L of the Central Excise and Salt Act, 1944	60 days from the date of the order passed by the High Court certifying the case to be a fit case for appeal to Supreme Court or the order passed by the Customs, Excise and Service Tax Appellate Tribunal.
Appeal under Section 261 of Income Tax Act, 1961	60 days from the date of the judgment delivered by the High Court certifying it to be a fit case for appeal to Supreme Court.
Appeal under Section 19(1)(b) of Contempt of Courts Act, 1971	60 days from the date of the order.
Appeal under Section 15Z of Securities and Exchange Board of India Act, 1992	60 days from the date of the communication of the decision.
Appeal under Section 18 of the Telecom Regulatory Authority	90 days from the date of decision.

of India Act, 1997	
Appeal under Section 53T of the Competition Act, 2002	60 days from the date of decision.
Appeal under Section 125 of Electricity Act, 2003	60 days from the date of communication of the decision/order of the Appellate Tribunal.
Appeal under Section 29 of the Wealth Tax Act, 1957	60 days from the date of impugned order.
Appeal under Section 22 of the National Green Tribunal Act, 2010	90 days from the date of communication of the award, decision or order of the Tribunal.
Appeal under Section 423 of the Companies Act, 2013	60 days from the date of receipt of order of the Appellate Tribunal.
Appeal under Section 30 of the Armed Forces Tribunal Act, 2007	90 days from the date of final decision/order passed by the Tribunal. 60 days from the date of order of the Tribunal in exercise of its jurisdiction to punish for contempt.
Appeal under Section 31 of the Armed Forces Tribunal Act, 2007	30 days from the date of order passed by the Tribunal.
Appeal under Section 31 of the Airport Economic Regulatory Authority of India Act, 2008	90 days from the date of decision/order appealed against.
Review Petition	30 days from the date of order sought to be reviewed.

Note

- (1) Notwithstanding anything contained to the contrary, the provisions of the Limitation Act do not apply to a curative petition. However, as per Order XLVIII Rule 3 of the Rules, it shall be filed within reasonable time from the date of judgment or order passed in the review petition.

- (2) Where any particular number of days is prescribed by the Rules, or is fixed by an order of the Court, in computing the same, the day from which the said period is to be reckoned shall be excluded, and, if the last day expires on a day when the Court is closed, that day and any succeeding days on which the Court remains closed shall also be excluded.

CHAPTER XIII LISTING OF CASES

1. (a) The Registrar (J-I) shall list the cases before the Benches in accordance with the roster under the directions of the Chief Justice.
(b) All cases, so listed, shall be published in a cause list under the signature of Registrar (J-I) and ported on the official website of the Court.
2. Publication of the cause list shall be the only mode of intimation of listing of a case, unless otherwise ordered by the Chief Justice.

However, notice of hearing may be sent to a party in-person, through usual mode of service, eMail or such other mode, as may be permitted.

Cause List and Listing*

1. A daily cause list of admission hearing cases shall consist of fresh and pending main cases as also interlocutory applications and miscellaneous applications in main cases --
 - (a) fresh cases shall be sent for listing by the Filing Counter; and
 - (b) pending cases, i.e., interlocutory applications, miscellaneous applications, After-notice cases, and final disposal cases, shall be proposed to be listed by the dealing Assistants, unless otherwise ordered.
2. Unless otherwise directed by the Chief Justice --
 - (a) admission hearing cases shall be listed on Monday and Friday; and
 - (b) regular hearing cases shall be listed on Tuesday, Wednesday and Thursday.
3. Fresh admission hearing cases shall be included in the daily cause list in chronological order, i.e., in the order of institution.
4. A draft list of admission hearing old cases shall be uploaded on

*Daily Cause List of Miscellaneous matters – List containing Miscellaneous matters to be listed on Monday and Friday which is issued on Thursday in the previous week and Monday in the same week respectively. List containing Miscellaneous matters on Tuesday, Wednesday and Thursday which is issued on Saturday in the preceding week.

Daily Cause List of Regular Hearing Matters – List containing regular hearing matters to be listed on Tuesday is issued on Saturday in the preceding week and list containing regular hearing matters to be listed on Wednesday and Thursday is issued on the previous working day. The matters in these lists are taken from the weekly list.

Weekly list – Advance list of Regular hearing matters to be listed on Tuesday, Wednesday and Thursday of a week issued on Friday in the preceding week. Specially directed matters and matters from terminal list are included in weekly list.

Supplementary List – The matters which are directed to be listed after the issue of daily cause list which could not be shown in the main list, are listed through the Supplementary List.

the *intranet*, at least, a fortnight before the date of listing for the purpose of verification and confirmation by the dealing Assistant(s) as regards the status, coram and the Court before which the cases or applications shall be listed.

- 5.(a) An advance list of admission hearing old cases for Monday and Friday shall be uploaded on the website on the previous Tuesday and Friday respectively.

A final cause list of admission hearing cases for Monday and Friday shall be issued on the previous Thursday and Monday respectively.

A supplementary list, if necessary, be issued a day before such date of hearing.

- (b) A weekly list and daily cause lists containing regular hearing cases and admission hearing cases, if any, for Tuesday, Wednesday and Thursday shall be published and ported on the website on the previous Friday/Saturday.

A supplementary list of cases for Tuesday, if necessary, be issued a day before such date of hearing.

A supplementary list of cases, including the left over regular hearing cases, specifically directed admission hearing and regular hearing cases, for Wednesday and Thursday be issued a day before such date of hearing.

- (c) Separate cause lists shall be prepared and published for the Judge in Chambers and the Court of Registrar.

- (d) Unless otherwise ordered by the Chief Justice or the Court, not reached/left over fresh admission cases be listed on the following admission hearing day. Such 'After Notice' cases shall be assigned auto-generated returnable dates spread out in suitable lots after four weeks.

- (e) No change in the cause list, once published, shall be effected.

- 6.(a) Unless otherwise ordered, 60 admission hearing cases be listed on Monday and Friday before the Court consisting of,

- (i) 45 fresh main cases; and
- (ii) 15 'After Notice'/final disposal cases.

- (b) If, for any reason, the aggregate number of admission hearing

cases exceeds the computer generated date cases, they shall be deferred in suitable lots after four weeks.

- (c) On regular hearing days (Tuesday, Wednesday and Thursday), unless otherwise ordered by the Chief Justice, upto ten 'After Notice' (including final disposal) cases and ten regular hearing cases be listed before the concerned Bench.
 - (d) Regular hearing cases shall be listed in a chronological order on the basis of the date of institution of the case (oldest case first), unless otherwise directed.
7. A case relating to a party in-person shall be listed after giving four weeks' notice to him, unless a request is made, in writing, to the Registrar (J-I) to list the case earlier, after interaction with the Registrar under Order IV Rule 1(c) proviso of the Rules.

Mention Memo/Listing Proforma

1. Any party or advocate on-record desirous of out of turn listing or early hearing of an admission hearing case or application on the ground of urgency may make oral mention before the Bench at 10.30 a.m. by way of a prescribed listing proforma/mention memo in Form No.35.
2. The Branch Officer of the concerned Judicial branch shall verify and endorse the listing proforma/mention memo seeking early or out of turn listing of a case by the party or advocate on-record.
3. No mention memo shall be presented, unless the concerned main case has been filed and case number has been allotted to it.
4. The Bench may, in its discretion, permit out of turn or early listing of cases or applications in admission hearing through an order issued under the authority of the Bench by the Court Master or through Record of Proceedings.
5. A case or application shall be listed on the basis of a mention memo only if it is issued by --
 - (a) the Bench which is hearing the case in question;
 - (b) the Bench which has heard the case in-part;
 - (c) the Bench to which the case has been allocated; or
 - (d) the Chief Justice, in case of a fresh admission hearing case or which does not have any coram.

The Chief Justice may also pass any orders on mentioning/listing in relation to clauses (a) to (c) above.

6. The Court Master attached to the Court shall maintain a Register of listing proforma permitting early listing of cases by the Court. They shall be forwarded to the Listing Section by the Court Master immediately.
7. A party or an advocate on-record may seek urgent relief/direction in a case by making a request in the prescribed listing proforma to the Registrar (J-I) on week days between 10.00 a.m. and 4.00 p.m. and on Saturday from 10.00 a.m. to 12.30 p.m. No request for mentioning shall be entertained after 4.00 p.m. on week days and after 12.30 p.m. on Saturday. The main case or application can be listed before the Court on the following working day only for the purpose of mentioning in case it meets the requirement for urgent mentioning. No case be listed under “Mentioning” on Monday.
8. Mentioning of cases or applications, oral or listed, shall not take place before a Constitution Bench.
9. In case mentioning is not permitted on a particular day before the Bench presided over by the Chief Justice, it may take place before the seniormost Bench of that day or as ordered by the Chief Justice.

Cases, Coram and Listing

1. Ordinarily, fresh cases, including bail cases, registered from Saturday to Tuesday be listed on Monday in the next week and fresh cases registered from Wednesday to Friday be listed on Friday in the following week.
2. Fresh cases are allocated as per subject category through automatic computer allocation, unless coram is given by the Chief Justice or the Filing Counter:

Provided that such categories of fresh cases shall not be listed before a Judge, which have been so directed. Data entry of such cases be made in the computer, which excludes listing of such cases before that Judge.

The admission hearing cases shall be listed in the following manner:

- (a) Personal appearance cases;
- (b) Settlement cases;

- (c) Orders (incomplete cases/interlocutory applications/ miscellaneous applications);
 - (d) Fresh cases;
 - (e) 'After Notice' cases; and
 - (f) Final Disposal cases.
3. The coram of the Bench where --
- (a) a main case has been listed;
 - (b) notice has been issued till grant of special leave to appeal;
 - (c) a case has been dismissed, allowed or disposed of; and
 - (d) a case has been heard in-part at admission hearing stage.

shall be updated in the computer for future listing of admission hearing cases.

4. The coram of the main case shall be updated if a Bench has directed listing or tagging of a case pending before another Bench, unless otherwise directed.
5. In a review petition, the coram of the Bench, which passed the order sought to be reviewed shall be updated in the computer.

The case shall be listed before the Bench, which issued notice. On retirement of one of the Judges, the case shall be listed before the Judge constituting the second/third coram. In case of retirement of both/all the Judges constituting coram, the case shall be listed as per subject category through computer allocation.

6. If first coram is not available on a particular day on account of retirement, the case shall be listed before the Judge constituting the second coram. If second coram is also not available, the case shall not be listed on that day.
7. A case directed to be listed before some other Bench or before a Bench of which one of the Judges is not a member shall be listed as per subject category through computer allocation. Such admission hearing cases shall be listed in the next final cause list.
8. A case directed not to be listed before a particular Judge constituting the first coram shall be listed before the Judge constituting the second coram in a different composition, if available. In case of non-availability of the second coram, the case shall be listed through computer allocation as per subject category, after apprising the Judge constituting the second coram.

9. On account of non-availability of the only coram in a case, the case shall be listed as per subject category through computer allocation.
10. Whenever any application is filed in a pending matter after grant of leave, it shall be listed before the Judge constituting the first coram of the Bench which granted leave.
11. A miscellaneous application shall be listed before the Judge constituting the first coram of the Bench, which disposed of the main case.
12. The Regular hearing cases are allocated as per subject category, unless coram is given by the Chief Justice.
- 13.(a) A part-heard case shall be updated and listed before the Bench, which heard it in-part, unless it is released, in writing, from part-heard.
- (b) A part-heard admission hearing or a part-heard regular hearing case or a specially directed regular hearing case, adjourned or part-heard, but subsequently released from part-heard, on retirement of the Judge holding the first coram shall be listed before the second and then third coram, wherever applicable, which heard the matter in-part, in case such Judges are presiding a Bench. In case of non-availability of the members of the Bench, the case shall be listed as per subject category.
- (c) A regular hearing case bearing the single coram of a Judge, which could not be taken up till the retirement, shall be listed as per the subject category.
14. If an advocate, whose cases have been directed not to be listed before a Judge or Bench, files a vakalatnama at any stage subsequent to the first listing of the case, it shall be brought to the notice of the Chief Justice and, unless ordered otherwise, it shall be listed before the same coram along with an Office Report indicating the fact of such vakalatnama.
15. If a case bearing single coram could not be listed before the other member of the Bench of which the Judge holding the coram is sitting, the Judge shall be apprised and, if directed in writing, the case be listed before another Bench through computer allocation as per subject category.
16. In the event a Constitution Bench or three-Judge Bench does not sit for any reason, the cases shown before the alternative Bench shall be taken up and a list of such cases shall form part of the main cause list.

17. If the Court has directed listing of an admission hearing case as early as possible or has adjourned a case on the basis of a letter circulated by an advocate on-record without indicating the period of adjournment or future date of listing, the case shall be listed through computer allocation on the next available slot.
18. The admission hearing cases directed to be listed after a particular period shall be updated for listing by adding one more week after the expiry of the said period.
- 19.(a) In a contempt petition, coram of the Judges, who passed the judgments/orders alleged to have been disobeyed, shall be updated in the computer. In case of non-availability of the members of the Bench, due to retirement or otherwise, the contempt petition shall be listed through computer allocation as per subject category of 'Contempt of Court Matters'.
- (b) A contempt petition filed in a pending main case, alleging disobedience/non-compliance of the order passed either by a Vacation Bench or by a Bench other than the one holding the coram for the main case, shall be tagged with the main case and the coram of the main case shall be updated.
20. Whenever a case is referred by a two-Judge Bench to a larger Bench, the coram be allocated by the Chief Justice.
21. In curative petition, coram of the three senior-most Judges and the available Judges of the Bench, who decided the case, shall be updated in the computer.
A curative petition filed after modification of the original order/judgment be circulated to the three senior-most Judges and the Judges of the Bench, who modified the original judgment/order.
22. If a case referred to the larger/Constitution Bench is referred back to the Regular Bench, it shall be listed before the Presiding Judge, who had initially referred the case to the larger/Constitution Bench.
23. A regular hearing case, awaiting the decision of the Constitution Bench, shall be listed as per subject category after the decision.
- 24.(a) A regular hearing case awaiting the decision in another case shall be listed before the Presiding Judge of the Bench, which has rendered the decision, subject to the orders of the Chief Justice.
- (b) In respect of admission hearing cases, the cases shall be listed in accordance with the coram.
25. An application for early hearing of a regular hearing case directed to be listed/mentioned before an appropriate Court shall be listed before the Presiding Judge having the coram in the case.
In the absence of a coram and if the category of a regular hearing case has been allocated to more than one Judge, it shall be listed through computer allocation.

- 26.(a) A regular hearing case directed to be listed in a particular month shall be shown in the first weekly list of that month through computer allocation as per subject category.
- (b) A regular hearing case directed to be listed in month 'X/Y' shall be shown in the last weekly list of month 'X'.
- (c) A regular hearing case directed to be listed in the first half of an year shall be shown in the weekly list in the first week of April of that year and where a case has been directed to be listed in a particular year without specifying any part of that year, it shall be shown in weekly list in the last week of August of that year, unless the case has already been taken up and irrespective of the fact whether the case is ready for hearing or not.
- (d) Such cases shall be treated as expedited cases and shall be included in the Terminal List, as and when they are ready for hearing.
27. If a regular hearing case has been adjourned without any direction as to the future date of listing, it shall be listed on its own turn as per seniority.
28. If a specific date case could not be listed on a specified date before the Court on account of non-availability of the Bench for any reason, instructions shall be taken from the Presiding Judge as to the next date of listing on the file.
29. A three-Judge Bench case adjourned without a direction as to future date of listing shall be listed as and when the Bench is available.
30. If a three-Judge Bench case has been directed to be listed before a Bench, other than the Bench holding the coram, and if it could not be taken up by that Bench, the case shall restore to its original coram.
31. The coram allotted to a case by the Chief Justice at the admission hearing stage shall continue even at the regular hearing stage.
32. The left over admission or regular hearing cases on a regular hearing day shall be taken up on the following regular hearing day, subject to the directions of the Chief Justice.
33. The cases taken up by the Vacation Bench shall be listed, during the session of the Court, through computer allocation as per subject category.
34. Five and more connected/linked regular hearing cases shall be treated as a group and be listed together, unless otherwise directed by the Chief Justice.
35. The regular hearing cases shall be shown in the weekly list in the following order, unless otherwise directed by the Chief Justice:
- (a) Over-night part-heard cases.
 - (b) Part-heard cases.
 - (c) Specially directed/adjourned cases.

- (d) Other cases, as per subject category and strictly in accordance with *inter-se* ratio of pending cases in each subject category and in chronological order (oldest case first).
36. Jail petitions, *habeas corpus* petitions, transfer petitions and bail petitions in which the accused is in custody and special Category Cases [Subject-Category 701-706: Academic Cases; 3100: Admission to Educational Institutions other than Medical and Engineering; 3200: Establishment and Recognition of Educational Institutions; 4001-4003: Admission/Transfer to Engineering and Medical Colleges; 4100: Allocation of 15% All-India Quota in Admission/Transfer to Medical Colleges; 300: Direct Tax cases; 400: Indirect Tax cases; and 1815: Matters relating to Electricity Dispute (connection/disconnection, etc.)], which have been adjourned without any direction as regards future date of listing shall be shown in the next advance list, subject to the orders of the Court. The same practice shall follow in the case of applications/preponement of hearing.
37. Jail petitions, *habeas corpus* petitions, transfer petitions and bail petitions, where the accused is in custody, special category cases and applications for early hearing shall not be deleted on account of excess matters, except in unavoidable circumstances.
38. A jail petition, where the accused is in custody, shall be processed by the concerned Branch within one week and such petition shall be listed before the Court on the first admission hearing day immediately after two weeks with the typed copy of the petition along with copies of the impugned order of the High Court and Trial Court, irrespective of the fact, whether or not, the *amicus curiae*, so appointed, has furnished the paper books of the case.
39. In 'After Notice' admission hearing cases, the following order of priority for listing, through computer allocation, shall be followed:
- (i) Specific Date Cases;
 - (ii) 'Adjourned for'/'List after' cases;
 - (iii) Cases directed to be listed in a particular month;
 - (iv) Cases where returnable date in notice has been given by branch; and
 - (v) Adjourned cases where date of listing has not been given by the Court/date given by the branch.

40. Excess admission hearing cases shall be deleted/shifted in the following order:
- (i) Cases taken from pool;
 - (ii) Adjourned cases where date of listing has not been given by the Court;
 - (iii) Cases in which notice has been issued by the Court without granting stay;
 - (iv) Cases directed to be listed after 2/3/4 weeks and so on;
 - (v) Cases adjourned for a particular period;
 - (vi) Previously deleted cases;
 - (vii) Transfer petitions;
 - (viii) Interlocutory applications/Miscellaneous applications;
 - (ix) Cases in which notice as also stay/status quo has been granted, whether on 'Mentioning' or otherwise, and cases in which notice has not been issued or issued earlier, but stay/status quo is granted;
 - (x) Cases where accused is in jail;
 - (xi) Jail petitions;
 - (xii) Bail cases, provided that bail has not been granted by the Court;
 - (xiii) Cases involving party in-person;
 - (xiv) Cases directed to be listed in a particular month;
 - (xv) Specific date cases.
41. Any direction given by the Court to list a case on a specific date or in specific week shall over-ride the date given by the Registry and it shall be treated as a specific date case.
- 42.(a) Where intimation as regards non-availability of a Bench or a Judge of the Bench is received prior to the preparation of final cause list, a cause list for that notional court shall be generated in the same manner as is done in the ordinary course.
- Provided that the cause list for the notional Bench shall not be prepared if a Judge of that regular Bench is made part of another regular Bench.
- (b) A note to the effect that the Bench will not sit and the cases which could not be taken up on account of non-sitting of the Bench will be taken up by the Bench on the following Tuesday/Wednesday/Thursday (regular hearing days) in the chronological order shall be displayed in the cause list of that Court and on the website.
 - (c) In case of cancellation of a Bench, on receipt of information, before or after preparation of final cause list, the Chief Justice may

allocate cases from the advance list under Order V Rule 2 of the Rules to the available member of that Bench for that particular day, if the said member is not required to sit in another Bench.

43. If one of the connected cases has been directed to be listed on 'Mentioning', all the connected cases shall also be listed.
44. If the Court has directed that a regular hearing case be listed for hearing at an early date, such case, as and when ready, be treated as specially directed case and be listed in the next weekly list before the appropriate Bench.
45. If a fresh case filed by party in-person is eliminated due to non-sitting of the sole coram, it shall be deleted after apprising the Judge holding the coram and next date of listing shall be given by the Registry by including it in the next advance list, if the petitioner is a local resident. However, fresh date after four weeks shall be given if the petitioner in-person is residing outside Delhi
46. An interlocutory application filed in a main case, referred to a larger Bench, shall be listed before the Division Bench or the three-Judge Bench, as the case may be, which referred the main case, and if the Bench is not available due to the retirement of the Judge(s) or otherwise, the interlocutory application shall be listed as per subject category through computer allocation.
47. The criminal cases, except writ petition (criminal) but excluding *habeas corpus* petitions, where service is complete but affidavit in opposition has not been filed, shall be listed before the regular Bench having the coram in the case and not under incomplete category before the Court of Registrar.
48. No case shall be considered for listing without written orders, except in exceptional circumstances, in which case it shall be followed by written communication/confirmation.
49. The officer/official may seek written instruction/order, in case a direction about listing of any case is given to him by his superior. If urgent direction is given verbally, written confirmation shall be obtained at the earliest.

Note

1. *Save* in case of a single coram, wherever a main case or application could not be listed before the first coram, it shall be listed before the second and then third coram, wherever applicable, and, if available, in seniority.

2. In case of non-availability of the single coram or members of the Bench on account of retirement or otherwise, a case shall be listed as per subject category through computer allocation, unless otherwise ordered by the Chief Justice or fresh single coram is given, wherever such coram had been earlier given.
3. Notwithstanding anything contained expressly or otherwise in this Chapter, the Chief Justice may allocate or assign any appeal, cause or matter to any Judge or Judges of the Court.

Appearance in Court of Party in-person

Any person not represented by an advocate on-record, subject to the provisions of Order IV Rule 1(c) proviso of the Rules, can be permitted by the Court to appear and argue his case in-person. He can remain present in Court at the time of hearing of his case and be escorted by a police personnel. A party in-person shall maintain decorum and dignity of the Court during the hearing of his case.

General

- (i) The Court Master shall update the status of the case in the computer forthwith. The cause list for the following day shall be prepared taking into account also the said updation.
- (ii) No case shall be listed for regular hearing, unless it is certified by the Registrar as 'Ready' for regular hearing under Order V Rule 1(30) of the Rules under pre-final hearing or certified by the Registrar during vacation or directed to be listed by the Court.
- (iii) No case shall be listed for regular hearing if the lower Court records or any other records requisitioned by the Court have not been received, unless otherwise directed by the Court.
- (iv) A note shall be inserted in every cause list requesting the advocates on-record to furnish list of books, if any, they intend to cite during the course of hearing, well in advance, to the Court Master.
- (v)(a) Where an advocate is not available to appear before the Court on a particular date or during a particular period and seeks cancellation of date, he may make an application under Order V Rule 1(23) of the Rules if the case has not appeared in the final cause list on the date of filing of application.

- (b) Such applications in respect of cases listed on Monday shall be accepted upto previous Monday and for Friday, upto previous Thursday. In respect of cases listed on Tuesday, Wednesday and Thursday, such applications shall be accepted upto Thursday in the previous week.
- (c) Ordinarily, the Registrar shall not give specific dates for listing the cases in the Court, except for adequate and special reasons to be recorded in writing.
- (d) A party in-person or advocate on-record may submit a letter for adjournment after the preparation of the final cause list to the Registrar (J-I) after getting the same noted by the other advocates on-record for the appearing parties, at least two days prior to the appointed date of listing. Any objection to the request for adjournment shall be indicated in writing.
- (e) Such letters may be accepted for cases listed on Monday, till previous Saturday upto 11.00 a.m., and for cases listed on Friday, till Wednesday upto 3.00 p.m., unless otherwise ordered by the Court.
- (f) A letter for adjournment shall be signed by the party in-person or the advocate on-record and shall contain a statement that the letter may be circulated at his risk.
- (g) In case an advocate, other than an advocate on-record requests for circulation of a letter, he must mention the reason why the concerned advocate on-record is not circulating the letter.
- (h) No application/request shall be entertained in fresh main cases where specific dates have been given by the Bench or cases listed before the Special Bench or in part-heard cases, unless otherwise ordered by the Bench.
- (vi) The cases under Order V Rule 1 and Rule 2 of the Rules shall be listed before the Registrar and the Judge in Chambers nominated by the Chief Justice.
- (vii) Unless the order passed by the Judge in Chambers is complied with, the case shall remain on the board of the said Court and shall not be listed before the Court of Registrar for compliance.
- (viii) In case the orders made by the Judge in Chamber or the Court of Registrar are complied with, such cases shall be updated before the

regular Court, even if future dates of listing have been given by the Judge in Chambers or the Court of Registrar, as the case may be.

- (ix) No case included in the lists shall be deleted or shifted to a future date, unless otherwise directed by the Chief Justice or the Court or the Registrar (J-I).
- (x) No request for listing of a urgent hearing case during vacation shall be entertained before 4.00 p.m. on the last working day of the Court and the listing of such cases shall be regulated under the orders of the Registrar (J-I).
- (xi) Once a jail petition/bail matter, in which the accused is in custody, has been adjourned without any particular date, week or month, or notice has been issued without a particular date, it shall, subject to the orders of the Court, be listed by way of next advance list.
- (xii) If a case is referred to mediation, it shall be listed immediately upon receipt of the report, unless a particular date has been given by the Court. The Registry shall communicate to the Mediation Centre accordingly.
- (xiii) In case of preponement of a case, notice thereof shall be issued by Registered A.D./Speed Post or by electronic mode to the appearing parties or advocates on-record on their behalf.

CHAPTER XIV

PROCEDURE AFTER LISTING

1. A fresh main case shall be listed before the Court. If the same stood adjourned for filing of additional documents or otherwise, it shall be listed before the Court even in case of non-compliance of the order with appropriate office report.
2. (a) As soon as notice is directed to be issued, the appellant, petitioner, applicant or plaintiff, as the case may be, shall furnish as many copies of the petition, appeal, suit or application as may be necessary for record and for service on the respondent(s) within seven days from the date of the order:

Provided that where Union of India, State Government or any of its instrumentalities under Article 12 of the Constitution are respondents/non-applicants, an additional copy shall be furnished for service in terms of Order LIII Rule (1)(a)(ii) of the Rules.

- (b) Notice to show cause shall be issued to the opposite party under the signature of the Assistant Registrar.
- (c) Service of any notice, order or other document upon a person, who is not represented and who resides at a place within the territory of India, may ordinarily be effected through pre-paid envelope registered for acknowledgement or speed post or electronic mode, wherever applicable, or through District Judge concerned or through such other modes in terms of Order LIII Rule (3) of the Rules or Order V of the Code of Civil Procedure, 1908 or Chapter VI of Code of Criminal Procedure, 1973.
- (d) Except where the notice or process has been served through the Registry, the party required to effect the service shall file an affidavit of service along with such proof thereof, as may be available, stating the manner in which the service has been

effected.

3. The mode and manner of service of notice, order or other document have been dealt with in Chapter XVII.
4. In a case arising out of an interlocutory order or any proceeding pending in the Court below, the notice may be served on the advocate appearing for the party in the Court/Tribunal before whom the case is pending.
5. Upon grant of special leave to appeal or the appeal being admitted, the petition for special leave be treated as the petition of appeal, subject to payment of additional court fee, if any, and Notice of Lodgment of Petition of appeal be served on the respondent(s) through the Court appealed from.

As soon as the appeal is ready for regular hearing and certified as such by the Registrar under pre-final hearing or during vacation, in office, or by the Court, it shall be updated as 'Ready' by the dealing Assistant in the Terminal List.

6. In case of appeals, statutory or otherwise, notice shall mean show cause notice and Notice of Lodgment of Petition of Appeal shall be sent once the appeal has been admitted by the Court:

Provided that if the respondent had been served with notice in the petition/appeal or had filed caveat or had taken notice, no further notice is required after the lodging of the appeal.

7. If the notice sent by registered post does not return within 30 days from the date of issue, postal inquiry shall be made and after ascertaining the status of the delivery from the track report, the case shall be listed in the Court of Registrar with office report.
8. If any notice is received back unserved, the advocate on-record shall be requested to take necessary steps for completion of service and, if no steps are taken within twenty eight days, the case shall be processed before the Judge in Chambers with office report on default.

9. If Notice of Lodgment of Appeal sent to the Court appealed from is not received back within sixty days, the Registrar of that Court shall be requested to expedite the process. The advocate on-record may also be required to take steps to effect service on the opposite party.
10. The respondents, who contested the matter in the Court appealed from, shall be informed about the decision on the petition/appeal after it is heard *ex-parte*, if the petition/appeal stands dismissed in terms of Order XXI Rule 9(3) of the Rules.
11. The respondent shall file affidavit in opposition within thirty days from the date of receipt of notice or not later than two weeks before the date appointed for hearing, unless otherwise directed by the Court, or where separate provision exists in the Rules.
12. The statement of case/written brief be lodged by the parties in terms of Order XIX Rules 32 to 35, Order XXI Rule 11, Order XXXVIII Rule 11(3) and Order XL Rule 7 of the Rules.

Provided that if the appellant does not file a statement of case within the stipulated period of forty five days of the service on him of the notice of authentication of the record, it shall be presumed that the appellant has adopted the list of dates/synopsis as the statement of case and does not desire to file any further statement of case:

Provided further that where a respondent, who has entered appearance, does not file a statement of case within thirty five days from the date of service of statement of case of the appellant, it shall be presumed that the respondent does not desire to lodge statement of case in the appeal.

13. Where any party makes an interlocutory application to the Court, including an application for vacating the interim order, that application shall be processed within three working days from the date of filing of such application and be listed before the appropriate

Bench for orders. Similarly, miscellaneous application shall be processed within seven days from the date of its filing.

14. In case the Court has directed deletion of the name of first petitioner or first respondent or has dismissed/disposed of the case in relation thereto, the name shall be deleted accordingly and the second petitioner or second respondent, as the case may be, be shown as the first party but the serial number of the said party shall not be altered. Similarly, serial number in respect of other parties shall, in no case, be altered.
15. (i) (a) In criminal cases, as soon as notice is directed to be issued, the appellant/petitioner shall take steps to serve notice on the respondent.
(b) In cases filed by convicted persons, notice shall be given to the Attorney General for India or the Advocate General or the Government advocate of the State concerned, or to both, as the case may be; and in cases under Section 341(1) of the Code, to the respondent.
(c) Where a party in-person as respondent is not represented by an advocate on-record, the Secretary General/Registrar may require the Supreme Court Legal Services Committee to assign an advocate or an advocate may be appointed from a panel of advocates maintained by the Registry, who may assist the Court on behalf of such person:

Provided that where an application to appear and argue in-person is filed by a respondent, it shall be placed before the Registrar under Order IV Rule 1(c) proviso of the Rules for interaction and opinion thereon.
- (ii) (a) The advocate appointed as *amicus curiae* by the Court or from the panel of advocates at the cost of the State shall be entitled to fee at the rate of Rs. 6,000/- at the

admission hearing stage and Rs. 10,000/- at the final disposal stage or at the regular hearing stage, as fixed by the Chief Justice, or as may be ordered by the Court, wherefor a certificate in the Form No. 10 shall be issued.

- (b) The advocate shall not be entitled to fee if he remained absent at the time of hearing and disposal of the case.
- (c) The State concerned shall pay the fee specified in the certificate within three months from the date of presenting the claim before it, supported by the certificate.
- (iii) If service of notice is complete, the special leave petitions and criminal appeals shall be processed for listing before the Court even if affidavit in opposition has not been filed and shall not be processed for listing before the Court of Registrar in default on this count.
- (iv) The respondent shall file affidavit in opposition within thirty days from the date of receipt of notice or not later than two weeks before the date appointed for hearing, whichever be earlier.
- (v) Upon grant of special leave, the petition for special leave shall be treated as petition of appeal and shall be registered and numbered as such.
- (vi) A separate register shall be maintained for cases which, in the opinion of the Court, can be disposed of within an hour or two and which fact has been indicated in the order made by the Court to enable the Chief Justice to constitute the Bench for disposal of such cases.
- (vii) Due notice shall be given to the accused, where he is not represented, of the date fixed for the hearing of the appeal. The accused person may, if he so wishes, present his case by

submitting his arguments in writing and the same shall be considered at the hearing of the appeal.

- (viii) The Registrar shall, after the disposal of the appeal, with the utmost expedition, send a copy of the Court's judgment or order to the High Court or Tribunal concerned.
- (ix) No security for costs shall be required to be deposited, and no court-fee, process fee, or search fee shall be charged.
- (x) Except where specifically otherwise provided in the Rules, the provisions of Order XX of the Rules, with necessary modifications and adaptations, shall apply to statutory appeals filed under any enabling Act or provision.

Note

- (a) Every appeal or petition against sentence and acquittal and every other appeal or petition, except an appeal from a sentence of fine shall finally abate on the death of an accused:

Provided that where the appeal is against conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives (parent, spouse, lineal descendant, brother or sister) may, within thirty days of the death of the appellant, apply to the Court for leave to continue the appeal and if leave is granted, the appeal shall not abate.

- (b) The fact of death of an accused on the basis of a death certificate or application or otherwise shall immediately be brought to the notice of the Court.

Original Records

1. In main civil cases, upon being admitted or grant of special leave to appeal, the original record shall not be requisitioned, unless ordered by the Court. The Court appealed from may be requested that the original record may be requisitioned at a later stage, as and when

specifically directed by the Court, and the same may not be weeded out during the pendency of the case in this Court till a communication regarding disposal of the said case is received from the Registry of this Court.

2. In main criminal cases, upon being admitted or grant of special leave to appeal, the original record shall be requisitioned:

Provided that the original record in an admission hearing case shall not be requisitioned, unless specifically requisitioned by the Court.

3. Where the original record of a case is available in digitized/scanned form, the original record of such case shall not be requisitioned in physical form, unless otherwise directed by the Court:

Provided further that the Court appealed from and the Courts immediately below shall be informed that depositions in the original record shall be in English language or translated into English language and the translation shall be done in that respective Registry before transmitting the original record to the Court.

Provided further that, if ordered, preparation of record shall be done in terms of Order XIX Rules 11 to 24 and Order XX Rules 7 to 13 of the Rules.

4. In case any original record has been requisitioned back by the Court in a pending case before it or otherwise, the original record may be sent back, subject to the orders of the Judge in Chambers, with a request to re-transmit the same expeditiously.
5. Where original record has been requisitioned, it shall be transmitted back to the Court(s) concerned immediately after the disposal of the main case.
6. The Original Record branch shall have the custody of the records. It shall be responsible for the transmission of the record under acknowledgment.
7. The original records of the cases listed before the Bench shall be transmitted by the Dealing Assistant, under the supervision of the

Branch Officer, to the Court Master of the Bench by 10:00 a.m. The Court Master shall return the records immediately after the Bench has transacted business for the day, unless otherwise ordered by the Bench. The transmission of records shall be under acknowledgment.

8. (a) In criminal cases, if the High Court paper books are not available, the appellant shall file appeal records containing additional documents, including F.I.R., charge-sheet, evidence/deposition, etc., within a period of six weeks of the intimation as regards receipt of original record, supported by an affidavit. Within two weeks of service thereof on the respondent, he may file such documents as are not included by the appellant.
- (b) In case sufficient sets of paper books of the Courts below are not available or the impression is dim or illegible, a notice shall issue to the advocate on-record for the appellant requiring him to get sufficient number of legible paper books prepared within one week of receipt of notice.
9. (a) Where the original record is received in a sealed/packed condition, it shall be opened and checked jointly by two officials, one each from concerned Judicial branch and Section V. However, in case the original record is found to be unsealed, it shall, in addition, be checked jointly by an official from R&I branch.
- (b) If the record is found to be in torn/mutilated condition or incomplete, this fact shall be jointly recorded by all the officials and stated in the letter of acknowledgment of the record to the concerned Court.
- (c) If the original record is received without any list/index of documents, the acknowledgment letter shall mention this fact as also the total number of files or sheet contained in the original record.

- (d) At the time of transmission of original record to the concerned Court, the forwarding letter shall be prepared by the concerned branch and shall mention that “the original record is returned herewith duly verified as per the letter/list of documents received from the said Court” and a copy of the list shall also be enclosed with the forwarding letter. While returning, it shall be checked, packed and sealed in Section V, custodian of original records, in the presence of the officials from both the branches.
- (e) The concerned Court/Tribunal/lower Court/Authority may be requested to depute special messenger to take back the original record. However, the original record relating to the Court/Tribunal/lower Court/Authority in far-off places may be sent by Registered Post/insured parcel.
- (f) The acknowledgment receipt shall be kept in the file. In case no acknowledgment is received within two weeks of the despatch of record, the matter shall be pursued with the concerned Court till the acknowledgment is received.

Orders granting Stay, Bail, Release, etc.

- (i) Where an order directing issue of notice and/or grant of stay, status quo, injunction or *ad interim* directions has been made *ex-parte* or otherwise, a certified copy of the order shall be sent to the Court appealed from.
- (ii) Where an order granting anticipatory bail, bail or suspension of sentence has been made to the satisfaction of the Trial Court or any other Authority, a certified copy of the order shall be sent to the Court appealed from, Courts immediately below and/or the Authority concerned.
- (iii) In case of release or bail, except in clause (ii) above, wireless message, in addition, shall be sent forthwith to the concerned Jail authority.
- (iv) The Officer In-charge, Courts, shall ensure that the Record of Proceedings, judgments or orders of the Court are immediately sent

to the concerned branches.

Procedure Where a Case is not being Diligently Prosecuted

- (i) If a party fails to take requisite steps in the main case and it appears that he is not prosecuting the case with due diligence, the Registrar shall call upon him to explain the default and, if default is not made good and no explanation is offered within the stipulated time or if the explanation offered appears to be insufficient, the Registrar may issue him show cause before the Court as to why the case should not be dismissed for non-prosecution.
- (ii) If service of any notice, order or document has not been completed within six months from the date of issue of notice, the matter shall be reported to the Court for direction after notice to the parties in-person or the advocates on-record for the parties. The Court may thereupon dismiss the case for non-prosecution or give such direction in the case, as it may deem fit.

Writ Petition

- (i) If the Court, on preliminary hearing, orders issue of show cause notice to the respondent, he shall file his objections within thirty days from the date of receipt of such notice or not later than two weeks before the date appointed for hearing, whichever is earlier, unless directed otherwise by the Court.
- (ii) Unless otherwise ordered by the Court, rule *nisi* together with a copy of the petition and of the affidavit in support thereof shall be served on the respondent not less than twenty one days before the returnable date. The rule shall be served on all persons directly affected and on such other persons, as the Court may direct.
- (b) Affidavits in opposition shall be filed in the Registry not later than four days before the returnable date and affidavits in reply shall be filed within two days of the service of the affidavit in opposition.

- (c) No further affidavit in opposition, rejoinder, affidavit or document shall be filed by any party, except with the leave of the Court.
- (iii) (a) The petitioner shall file written brief within four weeks of the filing of the pleadings. Within four weeks of receipt of petitioner's brief, the respondent shall file his written brief. The reply brief shall be filed by the petitioner within one week of the receipt of respondent's brief.
- (b) No party to a petition shall be entitled to be heard by the Court unless he has previously lodged his written brief in the petition.

Writ of *Habeas Corpus*

- (i) The processing, listing, hearing and disposal of a writ petition in the nature of *habeas corpus* shall be expedited.
- (ii) Rule *nisi* shall issue, if Court so orders, calling upon the person(s) against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and, at the same time, to produce in Court the body of the person(s) alleged to be illegally or improperly detained.
- (iii) The case shall be listed before the Court on the next date of hearing, irrespective of the fact whether or not service of notice has been effected or affidavit in opposition has been filed.
- (iv) The order for release, setting the person(s) improperly detained in custody at liberty, made by the Court shall be a sufficient warrant to any goaler, public official, or other person for the release of the person under restraint.

Contempt Petition

- (i) If the Court, on preliminary hearing, directs that notice shall issue to the alleged contemnor, notice to the person charged shall be in Form No.1 given below:

FORM I
NOTICE TO PERSON CHARGED WITH CONTEMPT OF COURT
IN THE SUPREME COURT OF INDIA
(Inherent Jurisdiction)

Whereas your attendance is necessary to answer a charge of contempt of Court by (here briefly state nature of the contempt).

You are hereby required to appear in person (or by advocate if the Court has so ordered) before this Court at New Delhi on theday of20.....

You shall attend the Court in person* on theday of20....., and shall continue to attend the Court on all days thereafter to which the case against you stands adjourned and until final orders are passed on the charge against you.

Herein fail not.

Dated this.....day of20.....

(SEAL)

REGISTRAR

(*To be omitted where the person charged is allowed or ordered to appear by advocate).

- (ii) The person charged shall, unless otherwise ordered, appear in-person before the Court, as directed, on the date fixed for hearing of the proceeding and shall continue to remain present during hearing till the proceeding is finally disposed of by order of the Court.
- (iii) A copy of the petition along with the annexures and affidavits shall be served upon the person charged and he may file his reply duly supported by an affidavit.
- (iv) No further affidavit or document shall be filed, except with the leave of the Court.

- (v) The Court may direct a warrant bailable or non-bailable for arrest of the person charged, if it has reason to believe that he is absconding or is otherwise evading service of notice, or if he fails to appear in person or fails to remain present in-person, in pursuance of the notice.
- (vi) The warrant of arrest shall be issued in the prescribed Form No.II under the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, as given below :

FORM II
WARRANT OF ARREST
IN THE SUPREME COURT OF INDIA
(Inherent Jurisdiction)

To
(Name and designation of the person or persons who is or are to execute the warrant).

Whereasofis charged with committing contempt of this Court, you are hereby directed to arrest the said.....and to produce him before this Court.

Herein fail not.

(If the Court has issued a bailable warrant, the following endorsement shall be made on the warrant).

If the saidshall give bail in the sum of Rs.with one surety in the sum of Rs.(or two sureties each in the sum of Rs.....) to attend before this Court on theday of, 20...., and to continue so to attend until otherwise directed by this Court, he may be released.

Dated thisday of20.....

(SEAL)

REGISTRAR

- (vii)(a) The warrant shall be executed by the officer or officers to whom it is directed or by any other police officer whose name is endorsed upon the warrant by such officer(s).
- (b) If the warrant is to be executed outside the Union Territory of Delhi, it may be forwarded to the Magistrate of the District or the Superintendent of Police or Commissioner of Police of the District, within which the person charged is believed to be residing.
- (viii) The bond and bail-bond after arrest under a warrant has been prescribed in Form No.III, as under :

FORM III

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT IN THE SUPREME COURT OF INDIA (Inherent Jurisdiction)

I,.....(name) ofbeing 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 contempt of the Supreme Court do hereby bind myself to attend the Supreme Court on theday of.....next, to answer to the said charge, and to continue so to attend, until otherwise directed by the Supreme Court; and, in case of my making default herein, I bind myself to forfeit to Union of India, the sum of Rupees.....

Dated thisday of20.....

(SIGNATURE)

I do hereby declare myself surety for the above-named.....of.....that he shall attend beforein the Supreme Court on the.....day ofnext, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Supreme Court; and, in case of his making default therein, I bind myself to forfeit to Union of India, the sum of Rupees.....

Dated this day of20.....

(SIGNATURE)

- (ix) Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a warrant of commitment for contempt and detention shall be made out in Form No.IV, as given below, under the signature of the Registrar, which shall remain in force until it is cancelled by order of the Court or until it is executed.

FORM IV
WARRANT OF COMMITMENT FOR CONTEMPT
IN THE SUPREME COURT OF INDIA
[Inherent Jurisdiction]

To the Superintendent (or Keeper) of the jail at.....

Whereas at the Court holden on this day (name and description of the contemner) has been adjudged by the Court guilty of wilful contempt of Court, and he has been sentenced to suffer imprisonment for the period.....(here specify the term) and/or to pay a fine of Rupees.....

This is to authorize and require you, the Superintendent (or Keeper) of the said Jail, to receive the said (name of the contemner)

into your custody, together with this warrant, and to keep him safely in the said Jail for the said period of (term of imprisonment) or for such shorter period as may hereafter be fixed by order of this Court and intimated to you. You are directed to return this warrant with an endorsement certifying the manner of its execution.

You are further directed that while the said.....is in your custody, produce the said.....before the Court, at all times when the Court shall so direct.

Given under my hand and the seal of the Court, this.....day of.....20.....

(SEAL)

REGISTRAR

General

1. In case any request is received by way of a letter, application or report from a subordinate Court/Authority/Arbitrator/Court Commissioner seeking extension of time, the request be converted into miscellaneous application and shall be placed before the Court expeditiously with the remark "Request from Subordinate Court/Authority/Arbitrator/Court Commissioner, as the case may be, for extension of time".
2. While issuing clearance for urgent mentioning of cases and applications, the Branch Officer and the dealing Assistant shall physically verify and ensure that paper books of the main case are available and complete in all respects.
3. An appeal against the order of the Registrar under Order XV Rule 5 of the Rules shall be listed expeditiously, not later than a fortnight.
4. Office report for cases listed on a Friday and Monday shall be circulated and uploaded by 6.00 p.m. on the previous Wednesday and Friday respectively.

Office report mentioning filing of affidavit in opposition, rejoinder affidavit, documents, etc., shall include reference to page numbers concerned in bracket.

5. Fresh office report shall be prepared in case the office report is of a much earlier date.
6. Where the Court has directed a case to be tagged with another case, the Branch Officer shall, after due care, get the case tagged and updated in the computer.
7. Motion shall issue only in case where *ad interim ex parte* order is sought and where delay caused by notice would or might entail serious hardships.
8. No case updated before the Court shall be deleted/eliminated, under any circumstances, except under the orders, in writing, of the Registrar [J-I].
- 9.(a) Where a requisition, in writing or otherwise, has been received by a Judicial branch in respect of paper books in its custody, the Branch Officer shall send the said paper books on the same day before 1.00 p.m. without fail. In no case, the Branch Officer and the concerned dealing Assistant shall leave the office without acknowledgment of the receipt of such paper books from the Paper Books branch.
- (b) The Branch Officer shall ensure that copies of Record of Proceedings and other documents are sent to Section I-A Annexe [paper books godown] without any delay, in order to enable the officials to include them in the paper books promptly.
10. The last Record of Proceedings shall be kept on record at the time of listing of the case or application either before the Court or Judge in Chambers or the Court of Registrar. In case the last Record of Proceedings could not be obtained for any reason and if it is obligatory to list the case again, an appropriate office report shall be prepared disclosing the previous date of listing and the fact that last Record of Proceedings is still awaited.

11. A dealing Assistant shall make a note in the file that copies of Record of Proceedings of the specific dates have been sent to the Paper Books branch for inclusion in the paper books or have been included in the paper books.
12. A dealing Assistant shall not again send a Record of Proceedings to the Paper Books branch, which has already been included in the paper books.
13. No unregistered or defective application shall be listed before the Court, unless otherwise directed by the Court.

Note

Where any particular number of days is prescribed by the Rules, or is fixed by an order of the Court, in computing the same, the day from which the said period is to be reckoned shall be excluded, and, if the last day expires on a day when the Court is closed, that day and any succeeding days on which the Court remains closed shall also be excluded.

CHAPTER XV JAIL PETITION

A person lodged in jail and not represented by an advocate on-record can submit a petition/appeal along with a certified copy of the impugned judgment and written arguments, which he desires to advance in support of his petition/appeal, to the Officer in-Charge of the Jail where he is lodged. The Officer in-Charge of the Jail shall forward the petition/appeal to this Court. A true copy of the judgment of the Court immediately below is required to be filed in cases under Order XX Rule 5(1) of the Rules. In case the petition/appeal has been filed after expiry of the prescribed period of limitation, an application for condonation of delay be filed. The date on which the petition/appeal is presented before the Officer in-charge of the Jail and is attested by him, is taken as the date of filing of the petition. The petition/appeal must contain a statement that no similar petition has been filed earlier.

Processing

1. The jail petition/appeal shall be processed by the dealing Assistant within three days of its receipt.
2. The concerned department of the State, Courts and Jail authority shall be informed forthwith by telegram or electronic mode about the filing of the case, if it relates to sentence of death. The date, if any, fixed for execution shall be ascertained forthwith from the jailor for the information of the Court by way of office report.
3. Having ascertained from the Supreme Court Legal Services Committee that similar petition/appeal has not been received by it, the Registry shall process the case.
4. The Registrar shall, whenever necessary, call from the proper officer of the Court appealed from the relevant documents for determination of the petition.
5. As soon as all necessary documents are available, the Registrar shall

require Supreme Court Legal Services Committee to assign an advocate or assign an advocate from the panel maintained by the Registry to act as an *amicus curiae* on behalf of the accused and he shall be advised to contact the prisoner.

6. (i) The photocopies of all the documents received from Jail authority shall be supplied to the *amicus curiae* to enable him to draft the petition for special leave to appeal/appeal, prepare the paper books and submit the same to the Registry within fifteen days.
 - i. The charges for typing, translation, binding and photocopying, except for the photocopies supplied by the Registry, shall be paid to him by the Registry.
 - ii. A certificate shall be issued to the *amicus curiae* engaged at the cost of the State specifying the fee payable to him by the State. Unless otherwise ordered by the Court, the fee of *amicus curiae* shall be Rs. 10,000/- for final disposal stage or the regular hearing stage and Rs. 6,000/- for the admission hearing stage.
 - iii. The *amicus curiae* shall not be entitled to any fee in case of his absence at the time of hearing and disposal of the case.
7. The petition/appeal accompanied by a certified copy of the impugned judgment, including a true copy of the Court immediately below, if any, shall be sufficient for the purpose of registration and first listing before the Court, without requisitioning other documents at that stage.
8. In case the petition/appeal is not accompanied by a declaration on affidavit that no similar case had been filed earlier or it suffers from defects, such as,
 - i. non-disclosure of requisite particulars of the case or Court from whose order it arises and such particulars cannot be ascertained from the documents filed; or

- ii. it is not accompanied by a certified copy of impugned judgment/order; or
- iii. it is barred by limitation and is not accompanied by application for condonation of delay; or
- iv. it suffers from such other defects, which are required to be removed to bring the petition/appeal in conformity with the Rules on account whereof it will not be possible for the Court to hear the matter,

the defects shall be communicated to the petitioner/appellant through Jail authority requiring him to remove them within twenty eight days from the date of receipt of such communication failing which the petition/appeal may be dismissed for default.

A copy of the communication shall be endorsed to the Jail authority and *amicus curiae* requiring them to assist the petitioner/appellant to remove the defects.

- 9. In case the defect(s) is not removed, despite communication, the petition/appeal shall be placed with diary number (unregistered) before the Court with comprehensive office report indicating the defect(s) and a copy thereof shall be sent to the petitioner/appellant, through the officer in-charge of the jail and the *amicus curiae*.
- 10. A typed transcript copy of the petition/appeal, impugned judgment/order or other documents sent by the petitioner/appellant, which are handwritten in English or have dim impression, shall be prepared by the Registry.
- 11. In case the documents are in vernacular language, the same shall be translated in English at the Registry.
- 12. If a transfer petition, or a writ petition alleging violation of a fundamental right received from jail, lacks necessary particulars and is found to be defective, the procedure in clause (8) above, with

necessary modifications, shall be followed.

13. The High Court be requested to furnish complete memo of parties, if the same is not indicated in the impugned judgment/order but listing of the case shall not be deferred on this count.
14. If the petition/appeal discloses no reasonable cause or is frivolous or contains scandalous matter, the Registrar may decline to register the same and the entire order passed by the Registrar under Order XV Rule 5 of the Rules shall be communicated to the petitioner/appellant. He shall also be informed of the right to appeal and limitation therefor.
15. No records shall be requisitioned from the Courts below, unless otherwise directed by the Court or found necessary for the purpose.
16. The fact that the petitioner/appellant stands released from prison during the pendency of the case, having served out the sentence awarded by the Court below, does not render the petition/appeal infructuous but the said fact shall expeditiously be brought to the notice of the Court.
17. In case of default in compliance with the directions of the Court or with any requirement of the Rules, practice and procedure, the case shall be placed before the Court along with appropriate office report for directions.

General

1. If an *amicus curiae* does not appear before the Court on the date of hearing, his name shall be struck off from the panel of *amicus curiae* under the orders of the Registrar, unless the lapse is condoned by the Court and subject to any other directions of the Court.
2. The period of sentence should invariably be indicated in the office report as also on top of the Part II file.

CHAPTER XVI

CONSTITUTION AND FUNCTIONS OF THE JUDICIAL BRANCH

Preliminary

1. The Judicial branches of the Registry shall be responsible for --
 - (i) receipt and processing;
 - (ii) listing;
 - (iii) requisitioning of original records;
 - (iv) compliance with Court orders;
 - (v) custody and maintenance of paper-books;
 - (vi) receipt of spare copies and preparation of notices, etc.;
 - (vii) receipt and disbursement of Court deposits and suitors' fund;
 - (viii) translation;
 - (ix) preparation of decrees, memos of cost, certificates and writs;
 - (x) delivery of certified/unauthenticated copies;
 - (xi) maintenance and destruction of records;
 - (xii) scanning of records; andmatters incidental thereto in respect of main cases and/or documents filed therein.

2. There shall be the following Judicial and ancillary branches—
 - (i) Filing Counter
 - (ii) Civil Branches
 - (iii) Writ Branches
 - (iv) Criminal Branches
 - (v) Listing Branch
 - (vi) Transfer Petition Branch
 - (vii) Paper-books Branch
 - (viii) Translation Branch
 - (ix) Copying Branch
 - (x) Cash Branch in relation to Court deposits and suitors' fund
 - (xi) Decree Branch
 - (xii) Receipt and Issue Branch
 - (xiii) Editorial Branch

- (xiv) Scanning Branch
- (xv) Elimination Branch
- (xvi) Record Room

3. A branch shall be headed by a Branch Officer and an Assistant Registrar. Additional Registrar or a Deputy Registrar, as the case may be, shall be the in-charge of the branch.
4. All officers and officials of the Judicial branch shall work under the control and general supervision of the Registrar.
5. A Court Assistant or a Junior Court Assistant may be attached to a dealing Assistant as a unit. The attached Assistant may assist the dealing Assistant in day-to-day work and deal with his case files and perform duties in his absence on account of leave by operating through the password to be allotted by the Computer Cell for the period of absence or, in case of extreme exigency, through the password allotted to the Branch Officer of the branch.
6. The main cases shall be allotted to the dealing Assistants ordinarily in the lots of twenty five, e.g., first twenty five cases received in the Branch shall be allotted to dealing Assistant No.1, next twenty five to dealing Assistant No.2 and so on, on the basis of State/High Court, wherever applicable, or on the basis of subject category in relation to cases arising from Tribunals/Authorities.
7. A main case, inclusive of applications, documents, review petitions and curative petitions, except the one to be dealt with by the Filing Counter, allotted to a dealing Assistant shall be dealt with and processed by him till its disposal, irrespective of the stage, i.e., admission hearing or regular hearing stage.
8. Every miscellaneous application filed by a party or advocate on-record shall be placed before an officer not below the rank of Deputy Registrar for the purpose of consideration for registration or otherwise.

9. (a) There shall be a diarist in each branch to receive and diarise all receipts, documents and papers in the branch.
- (b) The receipt and despatch of case files, receipts, documents or any papers within, or from outside, the branch shall be done under acknowledgment by the diarist and he shall maintain a diary for the purpose of diarising the receipts.
- (c) Every case file, receipt, document and paper received in the branch shall be first diarised and, along with the Diary Register, be placed before the Branch Officer, who shall suggest action thereon. In respect of important receipts, he shall place them before the Assistant Registrar in the first instance or any other senior officer and solicit directions thereon.
- (d) It shall be the responsibility of the Branch Officer to ensure that each receipt dairised be acknowledged by the concerned dealing Assistant by putting his dated initials and action be taken thereon without any delay.
- (e) In case any of the dealing Assistant has failed to take timely action on any receipt or Record of Proceedings, the Branch Officer and Assistant Registrar shall ensure that action is taken thereon forthwith and report the fact to the Officer in-charge for taking immediate corrective measures.

Dealing Assistant

It shall be the duty of the dealing Assistant --

1. to prepare and maintain, either in physical or electronic form--
 - (a) Daily Diary/Peshi Register;
 - (b) Register of listing of Cases;
 - (c) Movement Register; and
 - (d) Register for FDRs, Security and Bank Guarantees.
2. to prepare files [Part I and Part II] of the main cases, wherever

required.

3. to requisition original records from the Courts appealed from and the Courts below thereto, if the case is to be heard along with the records;
4. to send timely proposals for listing of main cases, applications and office reports on default to the Listing Branch under the orders of the Branch Officer, wherever applicable;
5. to keep the cases ready for hearing after making compliance with any direction given by the Court;
6. to process interlocutory application within three days and miscellaneous application within seven days from the date of filing/receipt;
7. to take all actions, including service of notice on the parties, bringing legal representatives on record, listing of all applications, sending certified copies to the Court appealed from and Courts below thereto, requisitioning of original records, etc., for making the case ready for hearing.
8. to get the fixed date or cases listed on the date or in the period specified by the Court, even if they are not otherwise ready for hearing, with office report;
9. to prepare and maintain report of service on the parties and documents filed in the case.
10. to send documents for inclusion to the Paper Books branch;
11. to get the cases certified by the Registrar as 'Ready' for regular hearing under pre-final hearing under Order V Rule 1(30) of the Rules;
12. to update the regular hearing case as 'Ready' in the Terminal List in terms of the order of the Court or under Order V Rule 1(30) of the

Rules;

13. to prepare notice, decree, formal order, telegram, schedule of costs; to draft and make correspondence with various Authorities and Courts appealed from, Courts below thereto as also parties in relation to a main case or application;
14. to ensure compliance with any special direction given by the Court regarding issuance of notice or listing of cases or otherwise and to bring difficulties, if any, in relation to a case to the notice of the Branch Officer at the earliest;
15. to verify and confirm cases for listing shown in the draft list and report error or discrepancy, if any;
16. to check and verify cases shown in the advance list, weekly list, daily list and supplementary list and report error or discrepancy, if any;
17. to arrange and prepare files of disposed of cases for consignment to the Record Room and to keep a list thereof;
18. to ensure that the names of all the advocates on-record and *amicus curiae* in a case as also applications are updated in the computer.
19. to check notices before initialling them and submitting them for signature of the officer concerned;
20. to examine properly the files of admission and regular hearing cases before they are listed before the Court;
21. to place before the Court, Report(s), if any, received from an Authority in compliance with the order of the Court and keep it in the custody of the Branch Officer and, in his absence, in the custody of the Assistant Registrar;
22. to immediately bring to the notice of the Branch Officer and Assistant Registrar about a case received in the Branch relating to sentence of death;

23. to maintain a register of fixed date cases and ensure that no such case escapes listing on the due date;
24. to maintain a register for Special Bench, Larger Bench and Constitution Bench cases.
25. A dealing Assistant shall be the custodian of, and responsible for, the files of the cases allotted to him. The process shall be undertaken by him by operating the password allotted to him. He shall be responsible for the safety and security of the files as also for the maintenance of the files in a proper manner.
26. The primary duty to comply with the Court's order shall lie with the dealing Assistant. He shall peruse the order as soon as practicable. In case of any difficulty in understanding the ratio of the order, he shall immediately consult the Branch Officer or Assistant Registrar, as the case may be, and take steps to comply with the order immediately.
27. Where the Court has directed that the order shall be brought to the notice of the higher Authorities, the dealing Assistant shall forthwith place such matter before such Authority, through the intermediate officers.
28. Whenever any dealing Assistant is transferred from a Branch to another branch on account of promotion or otherwise,
 - (a) he shall proceed on transfer only after handing over the charge of the seat to the new incumbent in a proper manner and shall also inform about the urgent actions to be taken in the files as also account for each and every file being dealt with by him;
 - (b) a charge report of handing over and taking over shall be prepared and counter-signed by the Branch Officer;
 - (c) If any urgent action could not be taken by the new incumbent on the ground of non-appraisal of the said fact by the outgoing dealing Assistant, both the dealing Assistants shall be held responsible for that lapse:

Provided that due appraisal of urgent action by the outgoing dealing Assistant shall not make him liable for the lapse.

29. to perform such other duties and work as may, from time to time, be assigned by the Branch Officer or senior officers.

Branch Officer

It shall be the duty of the Branch Officer --

1. to supervise overall working of the Branch;
2. to ensure that all seats in the Branch are manned and work of absentees is properly reallocated;
3. to examine the files thoroughly;
4. to check and approve formal orders;
5. to address communication, and sign letters, to the Courts appealed from, Courts below thereto, Authorities, advocates and parties in-person;
6. to ensure that Jail petitions/appeals and applications are processed by the dealing Assistant within the stipulated period;
7. to ensure that review petitions and curative petitions are processed by the dealing Assistant, expeditiously;
8. to ensure that notices are issued by the dealing Assistant within three days of the receipt of process, unless otherwise directed by the Court;
9. to examine service reports submitted by the dealing Assistant;
10. to maintain a register of fixed date cases and ensure that no such case escapes listing on the due date;
11. to note down important directions of the Court;
12. to ensure that every case, complete or otherwise, is placed before the concerned Court;
13. to ensure that cases are listed as per the directions of the Court;
14. to ensure that cases do not remain unattended and required action is taken thereon, including a date before the Court;

15. to ensure compliance with the orders of the Court;
16. to go through all the receipts and documents received in the branch as also suggest and ensure action thereon;
17. to examine the issue of deficient or excess court fee, if any;
18. to keep in his custody, Reports, if any, received from any Authority in compliance with the order of the Court or otherwise;
19. to maintain a file containing circulars/directions issued by the senior officers and ensure compliance;
20. to ensure and take orders for registration of the applications within the stipulated period;
21. to check all Lists, including final cause list, supplementary list, advance list, weekly list and terminal list, and report error, if any, as also ensure necessary correction;
22. to check, suggest and ensure action on the orders passed by the Court on the applications;
23. to check, suggest and ensure action on the orders regarding bail, release and other interlocutory orders in criminal cases;
24. to contact immediately the Jail authority in case of death sentence and ascertain date, if any, fixed for execution for the information of the Court and indicate the same in the file giving description and phone number of the officer contacted;
25. to check and approve telegrams to be sent to Jail authorities, State(s) and concerned Courts in criminal cases, including relating to sentence of death;
26. to check and approve office reports of the cases to be placed before the Court and Judge in Chambers and sign office reports to be placed before the Court of Registrar, after thoroughly examining the service position and status of the case;
27. to maintain a register in regard to FDRs, Securities, Bank Guarantees, etc., and shall apprise the Court and senior officers, from time to time, in that regard as also taken action thereon;
28. to prepare notice and warrant, if required, in relation to the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975;

29. to liaise with other branches of the Registry, advocates, parties in-person, Courts and Authorities in relation to cases;
30. to perform duties as may be required in the ICMIS through allotted password;
31. to allot password to an Assistant temporarily in the absence of a regular dealing Assistant in extreme exigency of work;
32. to obtain temporary password from the Computer Cell for an attached Assistant during the absence of a regular dealing Assistant on account of leave;
33. to check draft and fair decrees;
34. to pass orders for consignment in admission hearing cases;
35. to properly check certified copies of judgments/orders and copies of bailable and non-bailable warrants;
36. to check endorsements such as, copies of judgments/orders or interlocutory orders and documents regarding original records to the Courts/Authorities concerned;
37. to check all registers maintained by the dealing Assistants and prepare statistical reports in the branch;
38. to draft response to the applications under the Right to Information Act, 2005, and submit to the senior officers forthwith;
39. to perform such other duties and work as may, from time to time, be assigned by the senior officers.

Court Master

It shall be the duty of the Court Masters--

1. to report in Court at 10:00 a.m. sharp and shall arrange the paper books *in seriatim*. In case any deficiency is noticed, the same shall immediately be reported to the concerned Branch Officer or dealing Assistant, as the case may be, and the secretariat of the Judge concerned;
2. to call the cases in the open Court serially and place the paper books of the cases listed before the Bench;

3. to ensure that the case being heard is properly displayed on the Digital Display Board;
4. to maintain a register or list of mentioning cases and forward such mentioning memo/listing proforma to Registrar (J-I);
5. to go through the files of the cases listed before the Bench and shall draw broad outline of the issues involved in the case in writing;
6. to prepare a list of reported cases and judgments/orders on similar/identical issues and keep them ready for the perusal of the Bench;
7. to keep the Act(s) concerned in the case ready and shall flag the relevant provision(s) thereof for ready reference of the Bench in order to avoid waste of time; to wit, in a tax case, relevant Assessment Year shall be noticed and the relevant Act be kept ready with provision(s) concerned. In case of amendment in any section from retrospective effect, then the Act concerned amending the said section shall be made promptly available to the Bench;

In criminal cases, the sentence and conviction shall be seen; whether the accused is in jail or on bail; if confined, details of the jail; and whether the case has been filed against an interim order, final order, order rejecting/cancelling bail, etc.;

8. to make available at the time of hearing all the books cited by the advocates;
9. to receive and return to the concerned branches files of the cases listed for hearing before the Bench;
10. to be ready with the dates and page numbers of the different orders of the lower authorities in the paper books;
11. to bring to the notice of the Bench immediately, as and when desired, the service position and other documents received and placed in the files, i.e., settlement in a marital case by the Legal Services Authority/Committee or mediation centre or any other report;
12. to bring to the notice of the Bench, at the time of issue of notice or disposal of a main case, the applications for directions, substitution, impleadment, intervention, condonation of delay in filing cases and other applications for appropriate orders;

13. to requisition the files relating to identical/similar issue or cases filed against the common/relied upon impugned order in which an order has already been made and place them before the Bench at the time of hearing of a case, as and when required;
14. to note down the direction/order of the Bench in relation to a case and update the result in the computer immediately. The cause list would be prepared by the Listing branch taking into account also the said updation in accordance with the direction of the Bench;
15. to send the paper books of CAV matters to the residential offices of the Judges and ensure that reference books, if any, required by the Judges shall also be sent along with CAV matters;
16. to maintain a list of CAV matters of the Bench and update the Listing branch and secretariat of the Bench;
17. to keep themselves aware of the important judgments/orders of the Court and make them available to the Bench, if required;
18. to provide such information/clarification, as may be required by the officials/officers in relation to processing of a case;
19. to sign the Record of Proceedings and the Court Master (Shorthand) shall diligently incorporate the corrections, if any, made in the draft Record of Proceedings/orders by the Judge, which shall be cross-checked by the Court Master (Non-Shorthand) and ensure that orders are sent to all concerned branches and uploaded on the server promptly;
20. to work diligently so that no orders, duly approved and signed, and Record of Proceedings of the Court shall remain unattended or pending;
21. to be well-versed with the Rules as also practice and procedure and update themselves with latest amendments and extant Rules, which shall be brought to the notice of the Bench, as and when required;
22. to receive, and despatch, original records under acknowledgment from the concerned Branch. Original records shall be kept ready and be made available for the perusal of the Bench immediately, as and when required. The important documents in the records shall be flagged for ready reference of the Court; to wit, in a criminal case, F.I.R., charge-

sheet, statements, etc., as also the judgments of the Trial Court and the High Court;

23. to maintain a diary of the cases where future dates have been given by the Bench;
24. to promptly inform the Registrar (J-I) about any specific direction given by the Bench concerning any action to be taken by the Registry;
25. to ensure that the paper books of all the cases, which have been directed to be listed in the same week or next week, are sent separately to paper books godown expeditiously, preferably on the same day but not later than next day. He shall be responsible for the paper books of the cases listed before the Bench and shall send them to the paper books godown promptly, under acknowledgment;
26. to send paper books of part-heard cases or those required by the Judges directly to the residential offices under written intimation to the Assistant Registrar (Paper Books godown);
27. to take directions of the Bench in relation to F.D.Rs., Securities, Bank Guarantees or disbursement of the amount deposited in the Court at the time of disposal of the case or whenever occasion arises;
28. to forthwith inform the Registrar (J-I) and the Registrar concerned as also police personnel on duty, either inside or outside Court, about the order of the Bench to take a party or contemnor, present in-person in Court into custody, who has been sentenced to imprisonment under the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975;
29. to give preference to orders as regards release, bail, suspension of sentence and parole and transmit them to concerned branch expeditiously;
30. to send orders relating to a main case, in a closed cover, at the residential offices of the Judges for signatures;
31. to immediately transmit on the server the Record of Proceedings, judgments and orders, upon issuance, after digitally signing the electronic record of such judgments and orders, and report compliance to the officer in-charge on the same day;

32. to send files, paper books, documents or orders to the R&I branch by 5.30 p.m., as far as possible, which are required to be sent to the residential offices of the Judges, and for despatch beyond that time, advance intimation be given to the branch telephonically so that such documents can be sent by a special messenger;
33. to carry out such other work, as may be assigned to them by the Bench or senior officers.

Assistant Registrar

It shall be the duty of the Assistant Registrar --

1. to approve wireless messages; sign notices, except contempt notices; and certify documents;
2. to note down the cases listed in the Court;
3. to read Record of Proceedings and judgments/orders carefully placed before him and ensure compliance;
4. to examine urgent filing/documents received from the Filing Counter and ensure proper action;
5. to examine the issue of court fee, if any;
6. to examine the issue of, and extract, question of law;
7. to ensure timely listing of cases;
8. to submit proposal, in detail, in applications to the Deputy Registrar/Additional Registrar;
9. to ensure timely transfer of files to the Decree branch for preparation of decree after certifying that no action is pending in the file;
10. to thoroughly examine the service position and status of the case before signing Office Reports to be placed before the Judge in Chambers and Court;
11. to ensure that documents mentioned in the office reports have been included or circulated for inclusion in the paper books;
12. to ensure fair and equitable distribution of work;
13. to prepare statements/details of cases, received and disposed of, relating to the Branch;

14. to check pendency of receipts once in a week;
15. to ensure return of original records immediately in case of orders of remand to the Court(s) below as also in disposed of cases, if requisitioned;
16. to pass registration orders in interlocutory applications;
17. to maintain a register for F.D.Rs., Bank Guarantees, Securities, etc., and ensure action thereon;
18. to pass orders for consignment of files in regular hearing cases;
19. to thoroughly examine and inspect the files of the branch of incomplete/not ready cases once in a month and submit the report to the Deputy Registrar/Additional Registrar regarding delay in action, if any, and pendency of various applications lying in the branch as also report about the general functioning of the branch;
20. to ensure that no work of urgent nature is pending with subordinate officer and officials before they leave the office;
21. to check all the cause lists and bring to the notice of the Listing Branch, error or discrepancy, if any, and ensure its correction;
22. to check 'After Notice' cases as to whether proper action has been taken in conformity with the Rules, practice and procedure and other directions. In case proper action has not been taken, he shall give necessary guidance accordingly;
23. to guide the subordinate staff in day-to-day work;
24. to attend to the work of the Branch Officer in his absence; and
25. to perform such other duties as may be assigned to him by the senior officers.

Deputy Registrar

It shall be the duty of the Deputy Registrar --

1. to sign formal orders where the *lis* has attained finality; summons for non-prosecution; wireless messages, contempt notices, decrees in civil cases and transferred cases;
2. to pass orders for registration of the miscellaneous applications;

3. to give guidance to the staff;
4. to check pendency of receipt at least once in a week;
5. to check and suggest actions in 'Not Ready' cases in order to make them ready;
6. to pass orders in case of difference of opinion between the Branch Officer and Assistant Registrar; and if the matter is complicated, he may refer to, and seek guidance from the Additional Registrar, wherever applicable, or the Registrar, as the case may be;
7. to ensure smooth functioning of the branch and to effect fair and equitable distribution of work;
8. to examine the report, if any, regarding delay in action submitted by the Assistant Registrar and place the same before the Additional Registrar, wherever applicable, or the Registrar, as the case may be, with suggestions;
9. to inspect the branch once in three months and submit a report to the Registrar regarding pendency in the branch of 'Not Ready' cases and general functioning of the branch;
10. to randomly check the status vis-a-vis uploading of office reports, at least twice a week;
11. to act as the Assistant Public Information Officer under the Right to Information Act, 2005;
12. to attend to the urgent nature of work in the absence of Assistant Registrar, including signing of office reports; and
13. to get the work done from other officers under his control and perform such other duties as may be assigned to him by the senior officers.

Additional Registrar

It shall be the duty of the Additional Registrar--

1. to take policy decisions with regard to cases pending, with the approval of the Registrar;
2. to decide any question referred by the Deputy Registrar, wherever applicable;

3. to issue circulars periodically for the purpose of giving proper directions for smooth functioning of the branches under his control, with the approval of Registrar;
4. to ensure speedy action by the branch in Court's orders of urgent nature;
5. to inspect the branch periodically for the purpose of checking the pendency;
6. to examine the files of 'Not Ready' cases and give directions and guidance for making them ready;
7. to attend to the problems faced by the branch;
8. to give proposals for amendment of the Rules, wherever necessary;
9. to ensure prompt action in cases and get the work done in time;
10. to keep a tab on the pendency of cases and give appropriate directions;
11. to randomly check the status vis-a-vis uploading of office reports, at least twice a week;
12. to attend to the queries of the advocates and solve the problems to the maximum extent within the ambit of the Rules;
13. to extract maximum work from the officers/staff working under his control;
14. to act as the Assistant Public Information Officer under the Right to Information Act, 2005;
15. to attend to the work in the absence of Deputy Registrar under his control, wherever applicable; and
16. to perform such other duties as may be assigned by senior officers from time to time.

Note

The afore-stated duties of the dealing Assistant upto the rank of Additional Registrar, as stated in this Chapter, are only illustrative in nature and they may perform such other duties as may be assigned to them for the smooth and efficient functioning of the Court and the branch.

Listing of Cases

1. Separate registers for civil and criminal cases, to be heard by the Benches, shall be maintained, either in physical or electronic form, to show when they are complete in all respects and ready for hearing.
2. Where the Court has directed listing of a case on a particular date or during a particular period, the dealing Assistant shall make a note in that regard in the register and prepare the proposal for listing accordingly.
3. The proposal for listing of an admission hearing or regular hearing case shall be submitted by the dealing Assistant after approval of the Branch Officer or the Assistant Registrar, as the case may be, sufficiently in advance of the proposed date of listing, excepting the case taken from the terminal list.
4. The Registrar (J-I) shall take into account the proposals, keeping in view the fresh cases to be listed on the admission hearing day and the cases to be listed on a regular hearing day while preparing the cause lists. He shall also ensure that the cases are listed in accordance with the roster and instructions issued by the Chief Justice from time to time.

Applications

1. On receipt of an interlocutory application or miscellaneous application or any document, the diarist shall hand over the same, under acknowledgment, to the concerned dealing Assistant, who shall place the same on the record of the main case in which it has been filed on the same day, if possible, but, in no case later than the following working day.
2. Every interlocutory application or miscellaneous application, besides bearing a centralized annual serial number against which it

is registered in the register of petitions in the computer, shall also bear a serial number in the chronological order of its presentation in the proceeding.

Peremptory Order

1. Where a peremptory order has been made, the dealing Assistant shall make a note in the diary register and call for compliance report from the concerned official immediately after the expiry of the period stipulated in the order.
2. If the peremptory order has not been complied with, on the basis of the report of the concerned official, the dealing Assistant shall submit the factum of non-compliance to the Assistant Registrar, and, under approval, the consequence shall ensue and the case shall be updated accordingly in the computer within a week of the expiry of the stipulated period.

Explanation: Part compliance of a peremptory order shall be deemed to be non-compliance thereof.

3. A copy of the peremptory order shall be forwarded to the Court appealed from within a week of such order.

Expeditious Communication of Bail Orders and Release Orders

1. The officer in-charge of the criminal branch shall keep a directory of the Prison officials in India, published by the Bureau of Police Research and Development, Ministry of Home Affairs, New Delhi.
2. In case of release or bail order, excepting subject to the satisfaction of the Trial Court or any other Authority, a wireless message shall be sent forthwith to the concerned Jail authority, Registrar of the High Court and Trial Court along a certified copy of the judgment or order, as the case may be, by fax, wherever possible, or electronic mode and speed post.

3. Where an order directing stay of sentence of death has been made, an intimation thereof shall be immediately sent by speed post, telegram, fax, wherever applicable, or electronic mode, to the concerned State, Courts and Jail authority.

Provided that in case of a petition or appeal involving sentence of death, the filing of such petition or appeal shall be intimated in the same manner and the jailor shall be immediately contacted to ascertain the date, if any, fixed for execution of the sentence and the information shall be immediately placed before the Court by way of office report.

4. The Registrar of the concerned High Court shall also be requested to communicate the order to the Trial Court as well as Jail authority as expeditiously as possible.
5. The Officer in-charge (Courts) shall ensure that the Record of Proceedings, judgments or orders of the Court are immediately sent to the concerned Branch after pronouncement.

Inclusion of Documents in the Paper Books

1. (a) The dealing Assistant shall, from time to time, expeditiously include documents, such as Record of Proceedings, judgments/orders, affidavits in opposition, rejoinder affidavits, office reports and other documents in the paper books of the case.
(b) No documents, other than the part of the record, shall be included in the paper books.
2. The documents shall be sent for inclusion in the paper books in accordance with the Schedule mentioned in Chapter XIX, unless otherwise required.
3. In case the dealing Assistant is unable to send the documents for circulation as per clause 8 of Chapter XVIII, he shall circulate the same in a closed envelope through R&I branch.
4. It shall be the duty of the dealing Assistant to keep the paper books updated with Record of Proceedings, orders and other documents.

Decree and Formal Order

1. The decree shall be prepared within one week from the date of the judgment and order.
2. The files shall be sent to the Decree branch within two days from the date of judgment/order or from the date of receipt of files from the Court Master.
3. The draft shall be vetted and forwarded to the Additional Registrar/Deputy Registrar by the Branch Officer for approval and signature.
4. After the decree is signed by the Additional Registrar/Deputy Registrar, the file shall be sent back to the concerned Judicial branch.
5. The dealing Assistant shall prepare formal order in criminal cases forthwith where the *lis* has been finally adjudicated by the Court, which shall be approved and signed by the Additional Registrar/Deputy Registrar with promptitude.
6. The dealing Assistant shall expeditiously cause to transmit the original records, if received, to the respective Courts below, except in case of remand where the records shall be transmitted forthwith, along with a certified copy of the decree or formal order, as the case may be, wherever required, to such Courts.

Linked and Connected Cases

1. Cases arising from the same judgment/order/notification/F.I.R., etc., shall be referred as the 'linked cases' and cases involving similar points of law and/or fact, though arising from different judgment/order/notification/F.I.R., etc., shall be referred as the 'connected cases'.
2. It shall also be the responsibility of the Branch Officer and dealing Assistant to keep track of the linked and connected cases for being listed together for analogous hearing. All such cases shall be clubbed together High Court/State-wise and allotted to an Assistant, dealing

with the oldest or main case in the bunch *intra*-branch.

3. No case shall be treated as connected case, unless specifically ordered by the Court. In case the connected cases, owing to the roster, are required to be listed before different Benches, the Registrar (J-I) shall place them before the Chief Justice for orders as to the Bench before which such cases may be listed for analogous hearing.

Translation

Under Order VIII Rule 2 of the Rules, no documents in language other than English shall be used for the purpose of any proceedings before the Court. The documents in languages, other than English, are required to be translated into English.

- (a) Where a party has to incur the expenses for translation, the Branch Officer of the concerned Judicial branch shall mark the documents to be translated and, after taking the approval of the Additional Registrar or Deputy Registrar, as the case may be, send the file to the Branch Officer, Translation Cell.
- (b) The Branch Officer, after calculating the estimated cost of translation and obtaining the approval of the Additional Registrar or Deputy Registrar, shall return the file to the Judicial branch so that the estimated amount can be deposited by the party concerned.
- (c) Upon deposit of the estimated amount, the file shall be returned to the Translation Cell for translation.
- (d) The Branch Officer shall obtain the approval of the name of the translator from the Additional Registrar or Deputy Registrar. A register containing the names of translators of different languages shall be maintained and work shall be allocated chronologically.
- (e) After the translation and receipt of the bill from the translator, the Branch Officer shall send the file along with the bill to the Registrar/ Head of Office, through concerned Registrar, for according financial sanction and for payment.

- (f) After such orders, the file shall be returned to the Branch Officer of the concerned Judicial branch.

Urgent actions should not be held up for want of file from the Translation Cell.

- (g) Since the aspect of cost is not involved in jail petitions, the translation of documents shall be done expeditiously.
- (h) A panel of translators is maintained by the Registry for translating documents from Hindi/vernacular language to English on payment of prescribed charges. The charges payable are as under:

S. No.	Description	Approved rates per page (200 words)
1.	Translation charges for the first 10 pages	Rs. 50/- per page
2.	Translation charges for the next 10 pages	Rs. 40/- per page
3.	Translation charges for the next 30 pages	Rs. 35/- per page
4.	Translation charges for the next 50 pages	Rs. 30/- per page
5.	Translation charges for the next 100 pages	Rs. 25/- per page
6.	Minimum charges upto five pages	Rs. 250/-
7.	Approval of translation	Rs. 15/- per page
8.	Typing charges	Rs.12.00 per page for each additional copy @ Re.1.20 p. per page.

Consignment to the Record Room

- 1.(a) If no steps, after verification, are required to be taken on the file, such as relating to Security, Bank Guarantee, FDR, Report, if any, received in a sealed cover or the like, the file shall be consigned to the Record Room after properly indexing the file within fifteen days from the date of disposal of the case.
- (b) An entry of the result of the case and consequent consignment of the

file to the Record Room shall be made in the relevant register.

- (c) Where a future date has been given for compliance of the order, such as, vacation of premises in a landlord-tenant case or the like, such cases shall also be consigned, subject to the note that the same shall not be weeded out till the period for preservation, which shall be reckoned from that future date.
- 2.(a) Any file consigned to the Record Room may be requisitioned, in writing, under acknowledgment, by an officer not below the rank of Branch Officer in admission hearing cases, and not below the rank of Assistant Registrar in regular hearing cases, indicating the purpose, except in case of requisition by the Court, which shall be made by the Court Master indicating the Item number in which such file is required.
 - (b) In case of urgent requirement during the course of hearing of any case, the Court Master shall inform the concerned Branch Officer on telephone, followed by a proper requisition. Such file shall be sent to the Court immediately.
 - (c) Any file requisitioned by the Branch Officer or Assistant Registrar shall be transmitted on the same day, if possible, but in no case later than the following working day.
 - (d) The requisitioned files shall be returned to the Record Room at the earliest when no longer required.
- 3.(a) In cases where acknowledgments of letters forwarding certified copies of judgments/orders or transmitting original records or Registered A.D. cards or similar such documents are received in the Judicial Branches, pursuant to the consignment of the case files to the Record Room, such documents shall be included in the concerned files in the Record Room and the files in relation thereto shall not be sent to the Judicial branch for this purpose.
 - (b) The Judicial branch shall send such documents to the Record Room, under acknowledgment.

4. A register shall be maintained in the Record Room for the purpose of requisition/transmission of files.
5. The requisitions shall not be destroyed for a period of one year.

General

1. Consequent upon service of notice or otherwise, if a respondent transmits documents by post for being considered by the Court at the time of hearing and state that he will be unable to appear in-person, such documents shall be placed before the Court.
- 2.(a) In case of expedited, short or specially directed cases, the forwarding letter shall indicate that the case has been expedited and the original records, if requisitioned, shall be transmitted as also the certificate of service within one month of the receipt of the letter.
 - (b) In case the original records and certificate of service are not received, the Registrar of the Court appealed from be requested to transmit them expeditiously.
 - (c) In cases other than (a) above, if the notice of lodgment of petition of appeal sent to the Court appealed from is not received back either served or unserved within sixty days from the date of issue, the Registrar of the Court appealed from shall be requested to expedite the process.
 - (d) Such cases shall be made ready within a period of six months from the date of the order.
 - (e) While endorsing notice to the appellant in-person or the advocate on-record for the appellant, an option shall be given to him to effect service by Registered Post directly upon the respondent by submitting additional copies of the paper books.
3. If any process is received back unserved for want of complete/correct address or it is reported that the addressee is avoiding service, the party in-person or the advocate on-record for the

petitioner/appellant/applicant shall be requested to take necessary steps to effect service on the unserved respondent(s).

4. Wherever notice has been issued to the Attorney General for India, in such cases, the words 'Attorney General for India' shall be shown in the cause list along with the names of the advocates on-record.
5. In cases where any law officer or any other advocate or senior advocate has been appointed as an *amicus curiae*, the name of such law officer or advocate or senior advocate shall be shown in the cause list.
6. In a case where notice has been issued to a party in-person, it shall be effected on the said party only and none else, regardless of the fact that the said party is an advocate. In the office report, it shall be mentioned that the notice has been served on the party concerned personally.
7. Whenever notice to show cause is issued to the respondent(s), the notice shall indicate a note mentioning the availability of the Supreme Court Legal Services Committee and Middle Income Group Legal Aid Society in the Supreme Court, wherever required.
8. The cases which have been adjourned for a particular period/month shall be listed before the Court, irrespective of the fact whether affidavit in opposition or rejoinder or any document has been filed or not.
9. The contempt petition, on a returnable date, shall be listed before the Court, even if service is incomplete or affidavit in opposition has not been filed.
10. In case where intervention is allowed by the Court, the intervenor(s) shall be entitled to receive documents produced and relied upon by the petitioner(s), unless otherwise directed by the Court, and no application shall be received or entertained, unless service thereof is effected on the intervenor(s).

11.
 - (a) Office reports shall be cohesive and comprehensive with latest service position indicating the details of mode of service as also other details and shall specifically indicate in the concluding paragraph the orders sought from the Court.
 - (b) The documents enclosed with the office reports shall be duly tagged.
 - (c) Whenever a reference is made to any annexure(s), page number(s) given to the annexure(s) in the paper book shall be mentioned in the office report against the annexure(s).
 - (d) Whenever reference is made in the office report about the pendency of another case in the Court, details, in brief, regarding position and exact status of that pending case shall be mentioned in the office report.
 - (e) In a review petition, if the original paper books are not available and have been weeded out after due preservation under the Rules, it shall be indicated in the office report for the perusal of the Court.
12. Where notice has been served on the respondent(s) but no appearance has been filed, such case shall be treated as complete and be updated and listed before the Court.
13. If a case has been tagged with a case relating to another branch, a copy of the Record of Proceedings shall immediately be sent to that another branch for necessary action thereon.
14. In transferred cases, original records need not be returned. They shall be re-numbered and treated as original file.
15. The Decree branch shall also check whether any action is required to be taken in terms of the orders of the Court and, in such a case, the file may be sent back to the Judicial branch.

16. The officers and officials shall take extra care and caution in regard to handling of files and keep strict vigil on the movements thereof. They shall ensure that files and records sent to the Courts and other places are retrieved back in time and sent to the custodian. The Class III non-ministerial staff deputed for transmission of files must be given strict instructions to perform their duties effectively and not to leave the files unguarded at any unauthorized place.
17. The advocates on-record and parties may contact the Assistant Registrar concerned during the working hours in relation to a case and shall not visit the branch, except with the prior permission of the concerned Assistant Registrar.
18. In cases involving death sentence and where the appellant or the respondent is in jail and is not represented by an advocate on-record, the records shall be prepared and filed by the State.
19.
 - (a) Affidavits in opposition shall be filed five days prior to the actual date of hearing.
 - (b) Rejoinder affidavits shall be filed before two days before the actual date of hearing.
 - (c) Other documents, including letters for adjournments, be filed within two days prior to the actual date of hearing.
 - (d) No departure from clauses (a) to (c) above shall take place *save* with the permission of the Court.
20. An application for cancellation of date(s) shall be processed on the same day of the receipt in the Judicial branch.
21. The applications or documents shall be scrutinized carefully and all the defects shall be notified in the first instance. Irrelevant defects shall not be notified.
22. In no case, the file of a case shall be given to any advocate or a party.

CHAPTER XVII

PROCESS, WARRANTS AND SERVICE OF DOCUMENTS

1. Except where otherwise provided by any statute or prescribed by the Rules, all notices, orders or other documents required to be given to or served on any person shall be served by the Registry in the manner provided by the Code for service of a summons.
- 2.(a) In order to avoid delay in the service of the notice on the Union of India or any State Government or any of its Authorities, the petitioner/appellant shall specify the proper department and address of the Union of India or the State Government or its Authorities, as the case may be, on whom the notice is required to be served.

(b) The service of notice on the Standing counsel/advocate for the Union Government or the State Government/In-charge of the Central Agency Section/Special Officer/Resident Commissioner appointed by the State Government or any of the authorities in Delhi shall be treated as sufficient service on the concerned Government or any of its department.
3. Service of any notice, order or other document on the advocate on-record of any party at his address registered with office or registered eMail address or by leaving it with a clerk in his employ at his office or by sending it at his registered eMail address shall be deemed service on the party on whom he represents.
4. While issuing notice/communication through registered post/speed post, Bar Coding Slips, in triplicate, containing a unique number shall be used in the following manner:
 - (i) First copy of the Bar Coding Slip shall be affixed on the Registered A.D. and Registered parcel;
 - (ii) Second copy of the Bar Coding Slip shall be affixed on the office copy of the notice issued by the concerned branch; and
 - (iii) Third copy of the Bar Coding Slip shall be retained by the R&I branch for its record.

5. The unique number in the Bar Coding Slip shall be used to ascertain the exact status as to the delivery thereof through internet and print out thereof can be downloaded from the internet.
6. The branch shall take out the print of the track report as to the delivery status of the notice/communication and enclose it with the office report in a case to be placed before the concerned Court.
7. Where a notice has been issued by Registered A.D./Registered parcel and has been properly addressed but neither the unserved envelope containing the notice nor the acknowledgment has been received back for a period of thirty days from the date of issue of notice, it shall be presumed that notice has been duly served.
8. Refusal by a party or his advocate on-record or his registered clerk to accept notice shall be treated as deemed service.
9. Service of any notice, order or other document upon a party residing at a place within the territory of India may ordinarily be effected by registered post/registered parcel/speed post at his address or personally at the place where he ordinarily resides or his agent empowered to accept service, or by eMail or fax or approved courier service, if any, or through the District Judge concerned.
10. The Registrar may in a particular case or class of cases permit that the service shall be effected in the manner provided by the Code for the service of summons.
11. (a) Where *dasti* service, i.e., service through party has been directed, the party shall, unless permitted otherwise, within fifteen days of issue of *dasti*, tender the *dasti* notice to addressee in-person and obtain acknowledgment from him. In case the addressee declines to receive or acknowledge the service of notice, the party shall move the principal civil court, other than the High Court, within local limits of whom addressee resides or carries on business or personally works for gain, for service through special bailiff.
(b) The concerned court shall direct expeditious service of notice

through special bailiff and cause a report of service to be sent to the Registrar of this Court by Registered A.D./speed post, charges wherefor shall be paid by the party and forward a copy of the said report through the party, for being submitted to this Court.

- (c) Where service is to be effected by the party, he shall file an affidavit of service along with proof thereof stating the manner in which the service has been effected.
- (d) Where service has been effected through another Court, it may be proved by the deposition or affidavit of the serving officer made before the Court through which the service was effected.
- (e) Where the opposite party or his agent or other person on his behalf refuses to sign the acknowledgment, or where the serving officer, after using all due and reasonable diligence, cannot find the opposite party at his residence and in case the notice cannot be served in the ordinary manner, the notice shall be served by affixing a copy thereof in some conspicuous place in the Court-house and also upon some conspicuous part of the house, if any, in which the respondent is known to have last resided or carried on business or personally worked for gain, or in such other manner, as the Court thinks fit.

12. In case where notice has been directed to be served through the District Judge –

- (a) the petitioner shall furnish complete address of the District Judge within seven days; in default, the case shall be listed with office report on default.
- (b) In case particulars have been given, notice shall be sent to the District Judge along with the covering letter in 'Form A' conveying the order that service of such notice is to be effected through the concerned District Judge.
- (c) In case of *dasti* notice [by hand], the notice along with covering letter in 'Form B' shall be handed over to the petitioner so that

it may be delivered to the concerned District Judge.

The operative portion of the Forms read as under:

Form ‘A’

Whereas in the aforementioned petition, it has been ordered that the notice be served upon the Respondent No(s)....., through the District Judge concerned. Therefore, notice(s), in duplicate, is/are being sent to you for effecting service upon the Respondent No(s).....

You are requested to kindly get the notice(s) served in accordance with law and submit the service report to this Court without delay.

Yours faithfully,

Assistant Registrar

Form ‘B’

Whereas in the aforementioned petition/appeal, it has been ordered that the notice(s) be served upon the Respondent No(s) through the District Judge concerned and the petitioner has been permitted to take out the notice(s) in ‘*Dastir*’ (i.e., by hand).

You are requested to kindly get the notice(s) served in accordance with law and submit the service report to this Court without delay.

If Rules require payment of any additional fee (like special bailiff charges and petitioner seeks special bailiff), you may get the fee deposited in advance.

Yours faithfully,

Assistant Registrar

13. Where service of notice is to be effected by substituted service through publication in the newspapers, the newspapers shall be daily newspapers, in English and in vernacular language of the place, having wide circulation in the locality in which the respondent is last known to have actually and voluntarily resided, carried on business or personally worked for gain.
14. Where the opposite party is confined in jail, the notice shall be delivered to the officer in-charge of the jail for service on the said party.
15. Service of notice on the respondent/non-applicant/opposite party or where a party residing out of India has no agent or Political Agent or Court shall be served in terms of Order V of the Code.
16. In terms of Circular No. F.No. 12(77)/10-Judl. dated 18th August, 2011, issued by Ministry of L&J, Department of Legal Affairs (Judl. Section), the Department of Legal Affairs shall be the Central Authority for service of notices/summons of judicial and extra-judicial documents under the Hague Convention of 1965/Mutual Legal Assistance Treaties/Reciprocal arrangements with foreign countries in civil and commercial matters. The circular reads as under:

F.No. 12(77)/10-Judl.
Ministry of Law and Justice
Department of Legal Affairs
(Judicial Section)

Shastri Bhawan, New Delhi
Dated 18.8.2011

Office Memorandum

Sub: Service Abroad of Judicial and Extra-judicial Documents under the Hague Convention of 1965/Mutual Legal Assistance Treaties/Reciprocal arrangements with foreign countries in civil and commercial Matters--regarding.

The undersigned is directed to refer to the subject cited above and to state that this Department is the Central Authority for service of summons/notices in foreign countries under the provisions of the above Agreements.

It has been observed by this Department that a large number of documents received from the various courts are incomplete in one respect or the other and it gets quite difficult to process those documents to the foreign countries for service.

It is therefore requested to all Registrar Generals of Supreme Court/High Courts to circulate the following information to the courts within their jurisdiction with the directions to ensure the particulars of documents before sending the same to this Department:-

S. No.	Particulars of information
1.	Summons/Notices in duplicate shall be issued providing 3 months time in advance to this Department for effecting the service in foreign countries.
2.	Full address of the party and translation of the documents in the official language of requesting country wherever necessary.
3.	The Central Authority, USA has authorized to receive the summons/notices under Hague Convention of 1965 to an agency, Process Forward International. The Notice/summons for USA may therefore be sent directly by the Courts to Process Forwarding International, 633 Yesler Way, Seattle, WA 98104, USA along with the required fee etc. (details available at www.hcch.net).
4.	Ministry of Home Affairs is the nodal ministry and Central Authority for seeking and providing the

	mutual legal assistance in <u>criminal law matters</u> . Ministry of Home Affairs receives all kind of such requests, examines and takes appropriate action (as per circular no. T4410/14/2006 dated 30.04.2010 of Ministry of External Affairs).
5.	The Central Authorities in Canada are charging a cost of \$50.00 Canadian for the process of service under the Hague Convention of Service Abroad of Judicial and Extra-judicial Matters, 1965. The payment accompanying the documents to be served must be in the form of a traveller's cheque or a cheque, in the amount of Can \$50 per request. The travellers cheque or cheque must be drawn on a <u>Canadian Bank</u> . The details may be seen at www.hcch.net .
6.	Consulate General of India in Sydney has informed that the Sheriff's Office of NSW levies a fee of AUD 54 for serving summons through their office. The fee could be remitted in favour of the Consulate General of India, Sydney and the details of the 'Head of Account' under which such payment has to be debited be provided for making necessary action. (details available at www.hcch.net).
7.	This Department process the service of summons/notices in civil and commercial matters issued by an Indian court for service on a person residing in a foreign country with which there is any reciprocal arrangement. The list of member State/non-member State may be seen at www.hcch.net

F.No. 12(20)/2013-Judl.
FTS No.2144/R&I/2013
No. 12(80)/2013-Judl.
Department of Legal Affairs
Judicial Section

The Notice/Summon received for processing under the provision of ‘*The Hague Convention in Civil and Commercial Matters*’ are returned herewith for the reasons as mentioned below:

Sl. No.	Particulars of information
1.	As per the experience, various foreign authorities are not entertaining our request for legal assistance in such matters if the date of appearance of respondents/hearing of case are less than three months. Due to large no. of such requests being received from various courts in India/foreign authorities, this Department also needs one-two month time in processing the requests in this department as well as the time taken by postal department. <i>Kindly issue a fresh notice/summon providing 4-5 months time in advance for effecting the service in foreign countries.</i>
2.	<i>Summons/Notices in original are not in duplicate.</i> Notice/summon in original along with the copy of petition may be provided in duplicate.
3.	Full address of the party and translation of the documents in the official language of requesting country wherever necessary (viz. in the case of China, Arabic Countries etc.)
4.	The Central Authority, USA has authorized to receive the summons/notices under Hague Convention of 1965

	to an agency, <u>Processing Forward International</u> , 633 Yesler Way, Seattle, WA 98104, USA. <i>The Notice/summons for service in USA may therefore be sent directly by the Courts to Process Forwarding International along with the required fee etc.</i> (details available at www.hcch.net).
5.	<i>Ministry of Home Affairs is the nodal ministry and Central Authority for seeking and providing the legal assistance in criminal law matters.</i> Ministry of Home Affairs receives all kind of such requests, examines and takes appropriate action (as per circular no. T 4410/14/2006 dated 30.04.2010 of Ministry of External Affairs). Please send the documents to Legal Cell, Internal Security-II Dvsn., MHA, Hall-B, floor, NDCC-II Building, Jai Singh Road, New Delhi-110001. PH-23438115/8184/8083 FAX-8045, Email- us-legal@mha.gov.in .
6.	<i>The Central Authorities in Canada are charging a cost of \$50.00 Canadian for the process of service under the Hague Convention of Service Abroad of Judicial and Extra-Judicial Matters, 1965.</i> The payment, accompanying the documents to be served, must be in the form of a traveller's cheque or a cheque, in the amount of Can \$50. The travellers cheque or cheque must be drawn on a Canadian Bank. The details may be seen at www.hcch.net .
7.	<i>Consulate General of India in Sydney has informed that the Sheriff's Office of NSW levies a fee of AUD 54 for serving summons through their office.</i> The fee could be remitted in favour of the Consulate General of India Sydney and the details of the 'Head of Account' under which such payment has to be debited be provided for making necessary action. (details available at www.hcch.net).

8.	The documents as received from foreign country along with the report in original are sent herewith for taking further necessary action at your end.
----	---

17. (a) In criminal proceedings, to compel appearance of an accused, the Court may direct issuance of warrant and other process in the manner provided by the Code.
- (b) The notice shall, if practicable, be served personally on the person concerned.
- (c) Where the person, by exercise of due diligence, cannot be found, the notice may be served by leaving it with some adult male member of his family residing with him, and the person with whom the notice is so left shall sign a receipt therefor.
- (d) If service, with due diligence, cannot be effected on the person concerned, the serving officer shall affix a copy of the notice on some conspicuous part of the house or homestead in which the person ordinarily resides and the Court, after making such inquiries as it thinks fit, may either declare the notice to have been duly served or order fresh service in such manner as it considers proper.
- (e) Where the person concerned is in the active service of the Government, the Court shall ordinarily send the notice to the head of the office in which such person is employed, who shall cause the notice to be served and send receipt to the Court under his signature with the endorsement that notice has been served.
- (f) The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice, or if he fails to appear in person or to continue to remain present in person in pursuance of the notice, wherever required, direct a warrant, bailable or non-bailable, for his arrest,

addressed to one or more police officers or may order attachment of property.

- (g) Every warrant of arrest ordered by the Court shall be issued under the signature of the Registrar in Form No. II in Chapter XIV and shall be executed, as far as may be, in the manner provided by the Code.
- (h) The manner and mode of execution of the warrant has been given in Chapter XIV.

CHAPTER XVIII

PAPER BOOKS

1. In a main case and in relation to any application or document filed therein, unless otherwise provided, at least three copies of the paper books shall be filed.
2. If the case is referred to a larger Bench, such additional number of copies of paper books, as may be required as per the composition of larger Bench, shall be filed within one week from the date of order referring the case to a larger Bench.
3. The index of the paper books shall tally with the index of the original case file.
4. The documents for inclusion shall be sent by the Judicial branches to the paper book godown [Section IA (Annexe)], under acknowledgment, on weekly basis, except in urgent circumstances.
5. The Branch Officers of Judicial branches, shall, wherever a diary number, pursuant to the order/notice by the Court, has been converted into special leave petition or appeal number, intimate the special leave petition or appeal number, in writing, to the Assistant Registrar, in-charge of paper books godown, and send the relevant copies of Record of Proceedings for inclusion in the paper books.
6. The paper books of the cases shall not be preserved, from the date of order of disposal, for more than two months and shall be destroyed accordingly, except in the case of transfer petitions, which shall be destroyed after one month from the date of disposal.
7. The paper books shall be maintained properly and dust-free.
8. No documents for circulation shall be accepted on working days after 4:00 p.m., except on Saturday after 12.00 noon, for the cases listed on the following working day.

9. No request for supply, or copy, of paper book shall be accepted, except in accordance with Order XIII of the Rules.
10. Green tags with 'plastic ends of 1' shall be used in the paper books.
11. The inclusion of documents in the paper-books shall be accepted in Section 1A (Annexe) as per the following schedule:

Monday

- | | | |
|-----|---|-------------------------------|
| II | - | from 10.30 a.m. to 12.00 noon |
| IIB | - | from 12.00 noon to 1.00 p.m. |
| IIC | - | from 2.30 p.m. to 3.30 p.m. |
| IV | - | from 3.30 p.m. to 4.30 p.m. |

Tuesday

- | | | |
|-----|---|-------------------------------|
| IIA | - | from 10.30 a.m. to 12.00 noon |
| III | - | from 12.00 noon to 1.00 p.m. |
| IVB | - | from 2.00 noon to 3.00 p.m. |
| IX | - | from 3.00 p.m. to 4.00 p.m. |

Wednesday

- | | | |
|-----|---|-------------------------------|
| IVA | - | from 10.30 a.m. to 12.00 noon |
| X | - | from 12.00 noon to 1.00 p.m. |
| XI | - | from 2.00 p.m. to 3.30 p.m. |

Thursday

- | | | |
|------|---|-------------------------------|
| XVII | - | from 10.30 a.m. to 12.00 noon |
| XVIA | - | from 12.00 noon to 1.00 p.m. |
| XIV | - | from 2.00 p.m. to 3.30 p.m. |
| XIA | - | from 3.30 p.m. to 4.30 p.m. |

Friday

- | | | |
|------|---|-------------------------------|
| XV | - | from 10.30 a.m. to 12.00 noon |
| XIIA | - | from 12.00 noon to 1.00 p.m. |
| IIIA | - | from 2.00 p.m. to 3.00 p.m. |
| PIL | - | from 3.00 p.m. to 4.00 p.m. |

Saturday

- | | | |
|-----|---|-------------------------------|
| XII | - | from 10.30 a.m. to 11.30 a.m. |
| XVI | - | from 11.30 a.m. to 12.30 p.m. |

General

1. The Assistant Registrar and the Branch Officer shall ensure that circulation of documents shall be sent to the Paper Books branch as soon as they are ready for circulation and shall not send the whole circulation together at the eleventh hour.
2. In case any additional documents have been received in a case which has appeared in the advance list or final list, such documents shall be sent to the Paper Books branch with the remark “The matter has appeared in the advance list or final list”. In case the paper books are in the custody of Paper Books branch, such documents shall be included forthwith, otherwise they shall be sent by way of circulation.
3. Letters for adjournment shall be sent for circulation only in cases which have appeared in the final cause list.
4. The Record of Proceedings or other documents shall specifically mention the Court number, item number and date of listing at the top right corner of such documents, if the case has appeared in the final cause list.
5. *De hors* the schedule, any Judicial branch can send any Record of Proceedings or documents for inclusion between 3.30 p.m. and 4.30 p.m. on Wednesday.
6. A dealing Assistant shall, expeditiously but not later than three days, ensure that Record of Proceedings/orders or other documents, sent by the Judicial branches, are included in the Paper Books.
7. Whenever any document is received for inclusion in the Paper Books branch, under acknowledgment, it shall be the responsibility of the branch to include the document in the concerned paper books.

8. A document, Record of Proceedings or order once circulated shall not be sent again for inclusion by the Judicial branches.
9. Inclusion of documents shall be done carefully, preferably with the help of punching machine and paper cutters so that the shape and size of the paper books are not disturbed and the documents included do not come out of the paper books.
10. The paper books shall be sent as per schedule/directions given by the Judges. The Branch Officer or dealing Assistant, as the case may be, shall confirm the receipt of the paper books or documents from the secretariat of the Judges.

CHAPTER XIX

JUDGMENT, DECREE, ORDER AND REPORT

1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their advocates on-record, and the decree or order shall be drawn up in accordance therewith.
2. A member of the Bench may read a judgment prepared by another member of the Bench.
3. Subject to the provisions relating to review contained in Order XLVII of the Rules, a judgment pronounced by the Court or by a majority of the Court or by a dissenting Judge in open Court shall not afterwards be altered or added to, except for the purpose of correcting a clerical or arithmetical mistake or an error arising from any accidental slip or omission.

A judgment, decree or order may also be corrected in the like manner under Section 152 of the Code.

4. Every decree passed or order made by the Court shall be drawn up in the Registry and be signed by the Additional Registrar/Deputy Registrar and sealed with the seal of the Court and shall bear the same date as the judgment in the suit or appeal.
5. The decree passed or order made by the Court in every appeal and any order for costs in connection with the proceedings therein shall be transmitted by the Registrar to the Court appealed from and steps for enforcement of such decree or order shall be taken in that Court in the manner prescribed by law.
6. Orders made by the Court in other proceedings shall be transmitted by the Registrar to the Judicial or other authority concerned to whom such orders are directed and any party may apply to the Judge in Chambers that any such order, including an order for payment of costs, be transmitted to any other appropriate Court or other authority for enforcement.

7. In case of doubt or difficulty with regard to a decree or order made by the Court, the Additional Registrar or Deputy Registrar, as the case may be, shall, before issuing the draft, submit the same to the Court.
8. Where the draft of any decree or order is required to be settled in the presence of the parties or where the parties require it to be settled in their presence, the Registrar or Additional Registrar or Deputy Registrar shall, by notice in writing, require the parties to appear before him on a day and time specified and to produce the briefs and such other documents, as may be necessary, to enable the draft to be settled.
9. Where any party is dissatisfied with the decree or order, as settled by the Registrar, the Registrar shall not proceed to complete the decree or order without allowing that party sufficient time to apply by motion to the Court, which shall not exceed ninety days from the date of order of the Registrar failing which the Registrar shall proceed to settle the decree.
10. Where any judgment or order of the Bench contains any direction for circulation of such judgment or order amongst the High Courts or any authorities or require that the matter be placed before the Chief Justice, the matter shall be placed before the Registrar (J-I) for compliance.
11. (i) A copy of every reportable judgment or order, unless otherwise directed, be supplied to:
 - (a) the Editor/Assistant Editor for the purpose of Headnotes in Supreme Court Reports;
 - (b) Bar Library;
 - (c) Judges Library;
 - (d) secretariat of the Judges of the Bench (two copies each);
 - (e) concerned Judicial branch for case files (in case of civil, criminal and death cases; two, four and six copies respectively);

- (f) Parliament House; and
 - (g) Ministry of Law & Justice, Shastri Bhawan.
 - (h) Centre for Research & Planning, Supreme Court of India
- (ii) A certified copy of the judgment or final order shall be sent, either in physical or electronic form, under the signature of the Assistant Registrar of the concerned Judicial branch--
- (a) to the Court appealed from;
 - (b) in criminal cases where the accused is not in Jail, to the Court wherefrom the accused had furnished bail;
 - (c) in criminal cases where the person is in Jail, to the Officer in-charge of the Jail for his record;
 - (d) in criminal cases where the person is in jail and conviction has been maintained, to the person through the Officer in-charge of the Jail;
 - (e) in criminal cases, first copy be given to the accused without any fee;
 - (f) in writ cases, to the concerned authorities impleaded as parties;
 - (g) in election petitions, to the Central Government for publication in the official gazette;
 - (h) in Reference, a Report to the President or the Governor, as the case may be;
 - (i) in Reference made by the Central Government or Statutory Tribunals under Statute, to the Central Government or Statutory Tribunal, as the case may be.
12. A copy of the Judgment (reportable and non-reportable) be issued to the journals on payment of prescribed charges/annual token fee.

CHAPTER XX CERTIFIED COPIES

1. A party to a proceeding in the Supreme Court shall be entitled to apply for and receive certified copies of all pleadings, decrees or orders, documents and deposition of witnesses made or exhibited in the said proceeding at his expense.
2. A person, who is not a party to the case, appeal or matter, pending or disposed of, may apply to the Judge in Chambers in terms of Order VIII, Rule 6(1) read with Order V Rule 2(37) of the Rules for supply of copies other than orders/judgments, who, on good cause shown, may allow such person to receive such copies as is or are mentioned in the last preceding clause.
3. An application for ‘certified copy’ or unauthenticated ‘copy’ may be presented in Form No. 29 and a copy be given to:
 - (i) advocate on-record;
 - (ii) party, even if represented by an advocate on-record;
 - (iii) party in-person;
 - (iv) advocate, other than the advocate who argued the case, whose name is shown in the Record of Proceedings; and
 - (v) advocate, duly authorized by the advocate on-record in the case.
4.
 - (a) A party may apply by post or eMail to the Registrar (Copying Section) giving full particulars of the case along with the requisite copying fee for urgent/ordinary delivery and postal charges, wherever required.
 - (b) A non party can apply for certified or unauthenticated copy of judgments/orders by moving an application in prescribed Form 29 along with affidavit as mentioned therein.
5.
 - (a) An application for certified or unauthenticated copy presented at the Copying branch or sent by Post or eMail, shall be scrutinised by the dealing Assistant and in case it is found to be defective, defects shall be notified on the official website

and through SMS, if phone number is given, by Post or eMail, as the case may be.

- (b) If the application is found to be in order, it shall be registered and allotted a number. The dealing Assistant shall forthwith issue a receipt therefor. Such receipt shall, *inter alia*, indicate the registration number of the application and the date on which the certified copy is likely to be ready.
6. On every copy after it is prepared, the following shall be entered:
- (a) application filed on;
 - (b) the date given to receive copy;
 - (c) date on which copy is made ready; and
 - (d) the date on which the copy is received by the applicant or sent to the applicant.
7. (i) The fee and charges for obtaining certified copy or unauthenticated copy shall be as under:
- (a) Re.1/- per folio;
 - (b) Rs.5/- for urgent copy;
 - (c) Rs.10/- for certification;
 - (d) Rs. 5/- in case of application made by a third party;
 - (e) Rs. 22/- for postal charges (minimum) in case the request is received by registered post or eMail;
- (ii) The copies have been classified into following categories:
- (a) A1- urgent certified copy
 - (b) A2 - urgent unauthenticated copy;
 - (c) B - ordinary certified copy; and
 - (d) C - ordinary unauthenticated copy.
8. A party can apply for certified or unauthenticated copy of the kind mentioned in clause (1) of this Chapter during the working hours on all working days of the Registry.
9. An accused person shall not be required to pay copying charges, except for copies other than the first.

10. A copy of Record of Proceedings, judgment or order is issued within a day on urgent basis, whereas ordinary copy is issued within three days from the date of registration of the application.
11. Copies of the documents shall be given within seven days from the date of registration of the application or receipt of documents from the concerned Branch, as the case may be.
12. Every certified copy shall be certified by the Assistant Registrar/Branch Officer or such other officer, as may be authorized in that behalf by the Registrar, to be true copy of the original and shall be sealed with the seal of the Court in accordance with Rule 6 of Order III of the Rules.
13. (a) No certified copy shall be given of any registered document or of a document which is itself a 'copy' of the original document. However, if such a document is a copy annexed with any petition/appeal/application/reply or any other pleading presented in Court, then a 'copy' may be issued.
(b) Any copy other than certified copy shall bear an endorsement that 'it is not a certified copy'.
14. Notwithstanding anything contained in Order XIII of the Rules, no party or person shall be entitled as of right to receive copies of or extracts from any minutes, letter or document of any confidential nature or any paper sent, filed or produced, which the Chief Justice or the Court directs to keep in sealed cover or considers to be of confidential nature or the publication of which is considered to be not in the interest of the public, except under and in accordance with an order specially made by the Chief Justice or by the Court.
15. The functioning of the Copying branch shall be regulated as per the guidelines and directions issued by the Chief Justice from time to time.

16. (a) Where an application for certified or unauthenticated copy is sent by post or eMail, the prescribed fee/charges shall be remitted by postal order/demand draft in favour of Registrar, Supreme Court of India.
- If, on receipt of an application by post or eMail, the amount is found to be deficient, the applicant shall be informed by post or eMail, as the case may be, to make good the deficient fee/charges.
- (b) An application received by post or eMail, shall be acted upon only after receipt of the prescribed fee/charges.
- (c) On receipt of the prescribed fee/charges by post, court fee shall be purchased and affixed on the application.
- (d) If the defects are not removed within twenty eight days from the date of communication of the defects, the application shall be filed by the Registrar and the Postal Order/Demand Draft may be returned to the applicant, at his expense.
- (e) Where the defects are removed within the period stipulated, the Copying branch shall proceed to prepare the certified or unauthenticated copy applied for and despatch it by registered post at the address given in the application.
17. Where a certified copy of a digitally signed judgment or order, transmitted to the main server of the Court, has been applied for, the dealing Assistant shall access the same and shall prepare the certified or unauthenticated copy.
18. As regards documents, the dealing Assistant shall prepare photocopies of the documents applied for, if a scanned copy thereof is not available, and after completing the formalities, certified copy or unauthenticated copy, as the case may be, shall be prepared and issued.

19. No certified copy shall contain the signature of the Judges. Care shall be taken especially to mask the signatures of the Judges while scanning or preparing a photocopy from the original document containing such signatures.
20. A certified or unauthenticated copy, when ready, shall be delivered to the applicant or a person authorized by him, under acknowledgment.
21. The Copying Branch shall maintain a register and accounts in respect of all the applications presented or sent by post or eMail.

General

1. No certified or unauthenticated copy of an *ex parte* interim order shall be issued to a petitioner/appellant, unless he produces the proof of filing of process in the case.
2. If a party or advocate on-record desires to obtain a copy of the proceedings of the Court on the same day, he may file the requisite application with correct particulars in that behalf before 11.00 a.m. affixing the prescribed fee/charges.

CHAPTER XXI RECORDS

Inspection or Search

1. A party to any cause, appeal or matter, subject to the provisions of the Rules, may apply in Form No.36 to the concerned Registrar and shall be allowed to search or inspect records in the case, on payment of the prescribed fee and charges.
2. Any person, who is not a party to the case, appeal or matter, may make an application for inspection or search before the Judge in Chambers under Order V Rule 2(37) of the Rules.
3. (a) A search or inspection, in a pending case, shall be allowed only in the presence of an officer of the Court and after twenty four hours' notice in writing to the parties, who have appeared.
(b) The copies of documents shall not be allowed to be taken, but notes of the search or inspection may be made.
4. A party or his advocate on-record or an advocate duly authorised by him, or party in-person to any cause, appeal or matter, whether pending or disposed of, may be allowed to search or inspect the records.
5. (a) The inspection of the records of a pending case shall be done in the concerned Judicial branch and, in a disposed of case, in the Record Room. The inspection may be permitted under the orders of the Branch Officer.
(b) In case of original records, the inspection or search shall take place in the branch having the custody of such records.
6. A register shall be maintained by the Branch Officer and every person seeking search or inspection shall, beforehand, enter necessary particulars therein.
7. During search or inspection, no pen or ink shall be used and pencil and paper may be used and no marks shall be made on any record or papers inspected. Any violation would deprive the person to inspect

such records for such period, as the Registrar may direct.

8. The fee for search or inspection by means of court fee shall be Rs.50/-, which shall be non-refundable.
9. The inspection shall be done within one week from the date on which inspection has been ordered and, in default, the order shall lapse and no inspection shall be permitted without a fresh application.

Reconstruction

1. It shall be ensured that record of a case is not lost or misplaced or mutilated by rodents, termites or otherwise.
2. Where a record is lost, misplaced or mutilated, either fully or partially, from the custody of any officer or official of the Registry, the matter shall immediately be reported to the Registrar.
3. Any delay in reporting matter to the Registrar may invite adverse inference.
4. The Registrar shall cause such report to be circulated amongst all the officers and officials of the Judicial branches of the Registry. If such record is in the possession of any officer or official of the Registry, he shall immediately intimate the Registrar.
5. Every possible effort shall be made to trace the record.
6. Where the record could not be traced, the Registrar shall record a finding that the record has been lost, misplaced or mutilated, fully or partially. The matter shall then be placed before the Chief Justice for appropriate orders, including orders for part or full reconstruction of such record.
7. Where reconstruction of the record relates to the Court, it shall be reconstructed by the Registrar and where it relates to the High Court or lower Court, it shall be reconstructed by the Registrar of the High Court or Presiding Officer of the lower Court under the supervision of the District Judge, as the case may be.

Preservation and Destruction

1. There shall be an index of the record in every case in the form prescribed below --

Index of Papers
in
Civil Appeal No. _____ of _____ (or Criminal
Appeal No. _____ or Petition No. _____ or Suit
No. _____)

Cause Title

Serial No.	Date of filing the paper in the record	Description of paper	No. of the part to which it belongs	Remarks

2. The record in each case shall be divided into two parts, Part I to be preserved permanently in physical, digitized, scanned, microfilmed or such other form as may be decided by the Chief Justice and Part II to be preserved for the period as hereinafter provided.
3. Each paper in the record shall be numbered and entered in the Index. On the first page at top right corner of the document, the part shall be specified to which it will belong.
4. (a) The period for preserving the record shall be reckoned from the date of the final decree or order and in case an application for review is filed from the date of the final decree or order made on review:
Provided that where an order is to be given effect on a future date mentioned in the order, the period shall be reckoned from that future date.

- (b) In the case of registers, the period shall be reckoned from the date of last entry in the register.
- 5.
 - (a) The record of admission hearing cases, including cases for preliminary hearing, affidavits in opposition, rejoinder affidavits and documents (except original documents), if any, and such like cases may not be retained beyond one year of their disposal.
 - (b) Only the index of documents filed, original documents and the order disposing of the case may be preserved permanently and the rest of the papers be discarded and destroyed.
- 6. The Registrar may direct that any paper assigned to Part II be transferred to Part I for being preserved permanently.
- 7. Records which do not fall under Part I or Part II, as classified below, shall be referred to the Registrar, who shall decide the Part under which they should be included.
- 8. When any record is ripe for destruction, it shall be effectively shredded and the shredded strips may be disposed of as waste and the sale proceeds shall be credited to the Central Government.
- 9. As soon as the record is destroyed, a note shall be made in the index that the record has been destroyed as also the date of destruction by the Branch Officer.
- 10. A register of records destroyed shall be maintained by the Branch Officer and all entries regarding destruction shall be made therein.

PART I

The following papers shall be included under Part I:

- 1. Index.
- 2. Judgment.
- 3. Decree or Order.
- 4. Pleadings (Plaint, written statement, set off and counter claim).

5. Petition of appeal, reply in petition of appeal and rejoinder to the reply, with such annexures as are original documents.
6. Statement of Case.
7. Original petitions including admitted special leave petition and Article 32 petitions, objection/reply to the notice and rejoinder to the reply, with such annexures as are original documents.
8. Reference received under Article 143.
9. Reference received under Article 317(1) or under any Statute.
10. Memorandum of compromise, award of arbitrators, which results in a decree.
11. Original documents.
12. Papers of historical, sociological, scientific or archival value and such other papers, as in the opinion of the Court or the Registrar should be permanently preserved.
13. Served summons and notices.
14. Acknowledgments(s) of receipt of summons and notices by the respondent(s)/opposite party(ies).
15. Affidavit of service, if any, filed under Rule 5, Order LIII of the Rules.
16. Any other document evidencing the service of summons and notices on the respondents(s)/opposite party(ies).

Registers

1. Registers of suits, civil and criminal appeals, petitions under Article 32, special leave petitions, special references and miscellaneous petitions.
2. Rolls of advocates and enrollment files.

PART II

The following papers shall be included in Part II and shall be destroyed after the period indicated below:

- | | |
|---|----------|
| 1. Appearance, power of attorney and Vakalatnama. | One year |
| 2. Affidavits. | One year |
| 3. Taxation files including bills of costs. | One year |
| 4. Register of bills of costs. | One year |

5.	Despatch register.	One year
6.	Applications for condonation of delay and such other formal application	One year
7.	Correspondence in cases.	One year
8.	“Unclaimed documents other than original documents”	One year
9.	Office notes in the case files	One year
10.	Copies of Unserved summons and notices.	One year
11.	Copying register.	One year
12.	Surplus copies of printed records, and of pleading and petitions	One year
13.	Minutes Book of the Judge to be destroyed by burning on the laying down of office by the Judge unless the Judge desires to retain them in his personal custody.	One year

CHAPTER XXII

PAYMENT INTO AND OUT OF COURT OF SUITORS' FUNDS

1. Any amount directed to be paid into the Court to the credit of any case shall be paid into the UCO Bank, Supreme Court Compound, New Delhi (or any other Nationalised Bank(s), as may be directed by the Chief Justice from time to time) into an account entitled 'Government Account-P-Deposits and Advances-II Deposits Not Bearing Int.-(c) other Deposits A/cs.-Deptl. and Judicial Deposits-Civil Deposits-Civil Court Deposits'.
2. The Registrar may, in appropriate cases, authorise the acceptance of moneys by demand drafts, banker's cheques or pay orders issued in favour of the Registrar and payable in Delhi or New Delhi by a Nationalised/Scheduled Bank and direct that the said amount be deposited with the Bank. On encashment, the date of tender in such cases shall be deemed to be the date on which such draft, cheque or pay order has been presented for encashment:

Provided that such tender by demand draft, banker's cheque or pay order has been made a day prior to the due date.
3. A Lodgment Schedule in Form No.25 shall be presented by the person ordered to pay money into Court to the Branch Officer of the Accounts branch for issue of a challan to enable him to make the payment into the Bank. It shall be accompanied by a copy of the order directing the payment or shall bear a certificate from the Registrar endorsed thereon the amount to be paid and the time within which the payment is to be made.
4. (a) On presentation, a challan, in duplicate, specifying the amount and the date within which payment is to be made but, in no case exceeding ten days from the date of issue of the challan, shall be issued by the Branch Officer to such party, who shall present the same at the Bank and make the payment.

- (b) On receiving payment, a copy of the challan duly signed and dated, acknowledging the receipt of the money shall be returned to the person making the payment.
 - (c) The Bank shall not accept the payment if the amount is tendered beyond the date mentioned in the challan as the last date for payment.
- 5. On production of the copy of the challan acknowledging payment, a credit entry shall be made in the books maintained by the Accounts branch for the said amount. A receipt signed by the Registrar shall be issued to him and the said challan shall be retained in the branch.
- 6.
 - (a) The Branch Officer shall keep a register causewise in respect of all money, effects and securities. The purpose of deposit and the orders of attachment received, if any, of the funds shall be duly entered in the register.
 - (b) No money shall be paid out of the funds in Court without an order of the Court.
- 7. An application shall be made to the Court for payment out of Court. It shall be accompanied by a Certificate of Funds signed by the Registrar showing the amount standing to the credit of the case, from which payment out of Court is sought and the claims and attachments, if any, subsisting thereon on the date of the certificate.
- 8.
 - (a) If the Court makes an order in favour of a party, he shall apply to the Registrar for payment in accordance with the said order, who shall issue an order for payment in the prescribed form. The payment order shall be endorsed at the same time on the original challan received from the Bank.
 - (b) The payment order together with the challan duly endorsed for payment shall be handed over to such party, who shall present the same to the Pay and Accounts Officer, Supreme Court of India, New Delhi, and obtain payment.

- (c) Where, however, the entire amount of the challan or the entire balance remaining unpaid thereunder is not to be paid out to such party, the original challan shall not be handed over to him, but only a copy thereof endorsed for payment shall be given to him for presentation to the Pay and Accounts Officer, the original challan being retained in the Accounts branch until the funds are fully paid out.
- 9. Where a party seeks payment of the moneys or securities paid to the Registrar or deposited with him, a commission will be recovered from it at the rate of one per cent and two per cent respectively on the principal amount and the interest drawn on the invested money, subject to the maximum of Rs. 15,000/-.
- 10.
 - (a) The Branch Officer, shall check and tally the accounts maintained in the branch every month with the monthly statements of receipts and payments to be received from the Pay and Accounts Officer.
 - (b) The Registrar shall certify under his signature every month that the accounts have been duly checked and tallied.
- 11. Fees of Rs. 250/- for registration of an advocate on-record shall be paid into the Bank to the credit of an account entitled 'XXI-Administration of Justice Receipts of the Supreme Court'.
- 12. Fees of Rs. 100/- shall be payable for registering a clerk of an advocate or a firm of advocates.
- 13. Fees of Rs. 50/- shall be payable, on requisition, for issue of an identity card in substitution of one that is lost or damaged.
- 14. Where a party seeks photograph copies or copies of maps filed in any case, he shall pay the actual charges to be incurred in cash for the same.

15. (a) In a disposed of case in which the amount has been deposited, the concerned Judicial branch shall immediately inform the Cash and Accounts-II branch by supplying the copy of the order so that the requisite information can be updated in the records of the branch.
 - (b) The list of unclaimed deposits lying in the Suitors' Fund shall be uploaded on the official website, on monthly basis, so as to enable the claimants to present an application seeking payment out of moneys in Court within a period of one month from the date of disposal of the case.
 - (c) Where neither of the parties approach the Court for refund/withdrawal of the amount forming part of the Suitors' Fund within six months from the date of disposal of the case, such cases with Office Report for Direction shall be placed before the Judge in Chambers.
16. Where an application or a request is not made by the party or his advocate on-record for release of the Bank Guarantee or security, a letter shall be sent to the concerned advocate on-record and the party to make such application or request. If no reply is received within the period stipulated therein, Office Report for Direction shall be placed before the Court.

General

Wherever the Court directs withdrawal of the amount in favour of a party, the said party may apply to the Registrar for release of the amount in terms of the said direction and no formal application therefor be made.

CHAPTER XXIII

DISTRIBUTION OF WORK ON JUDICIAL SIDE

SECTION	ALLOCATION OF WORK
I, IA and IA Annexe	Custodian of paper books of admission and regular hearing cases; maintenance of paper books; and despatch of paper books to the residential offices of Hon'ble Chief Justice of India and Hon'ble Judges.
IB	<p>Filing of Cases, its scrutiny, categorisation, registration, filing of miscellaneous documents, scanning of fresh cases filed in the Court, etc.</p> <p>Extension counter looks after processing of fresh admission cases for listing before the Court, including preparation of office reports, except in cases where notice has been issued or where cases have been admitted for hearing.</p>
Listing	Listing of Cases.
Copying copying@sci.nic.in	Issue of certified copies of orders, documents, etc.
Scanning Cell	Scanning of disposed of cases.
Editorial	Preparation of copies of judgments/orders, preparation of headnotes for, and publication of, Supreme Court Reports, accreditation of legal correspondents.
Judges' Library	Work relating to purchase, receipt and issue of books/literature/articles to Hon'ble Chief Justice of India, Hon'ble Judges and Courts.
Elimination	Work relating to all fresh admission hearing cases, which have been dismissed <i>in limine</i> .
II	Death Cases, Criminal Appeals, Petitions for Special Leave to Appeal and Jail Petitions from

	<p>the States of Assam, Arunachal Pradesh, Manipur, Meghalaya, Nagaland, Sikkim and Tripura, Andhra Pradesh, Telengana, Rajasthan and Uttar Pradesh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IIA	<p>Death Cases, Criminal Appeals, Petitions for Special Leave to Appeal and Jail Petitions from the States of Bihar, Jharkhand, Madhya Pradesh, Maharashtra, Goa, Union Territory of Dadra and Nagar Haveli, Daman and Diu.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IIB	<p>Death Cases, Criminal Appeals, Petitions for Special Leave to Appeal and Jail Petitions from the States of Punjab, Haryana, West Bengal, Gujarat, Kerala Odisha, Uttarakhand, Union Territories of Andaman and Nicobar Islands and Chandigarh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IIC	<p>Death Cases, Criminal Appeals, Petitions for Special Leave to Appeal, Jail Petitions from the States of Chhattisgarh, Delhi, Himachal Pradesh, Jammu and Kashmir, Karnataka, Tamil Nadu and Union Territory of Puducherry.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
III	<p>Petitions for Special Leave to Appeal and Civil Appeals relating to the State of Gujarat.</p>

	<p>Civil Appeals from 2013 onwards relating to the State of Maharashtra, Goa and Union Territory of Dadra and Nagar Haveli, Daman and Diu.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IIIA	<p>Civil Appeals from the State of Uttar Pradesh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IV	<p>Civil Appeals from the States of Punjab, Haryana and Union Territory of Chandigarh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IVA	<p>Petitions for Special Leave to Appeal from the States of Karnataka, Madhya Pradesh and Chhattisgarh.</p> <p>Civil Appeals from the States of Karnataka and Chhattisgarh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
IVB	<p>Petitions for Special Leave to Appeal from the States of Punjab, Haryana and Union Territory of Chandigarh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
V/VI	<p>Maintenance of Original Records.</p> <p>Appointment of Translators and Translation of vernacular documents.</p> <p>Rolling of Cause Lists.</p>

VII [R & I]	Receipt and Issue of Dak, including letters/orders/notices, etc.
VIII [Record Room]	Maintenance of disposed of cases, Advocate-on-Record Examination, Designation of Senior Advocates and Amendment of Supreme Court Rules.
IX	<p>All Petitions for Special Leave to Appeal and Civil Appeals upto the year 2012 from the States of Maharashtra, Goa and Union Territory of Dadra and Nagar Haveli, Daman and Diu.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
X	<p>Writ Petitions relating to infringement of fundamental rights under Part-III of the Constitution.</p> <p>Petitions for Special Leave to Appeal and Civil Appeals from the State of Uttarakhand.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
XI	<p>Petitions for Special Leave to Appeal from the State of Uttar Pradesh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
XIA	<p>Petitions for Special Leave to Appeal and Civil Appeals from the States of Kerala, Odisha and Union Territory of Lakshadweep.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>

XII	<p>Petitions for Special Leave to Appeal and Civil Appeals from the States Tamil Nadu and Union Territory of Puducherry.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
XIIA	<p>Petitions for Special Leave to Appeal and Civil Appeals from the States of Andhra Pradesh and Telengana.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
XIII	Preparation of Decrees of the cases allocated to Sections X, XI, XIA, XII, XIIA, XIV, XVI and XVIA.
XIIIB	Preparation of Decrees of the cases allocated to Sections IV, IVA, X, XV and XVII.
XIV	<p>Petitions for Special Leave to Appeal and Civil Appeals from the States of Assam, Arunachal Pradesh, Manipur, Meghalaya, Nagaland, Sikkim, Tripura, Delhi and Himachal Pradesh.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
XV	<p>Petitions for Special Leave to Appeal and Civil Appeals from the State of Rajasthan.</p> <p>Review Petitions and Curative Petitions arising therefrom.</p>
XVI	Petitions for Special Leave to Appeal and Civil Appeals from the States of Bihar, West Bengal and Union Territory of Andaman and Nicobar Islands.

	Review Petitions and Curative Petitions arising therefrom.
XVIA	Arbitration Petitions, Transfer Petitions, Transferred Cases from all over India and Petitions for Special Leave to Appeal and Civil Appeals from the State of Jammu and Kashmir. Review Petitions and Curative Petitions arising therefrom.
XVII	Petitions for Special Leave to Appeal and Civil Appeals from the State of Jharkhand; Election Petitions; Petitions for Special Leave to Appeal and Appeals arising under various Statutes; References; Original Suits; and <i>Suo Motu</i> Petitions. Review Petitions and Curative Petitions arising therefrom. Issue relating to Security Refund, Bill of Costs, Taxation, etc.
PIL(W)	Writ Petitions relating to public interest litigation.
PIL (English)	Letter Petitions.
Computer Cell	Computerisation and generation of Cause Lists.

Email: supremecourt@nic.in

EPBAX Numbers: 011-23388922-24, 23388942

FAX: 011-23381508, 23381584

CHAPTER XXIV

REMOVAL OF DIFFICULTIES

In case of any difficulty in relation to the Practice and Procedure of the Court and Office Procedure or other matters incidental or ancillary thereto, the Chief Justice may make such order, as may be necessary and expedient for removal of such difficulty.

CHAPTER XXV
FIRST SCHEDULE
RULES AS TO PRINTING OF RECORD

1. The record in appeals to the Court shall be printed in the form known as demy quarto on both sides of the paper with single spacing.
2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be about 11 inches in height and 8^{1/2} inches in width or 29.7 cm. in height and 21 cm. in width.
3. The type to be used in the text shall be pica type but “Long Primer” shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.
4. Records shall be arranged in two parts in the same volume, where practicable, viz.--

Part I- The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the Courts below, down to the orders admitting the appeal.

Part II- The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order, i.e., in the same order as the index.

Part II shall be arranged in the most convenient way for the use of the Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing plaintiff's and defendant's documents together when necessary. Each document shall show its exhibit mark, and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as:-

- (a) a series of correspondence, or
- (b) proceedings in a suit other than the one under appeal, shall be kept together. The order in the record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the record in proper order for the Court, and in difficult cases counsel may be asked to settle it.

- 7. The documents in Part I shall be numbered consecutively. The documents in Part II shall not be numbered, apart from the exhibit mark.
- 8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index, without the date.
- 9. Each document shall have a heading which shall be repeated at the top of each page over which the document extends, viz.--

PART I

- (a) Where the case has been before more than one court the short name of the court shall first appear. Where the case has been before only one court, the name of the court need not appear.
- (b) The heading of the document shall then appear consisting of the number and the description of the documents in the Index, with the date, except in the case of oral evidence.
- (c) In the case of oral evidence, 'plaintiff's evidence' or 'defendant's evidence' shall appear next to the name of the court and then the number in the Index and the witness's name, with 'examination', 'cross-examination' or 're-examination', as the case may be.

PART II

The word 'Exhibit' shall first appear next to it the exhibit mark and the description of the document in the Index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and the record), if desired, with the words 'not printed' against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed in full, unless counsel advises, but the parties shall agree to short extracts being printed as specimens.

11. In case where maps are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent, prepare maps drawn properly to scale and of reasonable size, showing as far as possible, the claims of the respective parties, in different colours.

SECOND SCHEDULE FEES PAYABLE TO ADVOCATES Part I

S. No.		Fee on brief not exceeding Rs.		Refresher not exceeding Rs.
1.	Defended appeals, suits or reference under Article 143 or Article 317(1) of the Constitution or under any Statute or defended petitions under Article 32 of the Constitution.	Leading Counsel	24,000	24,000

		Associate Advocate, if any Advocate-on-Record for instructing.	12,000	6,000
2.	Undefended appeals.	One fee	14,000	No refresher
3.	Petitions for special leave (or appeals on a certificate heard <i>ex-parte</i>).	Leading Counsel	8,000	No refresher
		Advocate-on-Record when not pleading but only instructing.	4,000	No refresher
4.	Undefended petitions under Article 32 of the Constitution	Leading Counsel	15,000	7,500
		Advocate-on-Record when not pleading but only instructing	8,000	4,000
5.	Notices of motion other than petitions under Article 32 of the Constitution when opposed.	Leading Counsel	15,000 per appearance	No refresher
		Advocate-on-Record	8,000 per appearance	No refresher
6.	Petitions in courts for review.	Leading Counsel	15,000	No refresher
		Advocate-on-Record	10,000	No refresher
7.	Opposed applications for investigations in Chambers.	One fee	10,000	
8.	Unopposed motions and Chamber applications and review applications in taxation.	One fee	5,000	
9.	Attending taxation or hearing judgment.	One fee	2,500	
10.	Attending settlement of Index and for taking other steps for preparation of the record.	One fee	5,000	

11.	Fee to the <i>Amicus Curiae</i> appointed by the Court.		6,000 upto admission stage and 10,000 on final disposal stage or hearing on regular side after admission/grant of leave, or as directed by the Court/Chief Justice.
12	Fee to the Panel Advocate appointed by the Registry.		6,000 upto admission stage and 10,000 on final disposal stage or hearing on regular side after admission/grant of leave, or as directed by the Court/Chief Justice.

Part II

S.No.		Not exceeding (Rs.)
1.	To junior advocate for drafting petitions for special leave and petitions under Article 32 of the Constitution inclusive of the affidavits in support of the petition.	12,000
	To the senior for settling petitions for special leave and petitions under Article 32 of the Constitution inclusive of the affidavits in support of the petition.	10,000
2.	To junior advocate for drafting other petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service) or written briefs.	5,500
	To senior advocate for settling other petitions or affidavits (other than formal petitions like excusing delay and affidavits in them and affidavits of service).	7,500
3.	To junior advocates for drawing statement of case in appeals, pleadings in suit or special case.	12,000
	To senior advocate for settling statement of case in appeals, pleadings in suit or special case in consultation with junior, if allowed.	18,000
4.	Acting Fees -	
	In appeals (defended and undefended) including	20,000 but not less than

	suits and References under Article 143 or Article 317(1) of the Constitution or under any statute or defended petitions under Article 32 of the Constitution.	12,000 as the Taxing Officer may in his discretion allow, having regard to the nature and duration of the 'Acting' work involved in the case.
	In undefended petitions under Article 32 of the Constitution.	10,000
	Actual postal and telegraph charges where necessary to be allowed in the discretion of the Taxing Officer.	

Part III

1	Printing of paper book	Actual cost at a reasonable rate to be allowed by the Taxing Officer
---	------------------------	--

THIRD SCHEDULE TABLE OF COURT FEES

Part I Original Jurisdiction

S.No.		Rs.
1.	Filing and registering plaint	2500
2.	Filing and registering written statement	500
3.	Filing and registering set-off or counter-claim	500
4.	Reply to a counter-claim	500
5.	Petitions under Article 32 of the Constitution other than petitions for <i>habeas corpus</i> and petitions arising out of criminal proceedings	500

Part II Appellate Jurisdiction

S.No.		Rs.
1.	Petition for special leave to appeal other than petitions for which Court fee has been distinctly prescribed in entry 2 below.	1,500 [At the time of institution]
2.	Petition for special leave to appeal in the matters falling	5,000

	in any of subject categories mentioned in Part IV of this Schedule	[At the time of institution]
3.	<p>Lodging and registering petition of appeal/SLP at after notice stage/other than the matters for which Court Fee has been distinctly prescribed in entry 4 below Where the amount or value of the subject-matter in dispute does not exceed Rs. 50,000.</p> <p>For every Rs. 50,000 or part thereof, in excess of Rs. 50,000</p> <p>In case where it is not possible to estimate at a money value the subject-matter in dispute:</p> <p>Provided-</p> <p>(1) that the maximum fee payable in any case shall not exceed Rs. 10,00,000 and</p> <p>(2) that where an appeal is brought by special leave granted by the court or where notice is issued in the special leave petition by the Court, credit shall be given to the appellant/petitioner, as the case may be, for the amount of court-fee paid by him at the time of institution of SLP/Notice and no more court fee will be charged even if leave is subsequently granted in 'after notice' matter and the petition is converted into an appeal.</p>	<p>1,500</p> <p>500</p> <p>1,500</p>
4.	<p>Lodging and Registering of appeal/SLP at 'after notice' stage/in the matters falling in any of subject categories mentioned in Part IV of this Schedule where –</p> <p>(i) value of the subject matter in dispute does not exceed Rupees one lakh.</p> <p>(ii) for every Rs. 50,000 or part thereof in excess of Rs. 1,00,000 till the value reaches Rs. 20,00,000</p> <p>(iii) for every Rs. 1,00,000 or part thereof in excess of Rs. 20,00,000:</p> <p>Provided—</p>	<p>5,000</p> <p>1,000</p> <p>1,000</p>

	<p>(1) The maximum fee payable in any case shall not exceed Rs.25,00,000</p> <p>(2) That where an appeal is brought by special leave granted by the Court or where notice is issued in the Special Leave Petition by the Court credit shall be given to the appellant/petitioner, as the case may be, for the amount of court-fee paid by him at the time of institution of SLP/Notice and no more court fee will be charged even if leave is subsequently granted in 'after notice' matter and the petition is converted into an appeal.</p> <p>(3) In case where it is not possible to estimate at a money value the subject-matter in dispute.</p>	5,000
5.	Lodging of caveat	500
6.	Application for review of judgment or order of Court	The same fee as was paid on the original proceedings.
7.	Curative Petition	The same fee as was paid on the original proceedings.
8.	Petition of Appeal under Consumer Protection Act, 1986	5,000
9.	<p>(i) Transfer petitions other than the petitions arising out of Matrimonial Disputes</p> <p>(ii) Transfer Petitions arising out of Matrimonial Disputes</p>	<p>2,500 per matter to be transferred .</p> <p>500 per matter to be transferred.</p>
10.	Election Petition under Order XLVI of these Rules	20,000 along with security deposit of Rs. 50,000
11.	Appeal under Section 38 of the Advocates Act, 1961	5,000
12.	Appeal under Section 116A of the Representation of the Peoples Act, 1951	20,000

For the purpose of this Schedule--

1. Matter disposed of after hearing the caveator shall be treated to have reached “after notice” stage.
2. Any dispute regarding subject category, valuation, court fee payable or recovery of court fee shall be dealt with and decided by the Registrar/Taxing Officer.
3. Appeal against orders of Registrar/Taxing Officer deciding subject category, valuation, court fee payable or recovery of court fee shall lie to the Judge in Chambers whose decision in this regard shall be final.
4. Registrar/Taxing Officer shall take suitable steps for recovery of unpaid court fee by placing office report before the Court, if the case is still pending in the Court.

Where a matter has been disposed of and for any purpose is pending before any High Court/Subordinate Court/Tribunal, Forum or Authority, the Registrar/Taxing Officer shall report the fact in writing to the concerned High Court/Subordinate Court/Tribunal, Forum or Authority, as the case may be, to direct the petitioner/appellant to first pay/settle unpaid court fee in this Court, or, steps may be taken to recover unpaid court fee as arrears of land revenue.

Part III Miscellaneous

S.No		Rs.
1.	Vakalatnama	10
2.	Every application to the court not specially provided for	100
3.	Every application to the court by notice of motion where an <i>ad interim ex-parte</i> order is prayed for	200
4.	Every application to a Judge in Chambers, the Registrar or Taxing Officer not specially provided for	50
5.	Every affidavit affirmed or sworn	20

N.B.: In the case of references under the Constitution/any statute, such of the above fees as may be appropriate shall be charged.

Note

No Court fee shall be payable on the following cases:

- (i) References, but fees in relation to 'Part-III Miscellaneous' shall be charged.
- (ii) Criminal cases (SLPs/Appeals/WPs/TPs (etc.) .
- (iii) Cases filed by Supreme Court Legal Services Committee .
- (iv) Cases filed by indigent persons.
- (v) Contempt Petitions filed under the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975.

General

If an applicant seeks transposition as an appellant/petitioner, the court fee shall be paid by him as if he was originally a party to the case.

PART IV SUBJECT CATEGORIES

03 DIRECT TAXES MATTER

- 0301 Income Tax Reference under Section 257 of the Income Tax Act, 1961
- 0302 Appeals under Section 261 of Income Tax Act, 1961, upon a certificate granted by the High Court
- 0303 Other matters under Income Tax Act, 1961
- 0304 Cases relating to Excess Profit Tax Act, 1940
- 0305 Business Profit Tax Act, 1947
- 0306 Agricultural Income Tax
- 0307 Reference under Section 27(3)(a) of the Wealth Tax Act, 1957
- 0308 Appeals under Section 29(1) of the Wealth Tax Act, 1957 upon a certificate granted by the High Court
- 0309 Gift Tax Act, 1958
- 0310 Property Tax
- 0311 Valuation
- 0312 Capital Gains
- 0313 SLPs relating to Wealth Tax
- 0314 Income from Salaries

- 0315 Income from House Property
- 0316 Income from Business or Profession
- 0317 Income from other sources
- 0318 Deductions/Exemptions
- 0319 Penalties/Prosecution/Settlement Commission
- 0320 Re-assessment/Revisional Power/Rectification
- 0321 CBDT Circular
- 0322 Registration
- 0323 Others
- 0324 Matters relating to recovery of Direct Tax due

04 INDIRECT TAXES MATTERS

- 0401 Interpretation of the Customs Act, Rules & Regulations
- 0402 Interpretation of Exemption Notification under Customs Act, 1962
- 0403 Interpretation of other Notifications under Customs Act, 1962
- 0404 Valuation of Goods under the Customs Act, 1962
- 0405 Sales Tax Act (Central & various States)
- 0406 Cess Acts (Rubber, Coffee, Tea, Sugar, etc.)
- 0407 Entry Taxes
- 0408 Motor Vehicles Taxation
- 0409 Purchase Tax
- 0410 Licence Fee
- 0411 Classification under the Indian Tariff Act, 1934 & Customs Tariff Act, 1975
- 0412 Reference under Section 82C of the Gold Control Act
- 0413 Hotel Receipts Tax Act
- 0414 Entertainment Tax
- 0415 Terminal Tax
- 0416 Octroi
- 0417 Valuation
- 0418 Toll Tax
- 0419 Interpretation of the Central Excise Act & the Rules
- 0420 Interpretation of Exemption Notifications under Central Excise Act, 1944
- 0421 Interpretation of other Notifications under Central Excise Act, 1944
- 0422 Valuation of goods under the Central Excise Act, 1944
- 0423 Tariff classification under the Central Excise Act, 1944 and Central Excise Tariff Act, 1985
- 0424 Import/Export Control Act, 1947
- 0425 Import Control Order
- 0426 Open General Licence

- 0427 Import/Export Policy
- 0428 Others
- 0429 Professional Tax
- 0430 Water & Sewerage Tax
- 0431 Service Tax
- 0432 Appeals under Section 130E of the Customs Act, 1962
- 0433 Appeals under section 35L of the Central Excise and Salt Act, 1944
- 0434 Anti Dumping Duty
- 0435 Value Added Tax
- 0436 Matters relating to recover of Indirect Tax due

10 COMPANY LAW, MRTP, TRAI, SEBI, IDRAI & RBI

- 1001 Matters relating to winding up
- 1002 Matters relating to Sick Industries
- 1003 Matters arising out of orders of Company Law Board under Sections 397 & 398 of Companies Act, 1956
- 1004 Reference under Section 7(2) of the MRTP Act, 1969
- 1005 Appeals under Section 55 of the MRTP Act, 1969
- 1006 Others
- 1007 Matters relating to disinvestment
- 1008 Appeals under section 15Z of Securities and Exchange Board of India Act, 1992.
- 1009 Matters filed against the orders of MRTP Commission/ Competition Commission.
- 1010 Matters pertaining to TRAI/SEBI/IDRAI and RBI including Appeals under Section 18 of TRAI Act, Indian Electricity Acts, 1910 and 2003, Electricity Supply Act, 1948 and Electricity Reforms Commission Act, 1998

1100 ARBITRATION MATTERS

28 MERCANTILE LAWS, COMMERCIAL TRANSACTIONS INCLUDING BANKING

- 2801 Partnership
- 2802 Sale of Goods Act
- 2803 Contract Act
- 2804 Trade Marks/Copy Rights/Patents/Design Act
- 2805 Negotiable Instruments Act
- 2806 Banks mortgages disputes

- 2807 Hypothecation, Pledge
- 2808 Others
- 2809 Matters relating to recovery of debts/bank loans due under the banks and financial institutions
- 2810 Bank Guarantee matters
- 2811 Matters relating to Securitisation and Reconstruction of Financial Assets and Reinforcement of Security Interest Act, 2002.

29 SIMPLY MONEY & MORTGAGE MATTERS ETC.

- 2901 Money Lending Act
- 2902 Mortgage private
- 2903 Others

42 MATTERS RELATING TO LEASES, GOVT. CONTRACTS & CONTRACTS BY LOCAL BODIES

- 4201 Tenders invited or contracts awarded/leases granted or determined by Central Government
- 4202 Tenders invited or contracts awarded/leases granted or determined by public section undertakings.
- 4203 Tenders invited or contracts awarded/leases granted or determined by State Government/Union Territories
- 4204 Tenders invited or contracts awarded/leases granted or determined by local bodies
- 4205 Others

43 STATE EXCISE-TRADING IN LIQUOR – PRIVILEGES, LICENCES DISTILLERIES BREWERIES

SUBJECT CATEGORIES

01 Labour Matters

- 0101 Dismissal
- 0102 Retrenchment
- 0103 Contract Labour
- 0104 Matters relating to wages, bonus, *ad-hoc*, casual, daily wages & their regularisation
- 0105 Matters relating to Workmen Compensation Act
- 0106 E.S.I
- 0107 Factory Act
- 0108 Conditions of Service & Industrial Employment (Standing Orders) Act, 1946
- 0109 Matters under various States Act
- 0110 Others
- 0111 Matters relating to Provident Fund
- 0112 Payment of Gratuity Act, 1962
- 0113 Trade Unions Act, 1926
- 0114 Other matters under Industrial Disputes Act, 1947

02 Rent Act Matters

- 0201 Eviction matters of personal necessity
- 0202 Eviction matters for re-building and material alteration
- 0203 Eviction matters of sub-letting
- 0204 Eviction matters of disclaimer of title
- 0205 Arrears of rent
- 0206 Others
- 0207 Eviction on the ground of misuse
- 0208 Enhancement of rent
- 0209 Eviction on the ground of non-payment of rent

03 Direct Taxes Matter

- 0301 Income Tax Reference under Section 257
- 0302 Appeals under Section 261 of Income Tax Act upon a certificate granted by the High Court
- 0303 Other matters under Income Tax Act, 1961
- 0304 Cases relating to Excess Profit Tax Act, 1940
- 0305 Business Profit Tax Act, 1947
- 0306 Agricultural Income Tax
- 0307 Reference under Section 27(3)(a) of the Wealth Tax Act, 1957

- 0308 Appeals under Section 29(1) of the Wealth Tax Act, 1957 upon a certificate granted by the High Court
- 0309 Gift Tax Act, 1958
- 0310 Property Tax
- 0311 Valuation
- 0312 Capital Gains
- 0313 SLPs relating to Wealth Tax
- 0314 Income from Salaries
- 0315 Income from House Property
- 0316 Income from Business Profession
- 0317 Income from other sources
- 0318 Deductions/Exemptions
- 0319 Penalties/Prosecution/Settlement Commission
- 0320 Re-assessment/Revisional Power/Rectification
- 0321 CBDT Circular
- 0322 Registration
- 0323 Others
- 0324 Matters relating to recovery of Direct Tax due

04 Indirect Taxes Matters

- 0401 Interpretation of the Customs Act, Rules & Regulations
- 0402 Interpretation of Exemption Notification under Customs Act
- 0403 Interpretation of other Notifications under Customs Act
- 0404 Valuation of Goods under the Customs Act
- 0405 Sales Tax Act (Central & various States)
- 0406 Cess Acts (Rubber, Coffee, Tea, Sugar, etc.)
- 0407 Entry Taxes
- 0408 Motor Vehicles Taxation
- 0409 Purchase Tax
- 0410 Licence Fee
- 0411 Classification under the Indian Tariff Act, 1934 & Customs Tariff Act, 1975
- 0412 Reference under Section 82C of the Gold Control Act
- 0413 Hotel Receipts Tax Act
- 0414 Entertainment Tax
- 0415 Terminal Tax
- 0416 Octroi
- 0417 Valuation
- 0418 Toll Tax
- 0419 Interpretation of the Central Excise Act & the rules
- 0420 Interpretation of Exemption Notifications under Central Excise Act

- 0421 Interpretation of other Notifications under Central Excise Act
- 0422 Valuation of goods under the Central Excise Act
- 0423 Tariff classification under the Central Excise Act, 1944 and Central Excise Tariff Act, 1985
- 0424 Import/Export Control Act, 1947
- 0425 Import Control Order
- 0426 Open General Licence
- 0427 Import/Export Policy
- 0428 Others
- 0429 Professional Tax
- 0430 Water & Sewerage Tax
- 0431 Service Tax
- 0432 Appeals under section 130E of the Customs Act, 1962
- 0433 Appeals under section 35L of the Central Excise and Salt Act, 1944
- 0434 Anti Dumping Duty
- 0435 Value Added Tax
- 0436 Matters relating to recovery of Indirect Tax due

05 Land Acquisition &Requisition Matters

- 0501 Matters challenging the acquisition proceedings
- 0502 Matters challenging compensations
- 0503 Requisition & de-requisition of property
- 0504 Others
- 0505 Acquisition for defence purpose

06 Service Matters

- 0601 Retiral benefits
- 0602 Regularisation of ad-hoc employees etc.
- 0603 Removal/Dismissal/Termination from service or other major penalties
- 0604 Suspension
- 0605 Compulsory retirement
- 0606 Disciplinary proceedings
- 0607 Condition of service
- 0608 Promotion
- 0609 Seniority
- 0610 Pay scales
- 0611 Reservation in service for SC/ST/OBC
- 0612 Equal pay for equal work
- 0613 Others
- 0614 Medical facilities

- 0615 Recruitment/Transfer/Compassionate Appointment
- 0616 Minor penalties
- 0617 Back wages
- 0618 Voluntary Retirement
- 0619 Allotment of Accommodation
- 0620 Probation & Confirmation
- 0621 Temporary Appointments
- 0622 Use of forged/false document(s) for securing employment

07 Academic Matters

- 0701 Matters relating to examination
- 0702 Introduction/Abolition of languages
- 0703 Matters relating to syllabi
- 0704 Matters relating to withholding/cancellation of results, evaluation of marks, expulsion of students.
- 0705 Others
- 0706 Tuition fee
- 0707 Matters relating to management of Educational Institutions

08 Letter Petition & PIL Matters

- 0801 Child labour matters including neglected children
- 0802 Air pollution matters, i.e., Industrial, Vehicular, Power stations etc.
- 0803 Water Pollution: Industrial, domestic, sewage, rivers and sea
- 0804 Noise Pollution: Industry & vehicular
- 0805 Ecological Imbalance: Protection and conservation of forests throughout the country, protection of wild life, ban on felling of trees and falling of underground water level
- 0806 Bonded Labour matters
- 0807 Matters relating to custody harassment, jails, complaint of harassment, custodial death, speedy trial, premature release, inaction by police, etc.
- 0808 Matters relating to harassment of SC/ST/OBC and women
- 0809 Matters relating to unauthorised constructions including encroachments, sealing, demolitions, urban planning
- 0810 Matters relating to Election Commissions
- 0811 Scam matters
- 0812 Others
- 0813 Essential Amenities or Services
- 0814 Housing
- 0815 Natural & Man-made disasters including riots
- 0816 SLPs filed against judgments/orders passed by the High Courts in Writ Petitions filed as PIL

- 0817 Writ Petition (Criminal) & Writ Petition filed as PIL pertaining to Criminal investigation/prosecution
- 0818 Letter Petition & PIL Matters - Social Justice Matters

09 Election Matters

- 0901 Matters challenging election of President & Vice-President of India
- 0902 Elections relating to Gram Panchayats and Zila Parishad
- 0903 Matters under Representation of Peoples' Act involving corrupt practices
- 0904 Matters relating to re-counting of votes
- 0905 Matters under the Cooperative Societies Act
- 0906 University election matters
- 0907 Delimitation of Constituency
- 0908 Others
- 0909 Matters challenging Elections of MPs and MLAs
- 0910 Elections relating to Municipal Councils
- 0911 Appeals u/s 116A of Representation of People Act, 1951
- 0912 Disqualification and expulsion of MPs/MLAs

10 Company Law, MRTP, TRAI, SEBI, IDRAI & RBI

- 1001 Matters relating to winding up
- 1002 Matters relating to Sick Industries
- 1003 Matters arising out of orders of Company Law Board under Sections 397 & 398 of Companies Act, 1956
- 1004 Reference under Section 7(2) of the MRTP Act, 1969
- 1005 Appeals under Section 55 of the MRTP Act, 1969
- 1006 Others
- 1007 Matters relating to disinvestment
- 1008 Appeals under Section 15Z of the Securities and Exchange Board of India Act, 1992
- 1009 Matter filed against the orders of MRTP Commission/Competition Commission
- 1010 Matters pertaining to TRAI/SEBI/IDRAI and RBI including Appeals u/s 18 of TRAI Act, Indian Electricity Act, 1910 and 2003, Electricity Supply Act, 1948 and Electricity Reforms Commission Act, 1998

11 Arbitration Matters

- 1100 SLPs challenging Arbitration Matters
- 1101 Arbitration Petition filed under Section 11 of Arbitration & Conciliation Act, 1996

12 Compensation Matters

- 1201 Motor accident claim matters involving permanent disability/death of persons
- 1202 Motor accident claim matters relating to other injuries
- 1203 Insurer/owners liability matters
- 1204 Matters relating to Railway accident including other Railway compensation matters
- 1205 Matters relating to accidents other than those covered by M.V. Act
- 1206 Matters relating to telephone, electricity etc.
- 1207 Others

13 *Habeas Corpus* Matters

14 Criminal Matters

- 1401 Matters relating to capital punishment
- 1402 Matters relating to maintenance under Section 125 of Cr.P.C.
- 1403 Matters relating to harassment, cruelty to woman for dowry, dowry death, eve-teasing, domestic violence etc.
- 1404 Matters relating to sexual harassment, kidnapping & abduction
- 1405 Matters relating to Prevention of Corruption Act
- 1406 Matters relating to Bank scams, cheating, forgery etc.
- 1407 Matters relating to Essential Commodities Act
- 1408 Criminal matters relating to State Excise Law
- 1409 Criminal matters relating to bail/interim bail/ anticipatory bail
- 1410 Criminal matters in which sentence awarded is upto five years
- 1411 Criminal T.P. under Article 139(A)(2) of the Constitution of India
- 1412 Criminal T.P. under section 406 of the Cr.P.C.
- 1413 Criminal matters arising out of Securities Act, 1992
- 1414 Criminal matters relating to Drugs and Cosmetics, NDPS Act
- 1415 Criminal matters relating to Food Adulteration
- 1416 Criminal matters relating to preventive detention, TADA/POTA national security-COFEPOSA-SAFEMA
- 1417 Matters relating to SC & ST (Prevention of Atrocities) Act, 1989; Untouchability (Offences) Amendment & Misc. Provision Act, 1976
- 1418 Others
- 1419 Scam matters other than relating to Banks
- 1420 Appeals u/s 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970
- 1421 Police atrocities matters
- 1422 Matters relating to Foreign Exchange Regulation Act.
- 1423 Matters challenging sentence till rising of the court and/or fine only

- 1424 Appeals u/s 10 of the Special Courts (Trial of Offences relating to Transactions in Securities) Act, 1992
- 1425 Appeals u/s 19 of the Terrorist and Disruptive Activities (Prevention) Act, 1987
- 1426 Matters filed by State against acquittal
- 1427 Matters filed by complainant against acquittal
- 1428 Matters under State Police Acts
- 1429 Matters for/against quashing of criminal proceedings
- 1430 Matters challenging prosecution under Income Tax Act
- 1431 Matters challenging Prosecution under Negotiable Instrument Act
- 1432 Criminal matters relating to Central Excise and Salt Act, 1944
- 1433 Criminal matters relating to Customs Act, 1962
- 1434 Matters relating to Foreign Exchange Management Act (FEMA)
- 1435 Criminal Appeals filed against the orders of various Tribunals
- 1436 Criminal matters relating to suspension of sentence
- 1437 Criminal matters relating to cancellation of bail.
- 1438 Criminal matters in which sentence awarded is more than 5 years
- 1439 Criminal matters in which sentence awarded is life imprisonment

15 Appeal against orders of statutory bodies

- 1501 Bar Council of India
- 1502 Others
- 1503 Tribunals
- 1504 Appeals and other matters under Sections 30 and 31 of the Armed Forces Tribunal Act, 2007
- 1505 Matters filed against the orders of other Regulatory Authorities/Bodies

16 Family Law Matters

- 1601 Mutual consent divorce matters
- 1602 Other divorce matters
- 1603 Restitution of conjugal rights
- 1604 Child custody matters
- 1605 Adoption & maintenance matters
- 1606 Minority & guardianship matters
- 1607 Matters under Hindu Marriage Act
- 1608 Matters under Muslim Marriage Act
- 1609 Matters under Christian Marriage Act
- 1610 Alimony
- 1611 Others

- 17 Contempt of Court Matters**
 - 1701 Suo motu civil contempt matters
 - 1702 Suo motu criminal contempt matters
 - 1703 Other civil contempt matters
 - 1704 Other criminal contempt matters
 - 1705 Appeal u/s 19(1)(b) of the Contempt of Courts Act, 1971

- 18 Ordinary Civil Matters**
 - 1801 T.P. under Article 139A(1) of the Constitution of India
 - 1802 T.P. under Section 25 of the C.P.C.
 - 1803 Civil matters arising out of the Securities Act, 1992
 - 1804 Original Civil Suit under Article 131 of the Constitution of India
 - 1805 Matters relating to specific performance of contract
 - 1806 Matters relating to allotment, cancellation, fixation of prices of plots/flats
 - 1807 Others
 - 1808 Market fee under APMC Act
 - 1809 Matters relating to Lotteries
 - 1810 Dealership & distributorship of petroleum products
 - 1811 Benami transactions
 - 1812 Royalty of coal etc.
 - 1813 Stage carriage permits
 - 1814 Freedom Fighters' pension
 - 1815 Matters relating to Electricity Dispute (connection/disconnection etc.)
 - 1816 Appeals u/s 10 of the Special Courts (Trial of Offences relating to Transactions in Securities) Act, 1992
 - 1817 Matters for eviction/dispossession other than Rent Control Act matters
 - 1818 Appeals u/s 53T of the Competition Act, 2002
 - 1819 Matters relating to demolition

- 19 Three Judges Bench Matter**
- 20 Five Judges Bench Matter**
- 21 Eleven Judges Bench Matter**
- 22 Seven Judges Bench Matter**
- 23 Nine Judges Bench Matter**

- 24 Appointments etc. of Constitutional Functionaries**
 - 2401 Appointment of High Courts Judges
 - 2402 Deleted

- 2403 Appointment of Advocate General & Attorney General
- 2404 Appointment of members of Election Commissions
- 2405 Appointment of Members and Chairman of State Public Commission and UPSC
- 2406 Appointment of Governors & Lt. Governors
- 2407 Others

- 25 Statutory Appointments and Appointment of other Law Officers**
 - 2501 Appointment of Members, Vice-Chairman, Chairman of CAT, SAT, other Tribunals, Statutory Corporations/Bodies
 - 2502 Appointment in Zila Parishad
 - 2503 Appointment of Vice-Chancellors of University
 - 2504 Appointment of other Law Officers

- 26 Personal Law Matters**
 - 2601 Matters Relating to Inheritance & Succession
 - 2602 Matters relating to Gift
 - 2603 Matters relating to Partition
 - 2604 Matters relating to testamentary succession
 - 2605 Others

- 27 Religious & Charitable Endowments**
 - 2701 Matters relating to management, administrative disputes of Temples etc. (Priest, Pujari & Mahant)
 - 2702 Wakf Board matters
 - 2703 Others

- 28 Mercantile Laws, Commercial Transactions Including Banking**
 - 2801 Partnership
 - 2802 Sale of Goods Act
 - 2803 Contract Act
 - 2804 Trade Marks/Copy Rights/Patents/Design Act
 - 2805 Negotiable Instrument Act
 - 2806 Banks mortgage disputes
 - 2807 Hypothecation, Pledge
 - 2808 Others
 - 2809 Matters relating to recovery of debts/bank loans due under the Banks and financial institutions
 - 2810 Bank Guarantee Matters

- 2811 Matters relating to Securitisation and Reconstruction of Financial Assets and reinforcement of Security Interest Act, 2002
- 29 Simple Money & Mortgage Matters Etc.**
2901 Money Lending Act
2902 Mortgage Private
2903 Others
- 30 Matters Relating to Judiciary**
3001 Matters pertaining to Judicial Officers
3002 Matters pertaining to Employees of Supreme Court and High Courts
3003 Matters pertaining to Employees of District Courts and Tribunals
3004 Matters pertaining to service conditions, etc., of individual Judicial Officer and other matters not specified above.
- 31 Admissions to Educational Institutions other than Medical & Engineering**
- 32 Establishment and Recognition of Educational Institutions**
- 33 Eviction under the Public Premises (Eviction) Act**
3301 Delhi Development Authority (DDA)
3302 Municipal Corporation of Delhi (MCD)
3303 Govt. of NCT of Delhi
3304 Union of India
3305 New Delhi Municipal Council (NDMC)
3306 Other States/Union Territories
3307 Others
- 34 Mines, Minerals and Mining Leases**
- 35 Land Laws and Agricultural Tenancies**
3501 Matters relating to sale/transfer of land by SC/ST
3502 Matters relating to agricultural land ceiling
3503 Matters relating to urban land ceiling
3504 Pre-emption matters
3505 Others
- 36 Admiralty and Maritime Laws**
- 37 Matters relating to Commissions of Enquiry**

- 38 Matters relating to Consumer Protection**
3801 Appeals u/s 23 of the Consumer Protection Act, 1986
3802 SLPs relating to Consumer Protection
3803 Others
- 39 Matters pertaining to Armed Forces & Paramilitary Forces**
- 40 Admission/Transfer to Engineering and Medical Colleges**
4001 Medical Admission Matters
4002 Engineering Admission Matters
4003 Others
- 41 Allocation of 15% All India Quota in Admission/Transfer to Medical Colleges**
- 42 Matters relating to Leases, Govt. Contracts & Contracts by Local Bodies**
4201 Tenders invited or contracts awarded/leases granted or determined by Central Government.
4202 Tenders invited or contracts awarded/leases granted or determined by Public Sector Undertaking
4203 Tenders invited or contracts awarded/leases granted or determined by State Government/Union Territories
4204 Tenders invited or contracts awarded/leases granted or determined by local bodies
4205 Others
- 43 State Excise-Trading in Liquor-Privileges, Licences-Distilleries Breweries**
- 44 Reference under Article 143 of the Constitution of India**
- 45 Reference under Article 317(1) of the Constitution of India**
- 46 Reference under Section 11 of the Competition Act, 2002**
- 47** 4700 Reference under Section 14 of the Right to Information Act, 2005
4701 Reference under Section 17 of the Right to Information Act, 2005
- 8888 Defective matter as not re-filed**

FOURTH SCHEDULE
FORMS
NO. 1
APPLICATION FOR THE REGISTRATION OF A CLERK
(S.C.R., Order IV Rule 13)
IN THE SUPREME COURT OF INDIA

1. Name of advocate/firm of advocates on whose behalf the clerk is to be registered.
2. Particulars of the clerk to be registered:
 - (i) Full name (In capitals):
 - (ii) Father's name:
 - (iii) Age and date of birth:
 - (iv) Place of birth and nationality:
 - (v) Educational qualifications:
 - (vi) Particulars of previous employment, if any:

I, (clerk above-named), do hereby affirm that the particulars relating to me given above are true.

.....
(Signature of Clerk)

3. Whether the advocate/firm of advocates has a clerk already registered in his/its employ, and whether the clerk sought to be registered is in lieu of or in addition to the clerk already registered.
4. Whether the clerk sought to be registered is already registered as a clerk of any other advocate and if so, the name of such other advocate.

I, (advocate) certify that the particulars given above are true to the best of my information and belief and that I am not aware of any facts which would render undesirable the registration of the said(name) as a clerk.

.....
(Signature of advocate/partner of firm of advocates)

Dated:.....

To

The Registrar,
Supreme Court

NO. 2
FORM OF SUMMONS FOR AN ORDER IN CHAMBERS
(S.C.R., Order V)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

.....

[Original Jurisdiction]
Appeal

Case No.....of 20.....

[A.B.]

.....
[State of A.B.]

[C.D.]

.....
[State of C.D.]

[Appellant]

.....
[Plaintiff]

Vs.

[Respondent]

.....
[Defendant]

Let all parties concerned attend before in Chambers at the Court House (New Delhi) on the day of, 20 at o'clock in the forenoon on the hearing of an application on the part of the above-named plaintiff (or appellant, defendant, respondent as the case may be) for an order that (here state the precise object of the application).

Dated this theday of20

(Take notice that this summons will be attended by counsel for the applicant)

(Signed).....

Advocate on record for the plaintiff

This summons was taken out by Advocate on record for the plaintiff.

To

.....
Advocate on record for the defendant.

NO. 3
NOTICE OF APPEAL FROM REGISTRAR
(S.C.R., Order V Rule 3)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

.....
[Original Jurisdiction]

Appeal

Case No..... of 20

[A.B.]		[Appellant]
.....	
[State of A.B.]		[Plaintiff]
	Vs.	
[C.D.]		[Respondent]
.....	
[State of C.D.]		[Defendant]

Take notice that the above-named plaintiff (or appellant, respondent, defendant as the case may be) intends to appeal against the decision of the Registrar, given on theday of (ordering or refusing to order) that

And further take notice that you are required to attend before the Judge in Chambers at the Court House (New Delhi) on theday of 20..... at o'clock in the forenoon on the hearing of an application by the said plaintiff (or appellant, respondent, defendant as the case may be) for an order that (here state the order sought to be obtained).

Signed.....
Advocate on record for the plaintiff

To
Advocate on record for the defendant

NO. 4
NOTICE OF MOTION
(S.C.R., Order XI Rule 2)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]
.....
[Original Jurisdiction]

Civil/Criminal Misc. Petition No.....of 20.....

[Appeal]
.....

Case No. of 20.....

[A.B.]	[Petitioner]
.....
	[Appellant]
[State of A.B.]	[Plaintiff]

Vs.

[C.D.]

[Respondent]

.....
[State of C.D]

.....
[Defendant]

Take notice that the Court will be moved on theday of20..... at 10:30 o'clock in the forenoon, or so soon thereafter as counsel can be heard, by Mr.counsel for the above-named plaintiff (or defendant, petitioner, appellant, respondent as the case may be), that (or for an order that, or for) (here state the precise object of the motion).

A copy of the application is enclosed herewith.

Take further notice that meanwhile this Court has been pleased to pass the following order, (here quote the interim order of the Court).

Dated this theday of20.....

.....
Advocate on record
for the Petitioner/Appellant/Plaintiff.
Address:.....

To

Advocate on record for the
Opposite party/respondent/defendant

NO. 5
FORM OF OATH BY TRANSLATOR
(S.C.R., Order VIII Rule 4)
IN THE SUPREME COURT OF INDIA

In the matter of, a translator.

I,, solemnly affirm and say that I will translate correctly and accurately all documents given to me for translations.

Dated this the day of 20.....

Before me.

.....
Registrar

NO. 6
APPLICATION FOR PRODUCTION OF RECORD
(S.C.R., Order X Rule 1)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

.....
[Original Jurisdiction]

Appeal

Case No.....of 20.....

[A.B.]

.....
[State of A.B.]

[C.D.]

.....
[State of C.D.]

[Appellant]

.....
[Plaintiff]

[Respondent]

.....
[Defendant]

Vs.

To

The Registrar,
Supreme Court of India

Sir,

Please produce the records of the within mentioned case before..... no. (here
insert the number and title of the case of which the records are required.)

Dated this theday of20

(Signature)

NO. 7
NOTICE TO THE RESPONDENT OF LODGMENT OF PETITION OF APPEAL
(S.C.R., Order XIX Rule 8)
IN THE SUPREME COURT OF INDIA
Civil Appellate Jurisdiction

Civil Appeal No..... of 20.....

(Appeal from the judgment and decree/order of the High Court of judicature at
.....(full particulars to be given.....))

(A.B.)

(Appellant)

Vs.

(C.D.)

(Respondent)

To

Through Shri.....
Advocate-on-record
Supreme Court of India,
New Delhi.

OR

(give the address of the respondent if no appearance of an advocate-on-record has been entered).

TAKE NOTICE that the Appellant above-named has on filed in the Registry of the Supreme Court a petition of appeal (copy enclosed) from the judgment and decree/order of the High Court of Judicature atand the said petition has been registered in Supreme Court as Civil Appeal No.of20.....

Notice is hereby given to you that if you wish to contest the appeal you may appear within thirty days of the receipt of this notice before this Court either personally or by an advocate-on-record of the Court appointed by you in that behalf, and take such part in the proceeding as you may be advised.

Take further notice that in default of your appearance within the time prescribed the appeal will be proceeded with and determined in your absence and no further notice in relation thereto shall be given to you.

Dated this the.....day of20.....

.....
Assistant Registrar

Address for service on the Appellant:

(If the appeal has been filed through an advocate-on-record, the address of the advocate-on-record should be given.

OR

If the party is appearing in person then a local address should be given).

NOTE:--

Where the record of the appeal is required to be prepared under the supervision of the Registrar of the Court appealed from the notice shall also state this fact and shall in relation to the preparation of the record, also require the respondent to take steps before the Court appealed from (vide rule 11 of Order XIX of the Supreme Court Rules, 2013).

NO. 8
MEMORANDUM OF APPEARANCE IN PERSON
(S.C.R., Order XIX Rule 9)

IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

Appeal No.....of 20.....

[A.B.]

[Appellant]

Vs.

[C.D.]

[Respondent]

To

The Registrar,
Please enter my/our appearance for the respondent above-named in this appeal.
Dated this theday of20.....

(Signature).....
Address for Service.

NO. 9
MEMORANDUM OF APPEARANCE THROUGH ADVOCATE-ON-RECORD
(S.C.R., Order XIX Rule 9)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

.....
[Original Jurisdiction]

Appeal No.....of 20.....

Case

[A.B.]

[Appellant]

.....
[State of A.B.]

.....
[Plaintiff]

Vs.

[C.D.]

[Respondent]

.....
[State of C.D.]

.....
[Defendant]

To

The Registrar,

Please enter an appearance for the above-named Respondent (or the defendant) in this appeal/case.

Dated this the.....day of20.....

(Signed).....
Advocate on record for the Respondent.

NO. 10

CERTIFICATE TO THE ADVOCATE APPOINTED AT THE COST OF THE STATE
[S.C.R., Order XX Rule 16 and Order XXII Rule 7(3)]
IN THE SUPREME COURT OF INDIA
Criminal Appellate Jurisdiction

Petition for Special leave to Appeal (Criminal) No.....of20.....
Criminal Appeal No.....of 20.....

A.B.

Petitioner(s)/Appellant(s)

Vs.

The State of

Respondent(s)

CERTIFICATE

Certified that Shri.....Advocate was engaged at the cost of the State in above Petition/Appeal which was heard onand that Rs.....only [Rupees (in words).....only] are payable to him as his fees by the State of

.....
Registrar/Additional Registrar

Note:- Strike out whichever is not applicable.

NO. 11

NOTICE TO RESPONDENT OF LODGING OF APPEAL
(S.C.R., Order XX Rule 5)
IN THE SUPREME COURT OF INDIA
(Appellate Jurisdiction)

Criminal Appeal No.....of 20.....

[Appeal from the judgment (order sentence or decision) of the High Court of Judicature at.....Court or Tribunal]

[A.B.]

[Appellant]

Vs.

[The State]

[Respondent]

To

The Attorney-General for India and /or

The Advocate-General concerned

Take notice that an appeal from the judgment (order, sentence or decision) of the High Court of judicature atof the court, in case No.....dated the(here give number of Case in High Court, or Judicial Commissioner's Court) was presented by the above-named appellant on theday of20..... and has been registered in this Court as Criminal Appeal No.....of.....20.....

Dated this theday of20.....

.....
Registrar

NO. 12
SUMMONS FOR DISPOSAL OF SUIT
(S.C.R., Order XXVII Rule 1)
IN THE SUPREME COURT OF INDIA
(Original Jurisdiction)
Case No.of.....20.....

[State of A.B.]

[Plaintiff]

Vs.

[C.D.]

[Defendant]

To

WHEREAS the above-named plaintiff has instituted a suit in the Court against you claiming.....you are hereby required to cause an appearance to be entered for you in the Registry of the Court within twenty-eight days from the service upon you of this summons, exclusive of the day of such service; and you are summoned to appear before this Court by an Advocate on record of the Court to answer the plaintiff's claim on the day the case is set down

for hearing upon which date you must be prepared to produce all your witnesses and all documents in your possession or power upon which you intend to rely in support of your case.

And you are hereby required to take notice that in default of your causing an appearance to be so entered, the suit will be liable to be heard and determined in your absence.

Witness..... Chief Justice of India, at the Supreme Court, New Delhi.

The.....day ofin the year two thousand and

Advocate on record

At the Supreme Court, New Delhi

Address:.....

.....
Registrar

NO. 13
NOTICE OF APPEARANCE
(S.C.R., Order XXVII Rule 7)
IN THE SUPREME COURT OF INDIA
(Original Jurisdiction)
Case No.of.....20.....

[State of A.B.]

Vs.

[Plaintiff]

[State of C.D.]

[Defendant]

To

(The plaintiff or his Advocate on record)

Take notice that appearance has been entered for the above-named defendant in this case.

Dated this theday of.....20.....

(Signed).....
Advocate on record for the defendant

NO. 14
SUMMONS FOR DIRECTIONS
(S.C.R., Order XXVII Rule 8)
IN THE SUPREME COURT OF INDIA
(Original Jurisdiction)
Case No.of.....20.....

[State of A.B.]

[Plaintiff]

Vs.

[State of C.D.]

[Defendant]

Let all parties concerned attend,in Chambers at the Court House (New Delhi) on theday of20....., at o'clock in the forenoon on the hearing of an application by the plaintiff for directions in this action as follows:- (The applicant should specifically state what he applies for, and strike out what he does not apply for.)

(Here state the direction required as thus:
That the plaintiff may be at liberty to amend his statement of claim by (State amendments proposed); and generally as he may be advised)

Pleadings
Particulars
Admission of document and facts
Discovery
Interrogatories
Inspection and production of documents
Inspection of real or personal property
Commissions
Examination of witnesses
Place of trial
Mode of trial

Dated this theday of20.....

.....
Registrar

This summons was taken out by
Advocate-on-record for the plaintiff.

To.....
Advocate-on-record for the defendant.

NO. 15
NOTICE OF PAYMENT OF MONEY INTO COURT
(S.C.R., Order XXXVI)
IN THE SUPREME COURT OF INDIA
(Original Jurisdiction)

Case No.of.....20.....

[State of A.B.]

[Plaintiff]

Vs.

[State of C.D.]

[Defendant]

Take notice that the defendant has paid into Court Rs. and say that (Rs. Part of) that sum is enough to satisfy the plaintiff's claim (for and Rs. the other part of that sum is enough to satisfy the plaintiff's claim for) and admits (but denies) liability therefor.

Dated this theday of20.....

(Signed).....

Advocate-on-record for the defendant

Address.....

.....

To

.....
Advocate-on-record for the plaintiff

NO. 16
ACCEPTANCE OF SUM PAID INTO COURT
(S.C.R., Order XXXVI)
IN THE SUPREME COURT OF INDIA
(Original Jurisdiction)

Case No.of 20.....

[State of A.B.]

[Plaintiff]

Vs.

[State of C.D.]

[Defendant]

The Plaintiff accepts the sum of Rs. paid by the defendant into Court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in this action).

Dated this the day of20

(Signed).....

Advocate-on-record for the Plaintiff

To

Address.....

.....
Advocate-on-record for the defendant,
Address.....

NO. 17

**NOTICE TO THE ATTORNEY-GENERAL FOR INDIA OF REFERENCE UNDER
ARTICLE 143 OF THE CONSTITUTION OF INDIA**

(S.C.R., Order XLII)

IN THE SUPREME COURT OF INDIA

Reference No.of 20.....

In the matter of a Reference under Article 143 of the Constitution of India

To

The Attorney-General for India.

WHEREAS under Article 143 of the Constitution of India, the President has referred the following question(s) of law (or fact) for consideration and report to this Court:--

(Here set out the question or questions referred)

Take notice that you are hereby required to appear before this Court on theday of20....., at o'clock in the forenoon to take the directions of the Court in the matter.

Witness, Chief Justice of India, theday ofin the year two thousand and

.....
Registrar

NO. 18

**NOTICE TO PARTIES OF REFERENCE UNDER ARTICLE 143 OF THE
CONSTITUTION OF INDIA**

(S.C.R., Order XLII)

IN THE SUPREME COURT OF INDIA

Reference No.of 20.....

In the matter of (here state the subject matter under reference)

and

In the matter of a Reference under article 143 of the Constitution of India.

To

.....

(Name of parties)

WHEREAS under article 143 of the Constitution of India, the President has referred the following question(s) of law (or fact) for consideration and report to this Court:--

(Here set out the question or questions referred.)

Take notice that you are hereby required if you desire to be heard to cause an appearance to be entered for you in the Registry of this Court on or before theday of20...., and to attend on the said day ato'clock in the forenoon before the Court by an advocate of the Court to take the directions of the Court with respect to the statements of facts and arguments and with respect to the date of the hearing.

Witness....., Chief Justice of India, theday ofin the year two thousand and

.....
Registrar

NO. 19
SUMMONS TO ATTEND TAXATION
(S.C.R., Order L, Rule11)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

.....
[Original Jurisdiction]

Appeal No.....of 20.....

Case

[A.B.]

.....
[State of A.B.]

[C.D.]

.....

[Appellant]

.....
[Plaintiff]

[Respondent]

.....

Vs.

[State of C.D]

[Defendant]

Bill No.of 20.....(Here state the names of the parties to the bill.)

WHEREAS Mr. E.F., advocate-on-record for the appellant (or as the case may be) has lodged a bill of costs (copy appended hereto) for taxation as between [party and party and also as between] advocate-on-record and client, notice is hereby given that the Taxing Officer of the Court will proceed to tax the said bill on theday of20.....ato'clock in the forenoon (afternoon) when you may attend the Taxing Officer in his Chambers at the Court House and contest the said bill or any items therein.

Dated this theday of20....

.....
Taxing Officer

NO. 20
AFFIDAVIT OF SERVICE OF SUMMONS
(S.C.R., Order LIII, Rule 5)
IN THE SUPREME COURT OF INDIA

[Original Jurisdiction]

Appeal No.....of 20.....

Case

[A.B.]

[Appellant]

.....
[State of A.B.]

.....
[Plaintiff]

Vs.

[C.D.]

[Respondent]

.....
[State of C.D]

.....
[Defendant]

I,ofAdvocate-on-record for the above named.....,
make oath/solemnly affirm and say as follows:-

I, did on theday of20....., serve Mr.advocate-on-record for the above named.....in this action (or appeal) with a true copy of the summons now produced and shown to me marked A, by leaving it before four o'clock in the afternoon at the (office or dwelling house) of the said.....situate..... being the address for service

in this action (or appeal) (with his clerk or his servant or as may be there) of by post-envelope addressed to the said.....at....., being the address for service in this action (or appeal).

Sworn atthisday of20.....

Before me.

This affidavit is filed on behalf of the

NO. 21
AFFIDAVIT OF SERVICE BY POST
(S.C.R., Order LIII, Rule 5)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]

.....
[Original Jurisdiction]

Appeal No.....of 20.....

Case

[A.B.]

.....
[State of A.B.]

[C.D.]

.....
[State of C.D.]

[Appellant]

.....
[Plaintiff]

[Respondent]

.....
[Defendant]

Vs.

I,ofAdvocate-on-record for the above named....., make oath/solemnly affirm and say as follows:--

I did serve the advocate-on-record for the above-named.....in this action (or appeal) (or the above-named.....if he has appeared in person) with the summons (or notice or other documents) now produced and shown to me marked A, by posting it on theday of20.....at (name of post office) a true copy of the said summons (or as may be) in a pre-paid envelope registered for acknowledgment addressed to the said advocate on record (or respondent or as may be) at, which is his address for service.

The postal acknowledgment is attached hereto.

Sworn at.....this.....day of20.....

Before me.

This affidavit is filed on behalf of the

NO. 22
CERTIFICATE OF TAXATION
(S.C.R., Order L)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]
[Original Jurisdiction]

Appeal No.....of 20.....

Case

[A.B.]
.....
[State of A.B.]

Vs.

[C.D.]
.....
[State of C.D.]

[Appellant]
.....
[Plaintiff]

[Respondent]
.....
[Defendant]

Bill No.....of 20.....(Here state the name of the parties to the bill)

I do hereby certify that I have taxed the above bill of costs, lodged in this Court by Mr. E.F., Advocate on record for appellant (or as the case may be) and do allow, as between party and party the sum of (amount in figures and words).

Dated this theday of.....20.....

.....
Taxing Officer

NO. 23
NOTICE FOR PROCEEDINGS TO ATTORNEY-GENERAL FOR INDIA
OR ADVOCATE-GENERAL OF A STATE
(S.C.R., Order LI Rule 1)
IN THE SUPREME COURT OF INDIA

[Appellate Jurisdiction]
.....

[Original Jurisdiction]

Appeal No.....of 20.....

Case

[A.B.]
.....

[State of A.B.]

Vs.

[C.D.]
.....

[State of C.D]

[Appellant]
.....

[Plaintiff]

[Respondent]
.....

[Defendant]

To

The Attorney-General for India
or
Advocate-General of a State

Take notice that the above-named appeal/case has been filed in this Court [and is fixed for hearing on theday of.....20....., and shall be taken up for hearing by the Court on that day, at o'clock in the forenoon or so soon thereafter as may be convenient to the Court][and shall be fixed for hearing on a suitable date of which due notice will be given to you.]

As the appeal/case raises [an] important question[s][here state briefly the question(s) involved] notice is hereby given to you so that you may appear and take such part in the proceedings before this Court as you may be advised.

Dated this theday of20.....

.....
Registrar

NO. 24
WRIT OF COMMISSION
(S.C.R., Order LIV)
IN THE SUPREME COURT OF INDIA
[Original Jurisdiction]

Case No.....of 20.....

[State of A.B.]

[Plaintiff]

Vs.

[State of C.D.]

[Defendant]

To

The Commissioner appointed to examine the undermentioned witnesses on behalf of I,, hereby appoint you and give you full power and authority to swear or affirm and diligently to examine oninterrogatories and viva voce.....as shall be produced before you aswitness(es)on behalf of the saidin a certain Case No.....of.....now pending in the Supreme Court (wherein) and I further command you that you do at certain days and places to be appointed by you for that purpose of which reasonable notice shall be given to all parties cause the said witness(es) to come before you and then and there examine and cross examine such witness(es) either upon oath or solemn affirmation which we hereby give you full power and authority to administer to such witness(es) in the form firstly specified at the foot hereof, and that you do take such examination and reduce the same into writing on paper; and when you shall have so taken the same you are to send the same before the (returnable date as given in the order for the issue of this commission) to the Registrar of the said Supreme Court closed up under your Seal together with such documents as shall be spoken to and marked exhibits and this writ.

And I further empower you to appoint if necessary, a competent interpreter to interpret such of the proceedings under this commission as you may deem necessary to have interpreted from or into the English language. And I further command you that the interpreter employed in interpreting the depositions of the said witness(es) to be examined by virtue of this writ shall, before he be permitted to act as such interpreter as aforesaid, take the oath or affirmation lastly specified at the foot hereof which I hereby give you power and authority to administer to such interpreter. And I do lastly order that parties to this suit do appear before you in person or by their pleaders.

Witnesses....., Chief Justice of India at the Supreme Court, New Delhi, theday ofin the year two thousand and Advocate-on-record for
(Names of witnesses to be examined)

.....

NOTE 1- The Commissioner shall not be bound to execute this commission unless such a sum as he thinks reasonable be deposited with him for the expenses of executing the same and also of summoning the witnesses and defraying their travelling and other expenses.

NOTE 2- After the deposition of any witness has been taken down and before it is signed by him, it shall be distinctly read over, and, where necessary, translated to the witness in order that mistakes or omissions may be rectified or supplied. The deposition shall be signed by the witness and left with the Commissioner who shall subscribe his name and date of the examination.

Form of the oath or affirmation to be administered to the witness

I swear in the presence of Almighty God (or solemnly affirm) that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

So help me God.

Form of the oath or affirmation to be administered to the interpreter

I swear in the presence of Almighty God (or solemnly affirm) that I understand and speak theand English language, and that I will well and truly and faithfully interpret, translate and explain to the witness to be produced before the Commissioner, all questions and answers and all such matters as the Commissioner may require me to interpret and explain.

So help me God.

N.B. The Words “so help me God” are to be omitted when an affirmation is administered. The execution of this commission appears by the Schedule hereunto annexed.

NO. 25
FORM OF LODGMENT SCHEDULE
IN THE SUPREME COURT OF INDIA
Suit/Appeal/Petition No.of.....

..... Plaintiff(s)/Appellant(s)/Petitioner(s)

Vs.

..... Defendant(s)/Respondent(s)

Date of Order	Amount	Party on whose behalf and the purpose for which the payment is made	Remarks
---------------	--------	---	---------

Dated.....

Issue Challan
Time for payment till.....

.....
(Signature)
Advocate or party making the Payment

.....
(Signature)
Registrar

NO. 26
IN THE SUPREME COURT OF INDIA
REVENUE DEPOSITS
FORM T.R. 61
DEPOSIT REPAYMENT ORDER AND VOUCHER
(See rule 629 of the Treasury Rules)

To
The Pay & Accounts Officer
Supreme Court of India
NEW DELHI – 110201.
.....

K-Deposits-and-Advances-(B)	Deposits-not-bearing-interest-843-Civil
Deposits-Civil Courts-Deposits-Criminal Courts-Deposits-Supreme Court	
Original Number of the Challan:	Name of Depositor: Registrar, Supreme Court of India, New Delhi on behalf of the appellant in
Date of Deposit.	Amount originally deposited: Rs..... (Rupees.....)
Examined & Entered	Received this.....day of20.....the sum of Rupees.....)
Dated..... (Pay & Accounts Officer) being the amount payable on account ofout of the said deposit as per orders of the Supreme Court dated.....made in Civil Misc. Petition No.of 20.....in.....
Pay Rupees.....	

CLAIMANT'S SIGNATURE

.....

Pay & Accounts Officer

Passed for payment to

Dated.....

.....
for Rupees.....(Rupees.....) as
per order of the Supreme Court dated.....
in Civil Misc. Petition No.of 20...
in New Delhi.

Dated:

DEPUTY REGISTRAR/ADDL.REGISTRAR (ADMN.)
SUPREME COURT OF INDIA

Encl: Original Challan
(Under Rupees.....)

NO. 27
FORM OF BANK GUARANTEE

In the matter of:

Civil Appeal/Petition/C.M.P.(here give the number of Cause/matter/appeal).
And

In the matter of :
..... (Give the name of the parties).

Whereas(Here give the name of the party obtaining the order).....
above-named has filed an Appeal in the Supreme Court against the Judgment and decree/order of
the(here describe the Court and the number of the cause).....

And whereas on a motion made for the purpose on the(here give the date) the
Supreme Court of India has in the aforesaid proceedings been pleased to order *inter alia* as
follows:

(Here quote the relevant terms of the order).

And whereas (here give the name of the party concerned).....the respondent (or
appellant, as the case may be)has requested us.....(here give the name of the
Bank) having its registered office at(here give the registered address of the place of
business of the Bank) to guarantee the due payment of the said sum of Rs.(here give the
amount) by the said(here give the name of the Party) in the event of the Supreme Court
allowing/modifying/dismissing the said appeal and setting aside the decree or such other lesser
amount as the Court may order. We(here give the name of the Bank) are hereby held

firmly bound unto the Supreme Court of India through the Registrar of the said Court for the payment to it or to the(here give the name of the party concerned)on demand and without demur of the said sum..... (here give the amount) or such other lesser amount as may be ordered by the Supreme Court and require to be paid or refunded by the(here give the name of the party concerned, to the(here give the name of the party to whom the amount is to be paid) as a result of the final disposal of the said(here indicate the appeal, cause or matter) and the guarantee herein contained shall not be affected by any change in the constitution of the Bank and it is HEREBY agreed by and between the parties that this guarantee shall remain in full force and virtue till the disposal of the(here give the number of the case, appeal, cause or matter) to which the aforesaid order of the Court relates and until an order of the Supreme Court is made discharging this guarantee.

IN WITNESS WHEREOF we the(here give the name of the Bank) has executed this.

This theday of20.....

Signed
For the
(here give the name of the Agent of the Bank)

Witness:.....

NO. 28
IN THE SUPREME COURT OF INDIA
[S.C.R., Order XXI Rule 3(1)(a)]
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION
(Under Article 136 of the Constitution of India)
S.L.P. (Civil) No.....of

BETWEEN	Position of Parties In the Court/Tribunal from whose order the petition arises	In this Court
(A) Here insert the name/names of the Petitioner	Petitioner/ Respondent/ Appellant	Petitioner
(B)		
(C)		

AND

(D) Here insert the name/names of Respondent	Petitioner/ Respondent/ Appellant	Respondent
---	---	------------

(E)

(F)

To

Hon'ble the Chief Justice of India and His Companion Judges of the Supreme Court of India.

The Special leave Petition of the Petitioner most respectfully sheweth:

1. The petitioner/petitioners above named respectfully submit(s) this petition seeking special leave to appeal against the judgment/order of (Here specify the Court/Tribunal against whose order the leave to appeal is sought for together with number of the case, date of the order and nature of the order such as allowing or dismissing the matter or granting or refusing the interim order, etc.)
2. QUESTIONS OF LAW:
The following questions of the law arise for consideration by this Hon'ble Court:
(Here set out the questions of law arising for consideration precisely)
3. DECLARATION IN TERMS OF RULE 3(2):
The petitioner states that no other petition seeking leave to appeal has been filed by him against the impugned judgment and order.
4. DECLARATION IN TERMS OF RULE 5:
The Annexures produced alongwith the SLP are true copies of the pleadings/documents which formed part of the records of the case in the Court/Tribunal below against whose order the leave to appeal is sought for in this petition.
5. GROUNDS:
Leave to appeal is sought for on the following grounds.
(Here specify the grounds precisely and clearly)
6. GROUNDS FOR INTERIM RELIEF:
(Here specify briefly the grounds on which interim relief is sought for)
7. MAIN PRAYER:
(Here set out the main prayer)
8. INTERIM RELIEF:

(Here set out the interim prayer)

Place:

Advocate for the petitioner

Date:

Settled by:

(Specify the name of the Advocate in case where the petition is settled by an advocate.)

NO. 29

APPLICATION FOR ISSUE OF CERTIFIED COPY/UNAUTHENTICATED "COPY"
IN THE SUPREME COURT OF INDIA
(S.C.R., Order XIII, Rule 3)

Copy Application No. of 20..... Court No..... Item No.....
(To be filled up by the Office)

Whether pending or disposed of

If disposed of, then date of disposal.....

Between

..... Petitioner/Applicant

And

..... Respondent

Name with full address of the applicant

Whether party to the proceedings..... [Yes/No]

If yes, then status as

Nature of the copying application [Urgent/Ordinary]

Whether the copy is required to be sent by post.....

It is prayed that the certified copy/unauthenticated "copy" of the documents hereunder mentioned may be furnished to the applicant:-

Sl.No.	Description of Document	Date
1.
2.

Reasons for which copy is required:

.....

Signature/Thumb Impression of
the Applicant/Advocate on Record
[With name in Block Letters]

.....

Instructions

1. The application for certified copy/unauthenticated “copy” should contain the full description of the documents of which copies are sought and the dates of the documents.
2. Applications for certified copy/unauthenticated “copy”, made by person who is not a party to the proceedings should also be accompanied by an affidavit of such person specifying the grounds or reasons for which the copy is required and stating how the applicant is interested in obtaining the copy.

**NO. 30
APPEARANCE SLIP
IN THE SUPREME COURT OF INDIA**

Date of Listing.....

Court No/In Chambers

Item No.

Case No.

Name of Advocate

Enrolment No.

1.....

.....

2.....

.....

Appearing for

Petitioner
No.

Respondent
No.

.....
[Signature of AOR]

.....
[Name of AOR]

Note:

Court Master shall ensure to record appearance in the Record of Proceedings of all the Senior Advocate(s)/AOR/Advocate(s) who are physically present and appearing in the Court at the time of hearing, duly recognized by the AOR.

**NO.31
COMPUTER SHEET
IN THE SUPREME COURT OF INDIA**

Class of Case..... Number*..... of 20.....

1. **Petitioner:**
Appellant:.....
Applicant:
2. **Respondent:**.....
Non-applicant:
3. Date of Filing & Registrar:.....
4. Subject Matter :.....
.....
.....
5. Provision of Law :.....
.....
6. Subject Category Code Number:.....
Sub-Code Number:.....
(As per Annexure to the Rules)
7. Name of the Main Advocate:.....
(with State Bar Council Enrollment Number)
8. Name(s) of Associate Advocate(s):.....(with State Bar Council Enrollment Number(s))
9. Particulars of the Lower Court, Authority or Tribunal, viz.
(a) Name.....
(b) Designation..... Place.....
(c) Case, File/Order Number,.....
(d) Date of Impugned Judgment/Order/Award.....
10. Whether the petitioner/appellant/applicant is desirous of getting the matter settled through any of the alternative modes of dispute resolution prescribed under Section 89 C.P.C. (Yes/No)
- If yes, by which mode? i.e. arbitration/conciliation/Lok Adalat/mediation.
11. Caveat notice, whether received (Yes/No)

Place.....

Date.....

Name and Signature

*Number to be filled by the office.

NO.32
IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION

Writ Petition No...../20.....

Cause Title

Petitioner: The name, age, father/husband's name, occupation, complete address and fax number with S.T.D. Code and email address, if any;

Vs

Respondent: The name, age, father/husband's name, occupation, complete address and fax number with S.T.D. Code and email address, if known;

(Writ Petition under Article 32 of the Constitution of India)

To

Hon'ble the Chief Justice of India and His Companion Judges of the Supreme Court of India.

The Writ Petition of the Petitioner most respectfully sheweth:

The petitioner/petitioners above named respectfully submits this petition seeking

1. Particular of the cause/order against which the petition is made:

- (i) Date of Order/Notification/Circular/Policy/Decision etc:.....
- (ii) Passed in (Case or File Number):.....
- (iii) Passed by (Name and designation of the Court, Authority, Tribunal etc.)
.....
.....
.....
- (iv) Subject-matter in brief:.....

2. Nature of fundamental right infringed:.....

3. **A declaration that no processing on the same subject matter has been previously instituted in any Court. If instituted, the status or result thereof, along with copy of the order:**
4. **Details of remedies exhausted:**
The petitioner declares that he has availed all statutory and other remedies.
5. **In the writ of *habeas corpus*, whether the petitioner has moved the High Court concerned for similar relief and if so, with what result.**
6. **Facts of the case:**
(Give a concise statement of facts in chronological order in separate paragraphs)
7. **Grounds:**
(Here specify the grounds precisely and clearly).
8. **Grounds for interim relief.**
(Here specify briefly the grounds on which interim relief is sought for)
9. **Main prayer:**
(Set out the main prayer)
10. **Interim relief, if any:**
(Set out the interim prayer or writ).

Place:.....

Date:.....

(Signature)

Advocate on-record for Petitioner(s)

Settled by:

(Specify the name of the Advocate in case where the petition is settled by an advocate)

NO. 33
IN THE SUPREME COURT OF INDIA
EXTRA-ORDINARY ORIGINAL JURISDICTION
Writ Petition No...../20..... (P.I.L.)
PUBLIC INTEREST LITIGATION

Cause Title

Petitioner: The name, age, father/husband's name, occupation, complete postal address and fax number with S.T.D. Code and email address, if any, phone number;

Vs

Respondent: The name, age, father/husband's name, occupation, complete address and fax number with S.T.D. Code and email address, if known;

To

Hon'ble the Chief Justice of India and His Companion Judges of the Supreme Court of India.

The Writ Petition of the Petitioner most respectfully sheweth:

The petitioner/petitioners above named respectfully submits this petition seeking

1. Particular of the cause/order against which the petition is made:

- (1) Date of Order/Notification/Circular/Policy/Decision etc.:.....
- (2) Subject-matter in brief.....

2. The antecedents of the Petitioner:

- (1) That the petitioner is.....(give petitioner's social public standing/professional status and public spirited antecedents; if the petitioner is a social group or organization,
- (2) The present petition under Article 32 of the Constitution of India is being filed by way of public interest litigation and the petitioner has no personal interest (if he has any personal interest, disclose the nature and extent of such interest). The petition is being filed in the interest of.....(give nature of such interest and particulars of the class of persons for whose benefit the petition is filed).
- (3) That the petitioner is filing the present petition on his own and not at the instance of someone else. The litigation cost, including the advocate's fee and the travelling

expense of the lawyers, if any, are being borne by the petitioner himself (if not, the petitioner must disclose the source of funds).

3. Facts constituting the cause of action:

[Here specify the facts briefly]

4. Source of information:

Declare the source of information if the statement is based on information or the facts pleaded in the Public Interest Litigation; also whether the applicant has verified the facts personally, if yes, in what manner?

5. Details of remedies exhausted:

The petitioner declares that he has availed all statutory and other remedies.

6. Nature and extent of injury caused or likely to be caused to the public:

[Here specify concisely about the nature of injury caused or likely to be caused]

7. Nature and extent of personal interest, if any, of the petitioners.

[Here specify briefly the nature and extent of personal interest, if any]

8. Details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation.

[Here specify the details, if any]

9. Whether issue was raised earlier; if so, what result:

(Here make a statement/declaration that the issue raised was neither dealt with nor decided by a Court of law at the instance of the petitioner or to the best of his knowledge, at the instance of any other person and in case such an issue was raised or dealt with, the status or result thereof).

(Also disclose whether in a P.I.L., any cost has been awarded to or imposed upon the petitioner; and whether any appreciation or stricture has been passed).

10. Whether concerned Government Authority was moved for relief(s) sought in the petition and if so, with what result:

(Here state whether the petitioner has made any representation in this regard to the concerned authority, (if yes, details of such representation and reply, if any, from the authority concerned, along with copies thereof. If not, reason for not making such representation).

11. Grounds:

(Here specify the grounds precisely and clearly).

12. Grounds for interim relief:

(Specify the grounds for interim relief)

13. Main prayer:

(Specify below the relief(s) prayed for)

14. Interim relief, if any:

(Give the nature of interim order prayed for, with reason).

Place:

Date:

(Signature)

Advocate on-record for Petitioner(s)/
Petitioner in-person

Settled by:

(Specify the name of the advocate in case where the petition is settled by an advocate).

* The petitioner shall disclose proof regarding personal identification, occupation and annual income, PAN number, National Unique Identity Card number, if any.

** The petitioner shall file an affidavit stating that there is no personal gain, private motive or oblique reason in filing the Public Interest Litigation.

**NO.34
CAVEAT
IN THE SUPREME COURT OF INDIA
Caveat Application No...../20.....**

Caveator: The name, age, father/husband's name, occupation, complete address and fax number with S.T.D. Code and email address, if any;

Vs

Caveatee: The name, age, father/husband's name, occupation, complete address and fax number with S.T.D. Code and email address, if known;

1.	Name of the Court/designation of the authority	
2.	The date of judgment/order etc.	
3.	The cause title and case number	

4.	Particulars of the order etc.	
----	-------------------------------	--

Caveat

The cavetor named above respectfully begs to submit as under:

1. That it is expected that the caveatee may prefer an appeal/petition to the Supreme Court praying for interim relief therein.
- 2 That the caveator was party to the proceedings before the High Court as.....
3. That the caveator has despatched a notice of caveat by registered post with acknowledgment due/by courier service, on the person by whom the appeal/petition has been, or is expected to be filed, furnishing particulars regarding the judgment/order etc. as detailed hereinabove, in respect whereof the caveat is filed.
A receipt evidencing despatch of the caveat is annexed as annexure.....
4. The postal address of the caveator or his authorized agent:.....
5. It is, therefore, prayed that, in the event of the caveatee preferring such an appeal/petition within a period of 90 days, with an application seeking any interim relief_

(a) Notice of lodging of the petition may kindly be given to the caveator.

(Signature)
Advocate for

Caveator Place:.....
Date:.....

No.35 MENTION MEMO/LISTING PROFORMA IN THE SUPREME COURT OF INDIA

Appellant:
Applicant:.....
Petitioner:

Versus

Respondent:
Non-applicant:.....
Request by..... for listing a Case Urgently.

(At 10:30 a.m.)

1. Case no. of main case
2. Date and time of filing
3. The date on which the defects,
If any, were rectified:
(Where the Office has pointed out defects)
4. Whether any fixed date has been
given by the Court:
5. Whether any tentative date has been
appearing in the case:
6. Purpose for which listing of the case is
is requested:
7. Reasons for urgency:
8. Date for which the request is made, if any:

Place:.....

(Signature)

Date:.....

Advocate on-record for.....

- Note: (i) Not to be presented to the Court before filing of the main case at the Filing Counter.
(ii) Not to be presented for listing of a regular hearing case.

No. 36
INSPECTION OR SEARCH OF RECORDS
IN THE SUPREME COURT OF INDIA

Class of Case No. of 20... Listed on/disposed of on.....

Appellant :
Applicant :
Petitioner :

Versus

Respondent :
Non-applicant :

Application for Inspection of Record

To,
The Registrar,
Supreme Court of India,
New Delhi.

Sir,
Please make available following record/book/register for inspection:

Particulars of Record / Book / Register of which Inspection is requested	Capacity in which Inspection or search is sought

Place:
Date:
record

Signature
Applicant/Advocate on-

No. 37
NOTICE TO THE RESPONDENT TO SHOW CAUSE
[SCR, Order XXI Rule 9(1)]
IN THE SUPREME COURT OF INDIA
EXTRA-ORDINARY APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO.... OF 20...
(arising from the judgment and decree/order of the High Court.....(full particulars to be given))

[A.B.]

[Petitioner]

Vs.

[C.D.]

[Respondent]

To,
Through Shri.....
Advocate on-record,
Supreme Court of India,
New Delhi.

OR

(give the address of the respondent if no appearance of an advocate on-record has been entered.

Whereas the Petition for Special Leave to Appeal above-mentioned (copy enclosed) filed in the Registry by Mr., advocate on-record, on behalf of the Petitioner(s) above named, was listed for hearing before the Court on May...., 20.... and the Court was pleased to pass the following order:-

“ _____ ”

* NOW, THEREFORE, TAKE NOTICE that the above petition will be posted for hearing before the Court in due course on _____ when you may appear before this Court either in person or through an advocate-on-record of this Court duly appointed by you in that behalf within thirty days from the date of service of notice. You may thereafter show cause to the Court on the day that may subsequently be specified as to why special leave and interim relief, as prayed for, be not granted and the resultant appeal be not allowed. .

* NOW, THEREFORE, TAKE NOTICE that the above Petition with a prayer for interim relief will be posted for hearing before this Court on _____ at 10:30 in the forenoon or so soon thereafter as may be convenient to the Court when you may appear before the Court either in person or through advocate on-record and show cause to the Court as to why Special Leave Petition and interim relief as prayed for be not granted and the resultant appeal be not allowed.

You may file your affidavit in opposition to the petition as provided under Rule 14(1) of Order XXI, SCR 2013, within thirty days from the date of receipt of notice or not later than two weeks before the date appointed for hearing, whichever be earlier, but shall do so only by setting out the grounds in opposition to the questions of law or grounds set out in the SLP and may produce such pleadings and documents filed before the Court against whose order the SLP is filed and shall also set out the grounds for not granting interim order or for vacating interim order if already granted.

TAKE FURTHER NOTICE that if you fail to enter appearance, as aforesaid, no further notice shall be given to you even after the grant of special leave for hearing of the resultant appeal and the matter above mentioned shall be disposed of in your absence.

Dated this the 10th March, 2017.

Assistant Registrar

(*Strike out, whichever is not applicable)

(This Form, with necessary modifications and adaptations, may be used in S.L.P (Criminal) and appeals)

Copy to:- Mr._____, Advocate

Note:

[1] “LEGAL AID: Legal service of an advocate is provided by the Supreme Court Legal Services Committee and the Supreme Court Middle Income Group Legal Aid Society to eligible Litigants.

For further information, please contact the Secretary, Supreme Court Legal Services Committee or the Member Secretary, Supreme Court Middle Income Group Legal Aid Society, 107-108, Lawyer’s Chambers, R.K. Jain Block-Near Post Office, Supreme Court compound, Tilak Marg, New Delhi-110201 (Tel. No. 011-23388313, 23388597).

[2] MEDIATION: The facility of amicable settlement of disputes by trained mediators in cases pending in the Supreme Court is available in the Supreme Court.

For further information, please contact the Co-ordinator, Supreme Court Mediation Center, 109, Lawyers’ Chambers, R.K. Jain Block-Near Post Office, Supreme Court Compound, Tilak Marg, New Delhi-110201 (Tel No. 011-2307432).
Copy to:-

NO. 38
NOTICE TO THE RESPONDENT TO SHOW CAUSE
(SCR, Order XLI Rule 2)
IN THE SUPREME COURT OF INDIA
(ORIGINAL JURISDICTION)

TRANSFER PETITION (C) NO... OF 20...
WITH
INTERLOCUTORY APPLICATION NO. OF 20....
(Application for Stay)

[A.B.]

[Petitioner]

Vs.

[C.D.]

[Respondent]

To,

Through Shri.....
Advocate on-record,
Supreme Court of India,
New Delhi.

OR

(give the address of the respondent if no appearance of an advocate on-record has been entered.

WHEREAS the Petition under Section 25 of the Code of Civil Procedure, 1908, above-mentioned, along with an application for ex-parte stay, seeking transfer of Case No. _____ of 20____, titled as _____ vs. _____, pending before the Family Court/Court of _____, under the Jurisdiction of High Court of _____ to the Family Court/competent court at _____, under the jurisdiction of the High Court of _____. [Copy enclosed] filed by Mr. _____, advocate for the petitioner was listed for preliminary hearing before this Court on _____, and the Court was pleased to pass the following order:

“ _____ ”

NOW, THEREFORE, TAKE NOTICE that the above petition along with application for stay will be taken up by this Court in due course and you may enter appearance before this Court either in-person or through an Advocate-on-Record of this Court duly appointed by you in that behalf within thirty days from the date of service of notice. You may thereafter show cause to the Court on the day that may subsequently be specified as to why the prayer made in the transfer petition and application for stay may not be allowed/granted to the petitioner above named.

NOW, THEREFORE, TAKE NOTICE that the above petition along with application for stay will be posted for hearing before this Court on the ____/____/2017 and will be taken up by this Court on that day at 10.30 in the forenoon or so soon thereafter as may be convenient to the court when you may appear before this Court either in person or through an Advocate on record of this Court duly appointed by you in that behalf and show cause to the Court as to why the prayer made in the transfer petition and application for stay may not be granted to the petitioner, above named.

You may file affidavit in opposition to the petition, as provided under Rule 3 Order XLI, S.C.R. 2013, not later than one week before the date appointed for hearing of the petition.

TAKE FURTHER NOTICE that if you fail to enter appearance, as aforesaid, no further notice shall be given to you and the matter above mentioned shall be disposed of in your absence.

Dated this the 30th day of September, 2015.

ASSISTANT REGISTRAR

(*Strike out, whichever is not applicable)

(This Form, with necessary modifications and adaptations, may be used in transfer petition (criminal) or otherwise.)

Copy to:- Mr. _____, Advocate

Note:

[1] “LEGAL AID: Legal service of an advocate is provided by the Supreme Court Legal Services Committee and the Supreme Court Middle Income Group Legal Aid Society to eligible Litigants.

For further information, please contact the Secretary, Supreme Court Legal Services committee or the Member Secretary, Supreme Court Middle Income Group Legal Aid Society, 107- 108, Lawyers' Chambers, R.K. Jain Block- Near Post Office, Supreme Court compound, Tilak Marg, New Delhi-110201 (Tel. No. 011-23388313, 23388597)

[2] MEDIATION: The facility of amicable settlement of disputes by trained mediators in cases pending in the Supreme Court is available in the Supreme Court.

For further information, please contact the Co-ordinator, Supreme Court Mediation Center, 109, Lawyers' Chambers, R.K. Jain Block-Near Post Office, Supreme Court Compound, Tilak Marg, New Delhi-110201 (Tel No. 011-23071432).

Copy to:

ASSISTANT REGISTRAR

SUPREME COURT OF INDIA
COMPILATION OF GUIDELINES TO BE FOLLOWED FOR
ENTERTAINING LETTERS/PETITIONS RECEIVED

IN THIS COURT AS PUBLIC INTEREST LITIGATION.

(Based on full Court decision dated 1.12.1988 and subsequent modifications).

No petition involving individual/ personal matter shall be entertained as a PIL matter except as indicated hereinafter.

Letter-petitions falling under the following categories alone will ordinarily be entertained as Public Interest Litigation:-

1. Bonded Labour matters.
2. Neglected Children.
3. Non-payment of minimum wages to workers and exploitation of casual workers and complaints of violation of Labour Laws (except in individual cases).
4. Petitions from jails complaining of harassment, for (pre-mature release)* and seeking release after having completed 14 years in jail, death in jail, transfer, release on personal bond, speedy trial as a fundamental right.

*\$ Petitions for premature release, parole etc. are not matters which deserve to be treated as petitions u/Article 32 as they can effectively be dealt with by the concerned High Court. To save time Registry may simultaneously call for remarks of the jail Superintendent and ask him to forward the same to High Court. The main petition may be forwarded to the concerned High Court for disposal in accordance with law.

Even in regard to petitions containing allegations against Jail Authorities there is no reason why it cannot be dealt with by the High Court. But petitions complaining of torture, custody death and the like may be entertained by this Court directly if the allegations are of a serious nature.

- (5) Petitions against police for refusing to register a case, harassment by police and death in police custody.
- (6) Petitions against atrocities on women, in particular harassment of bride, bride- burning, rape, murder, kidnapping etc.

+ In such cases where office calls for police report if letter petitioner asks for copy the same may be supplied, only after obtaining permission of the Hon'ble Judge nominated by the Hon'ble Chief Justice of India for PIL matters.

\$ Added based on Order dated 19.8.1993 of the then Chief Justice of India.

- (7) Petitions complaining of harassment or torture of villagers by co- villagers or by police from persons belonging to Scheduled Caste and Scheduled Tribes and economically backward classes.
- (8) Petitions pertaining to environmental pollution, disturbance of ecological balance, drugs, food adulteration, maintenance of heritage and culture, antiques, forest and wild life and other matters of public importance.
- (9) Petitions from riot -victims.
- (10) Family Pension.

All letter-petitions received in the PIL Cell will first be screened in the Cell and only such petitions as are covered by the above mentioned categories will be placed before a Judge to be nominated by Hon'ble the Chief Justice of India for directions after which the case will be listed before the Bench concerned.

If a letter-petition is to be lodged, the orders to that effect should be passed by Registrar (Judicial) (or any Registrar nominated by the Hon'ble Chief Justice of India), instead of Additional Registrar, or any junior officer.

To begin with only one Hon'ble Judge may be assigned this work and number increased to two or three later depending on the workload.

*Submission Notes be put up before an Hon'ble Judge nominated for such periods as may be decided by the Hon'ble Chief Justice of India from time to time.

**If on scrutiny of a letter petition, it is found that the same is not covered under the PIL guidelines and no public interest is involved, then the same may be lodged only after the approval from the Registrar nominated by the Hon'ble the Chief Justice of India.

**It may be worthwhile to require an affidavit to be filed in support of the statements contained in the petition whenever it is not too onerous a requirement.

+ Added as per Order dated 29.8.2003 of the Hon'ble Chief Justice of India.

* As per Order dated 29.8.2003 of the Hon'ble the Chief Justice of India.

**The matters which can be dealt with by the High Court or any other authority may be sent to them without any comment whatsoever instead of all such matters being heard judicially in this Court only.

Cases falling under the following categories will not be entertained as Public Interest Litigation and these may be returned to the petitioners or filed in the PIL Cell, as the case may be:

- (1) Landlord-Tenant matters.
- (2) Service matter and those pertaining to Pension and Gratuity.
- (3) Complaints against Central/ State Government Departments and Local Bodies except those relating to item Nos. (1) to (10) above.
- (4) Admission to medical and other educational institution.
- (5) Petitions for early hearing of cases pending in High Courts and Subordinate Courts.

In regard to the petitions concerning maintenance of wife, children and parents, the petitioners may be asked to file a Petition under sec. 125 of Cr. P.C. Or a Suit in the Court of competent jurisdiction and for that purpose to approach the nearest Legal Aid Committee for legal aid and advice.

** Modified keeping in view the directions dated 29.8.2003 of the Hon'ble Chief Justice of India.



THE CODE OF CRIMINAL PROCEDURE, 1973

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Construction of references.
4. Trial of offences under the Indian Penal Code and other laws.
5. Saving.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

6. Classes of Criminal Courts.
7. Territorial divisions.
8. Metropolitan areas.
9. Court of Session.
10. Subordination of Assistant Sessions Judges.
11. Courts of Judicial Magistrates.
12. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.
13. Special Judicial Magistrates.
14. Local jurisdiction of Judicial Magistrates.
15. Subordination of Judicial Magistrates.
16. Courts of Metropolitan Magistrates.
17. Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate.
18. Special Metropolitan Magistrates.
19. Subordination of Metropolitan Magistrates.
20. Executive Magistrates.
21. Special Executive Magistrates.
22. Local Jurisdiction of Executive Magistrates.
23. Subordination of Executive Magistrates.
24. Public Prosecutors.
25. Assistant Public Prosecutors.
- 25A. Directorate of Prosecution.

CHAPTER III

POWER OF COURTS

26. Courts by which offences are triable.
27. Jurisdiction in the case of juveniles.

SECTIONS

- 28. Sentences which High Courts and Sessions Judges may pass.
- 29. Sentences which Magistrates may pass.
- 30. Sentence of imprisonment in default of fine.
- 31. Sentence in cases of conviction of several offences at one trial.
- 32. Mode of conferring powers.
- 33. Powers of officers appointed.
- 34. Withdrawal of powers.
- 35. Powers of Judges and Magistrates exercisable by their successors-in-office.

CHAPTER IV

A.—POWERS OF SUPERIOR OFFICERS OF POLICE

- 36. Powers of superior officers of police.

B.—AID TO THE MAGISTRATES AND THE POLICE

- 37. Public when to assist Magistrates and police.
- 38. Aid to person, other than police officer, executing warrant.
- 39. Public to give information of certain offences.
- 40. Duty of officers employed, in connection with the affairs of a village to make certain report.

CHAPTER V

ARREST OF PERSONS

- 41. When police may arrest without warrant.
- 41A. Notice of appearance before police officer.
- 41B. Procedure of arrest and duties of officer making arrest.
- 41C. Control room at districts.
- 41D. Right of arrested person to meet an advocate of his choice during interrogation.
- 42. Arrest on refusal to give name and residence.
- 43. Arrest by private person and procedure on such arrest.
- 44. Arrest by Magistrate.
- 45. Protection of members of the Armed Forces from arrest.
- 46. Arrest how made.
- 47. Search of place entered by person sought to be arrested.
- 48. Pursuit of offenders into other jurisdictions.
- 49. No unnecessary restraint.
- 50. Person arrested to be informed of grounds of arrest and of right to bail.
- 50A. Obligation of person making arrest to inform about the arrest, etc., to a nominated person.
- 51. Search of arrested person.

SECTIONS

- 52. Power to seize offensive weapons.
- 53. Examination of accused by medical practitioner at the request of police officer.
- 53A. Examination of person accused of rape by medical practitioner.
- 54. Examination of arrested person by medical officer.
- 54A. Identification of person arrested.
- 55. Procedure when police officer deposes subordinate to arrest without warrant.
- 55A. Health and safety of arrested person.
- 56. Person arrested to be taken before Magistrate or officer in charge of police station.
- 57. Person arrested not to be detained more than twenty-four hours.
- 58. Police to report apprehensions.
- 59. Discharge of person apprehended.
- 60. Power, on escape, to pursue and retake.
- 60A. Arrest to be made strictly according to the Code.

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.—Summons

- 61. Form of summons.
- 62. Summons how served.
- 63. Service of summons on corporate bodies and societies.
- 64. Service when persons summoned cannot be found.
- 65. Procedure when service cannot be effected as before provided.
- 66. Service on Government servant.
- 67. Service of summons outside local limits.
- 68. Proof of service in such cases and when serving officer not present.
- 69. Service of summons on witness by post.

B.—Warrant of arrest

- 70. Form of warrant of arrest and duration.
- 71. Power to direct security to be taken.
- 72. Warrants to whom directed.
- 73. Warrant may be directed to any person.
- 74. Warrant directed to police officer.
- 75. Notification of substance of warrant.
- 76. Person arrested to be brought before Court without delay.
- 77. Where warrant may be executed.
- 78. Warrant forwarded for execution outside jurisdiction.
- 79. Warrant directed to police officer for execution outside jurisdiction.
- 80. Procedure on arrest of person against whom warrant issued.

SECTIONS

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

C.—Proclamation and attachment

82. Proclamation for person absconding.

83. Attachment of property of person absconding.

84. Claims and objections to attachment.

85. Release, sale and restoration of attached property.

86. Appeal from order rejecting application for restoration of attached property.

D.—Other rules regarding processes

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

88. Power to take bond for appearance.

89. Arrest on breach of bond for appearance.

90. Provisions of this Chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A.—Summons to produce

91. Summons to produce document or other thing.

92. Procedure as to letters and telegrams.

B.—Search-warrants

93. When search-warrant may be issued.

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

95. Power to declare certain publications forfeited and to issue search-warrants for the same.

96. Application to High Court to set aside declaration of forfeiture.

97. Search for persons wrongfully confined.

98. Power to compel restoration of abducted females.

C.—General provisions relating to searches

99. Direction, etc., of search-warrants.

100. Persons in charge of closed place to allow search.

101. Disposal of things found in search beyond jurisdiction.

D.—Miscellaneous

102. Power of police officer to seize certain property.

103. Magistrate may direct search in his presence.

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

105. Reciprocal arrangements regarding processes.

CHAPTER VIIA

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

105A. Definitions.

105B. Assistance in securing transfer of persons.

SECTIONS

- 105C. Assistance in relation to orders of attachment or forfeiture of property.
- 105D. Identifying unlawfully acquired property.
- 105E. Seizure or attachment of property.
- 105F. Management of properties seized or forfeited under this Chapter.
- 105G. Notice of forfeiture of property.
- 105H. Forfeiture of property in certain cases.
- 105-I. Fine in lieu of forfeiture.
- 105J. Certain transfers to be null and void.
- 105K. Procedure in respect of letter of request.
- 105L. Application of this Chapter.

CHAPTER VIII

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

- 106. Security for keeping the peace on conviction.
- 107. Security for keeping the peace in other cases.
- 108. Security for good behaviour from persons disseminating seditious matters.
- 109. Security for good behaviour from suspected persons.
- 110. Security for good behaviour from habitual offenders.
- 111. Order to be made.
- 112. Procedure in respect of person present in Court.
- 113. Summons or warrant in case of person not so present.
- 114. Copy of order to accompany summons or warrant.
- 115. Power to dispense with personal attendance.
- 116. Inquiry as to truth of information.
- 117. Order to give security.
- 118. Discharge of person informed against.
- 119. Commencement of period for which security is required.
- 120. Contents of bond.
- 121. Power to reject sureties.
- 122. Imprisonment in default of security.
- 123. Power to release persons imprisoned for failing to give security.
- 124. Security for unexpired period of bond.

CHAPTER IX

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

- 125. Order for maintenance of wives, children and parents.
- 126. Procedure.
- 127. Alteration in allowance.
- 128. Enforcement of order of maintenance.

CHAPTER X
MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY
A.–Unlawful assemblies

SECTIONS

- 129. Dispersal of assembly by use of civil force.
- 130. Use of armed forces to disperse assembly.
- 131. Power of certain armed force officers to disperse assembly.
- 132. Protection against prosecution for acts done under preceding sections.

B.–Public nuisances

- 133. Conditional order for removal of nuisance.
- 134. Service or notification of order.
- 135. Person to whom order is addressed to obey or show cause.
- 136. Consequences of his failing to do so.
- 137. Procedure where existence of public right is denied.
- 138. Procedure where he appears to show cause.
- 139. Power of Magistrate to direct local investigation and examination of an expert.
- 140. Power of Magistrate to furnish written instructions, etc.
- 141. Procedure on order being made absolute and consequences of disobedience.
- 142. Injunction pending inquiry.
- 143. Magistrate may prohibit repetition or continuance of public nuisance.

C.–Urgent cases of nuisance or apprehended danger

- 144. Power to issue order in urgent cases of nuisance or apprehended danger.
- 144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.

D.–Disputes as to immovable property

- 145. Procedure where dispute concerning land or water is likely to cause breach of peace.
- 146. Power to attach subject of dispute and to appoint receiver.
- 147. Dispute concerning right of use of land or water.
- 148. Local inquiry.

CHAPTER XI
PREVENTIVE ACTION OF THE POLICE

- 149. Police to prevent cognizable offences.
- 150. Information of design to commit cognizable offences.
- 151. Arrest to prevent the commission of cognizable offences.
- 152. Prevention of injury to public property.
- 153. Inspection of weights and measures.

CHAPTER XII
INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

- 154. Information in cognizable cases.
- 155. Information as to non-cognizable cases and investigation of such cases.

SECTIONS

- 156. Police officer's power to investigate cognizable case.
- 157. Procedure for investigation.
- 158. Report how submitted.
- 159. Power to hold investigation or preliminary inquiry.
- 160. Police officer's power to require attendance of witnesses.
- 161. Examination of witnesses by police.
- 162. Statements to police not to be signed: Use of statements in evidence.
- 163. No inducement to be offered.
- 164. Recording of confessions and statements.
- 164A. Medical examination of the victim of rape.
- 165. Search by police officer.
- 166. When officer in charge of police station may require another to issue search-warrant.
- 166A. Letter of request to competent authority for investigation in a country or place outside India.
- 166B. Letter of request from a country or place outside India to a Court or an authority for investigation in India.
- 167. Procedure when investigation cannot be completed in twenty-four hours.
- 168. Report of investigation by subordinate police officer.
- 169. Release of accused when evidence deficient.
- 170. Cases to be sent to Magistrate, when evidence is sufficient.
- 171. Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.
- 172. Diary of proceedings in investigation.
- 173. Report of police officer on completion of investigation.
- 174. Police to enquire and report on suicide, etc.
- 175. Power to summon persons.
- 176. Inquiry by Magistrate into cause of death.

CHAPTER XIII

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

- 177. Ordinary place of inquiry and trial.
- 178. Place of inquiry or trial.
- 179. Offence triable where act is done or consequence ensues.
- 180. Place of trial where act is an offence by reason of relation to other offence.
- 181. Place of trial in case of certain offences.
- 182. Offences committed by letters, etc.
- 183. Offence committed on journey or voyage.
- 184. Place of trial for offences triable together.
- 185. Power to order cases to be tried in different sessions divisions.
- 186. High Court to decide, in case of doubt, district where inquiry or trial shall take place.
- 187. Power to issue summons or warrant for offence committed beyond local jurisdiction.

SECTIONS

- 188. Offence committed outside India.
- 189. Receipt of evidence relating to offences committed outside India.

CHAPTER XIV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

- 190. Cognizance of offences by Magistrates.
- 191. Transfer on application of the accused.
- 192. Making over of cases to Magistrates.
- 193. Cognizance of offences by Courts of Session.
- 194. Additional and Assistant Sessions Judges to try cases made over to them.
- 195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.
- 195A. Procedure for witnesses in case of threatening, etc.
- 196. Prosecution for offences against the State and for criminal conspiracy to commit such offence.
- 197. Prosecution of Judges and public servants.
- 198. Prosecution for offences against marriage.
- 198A. Prosecution of offences under section 498A of the Indian Penal Code.
- 198B. Cognizance of offence.
- 199. Prosecution for defamation.

CHAPTER XV

COMPLAINTS TO MAGISTRATES

- 200. Examination of complainant.
- 201. Procedure by Magistrate not competent to take cognizance of the case.
- 202. Postponement of issue of process.
- 203. Dismissal of complaint.

CHAPTER XVI

COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

- 204. Issue of process.
- 205. Magistrate may dispense with personal attendance of accused.
- 206. Special summons in cases of petty offence.
- 207. Supply to the accused of copy of police report and other documents.
- 208. Supply of copies of statements and documents to accused in other cases triable by Court of Session.
- 209. Commitment of case to Court of Session when offence is triable exclusively by it.
- 210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

CHAPTER XVII

THE CHARGE

A.—Form of charges

- 211. Contents of charge.
- 212. Particulars as to time, place and person.

SECTIONS

- 213. When manner of committing offence must be stated.
- 214. Words in charge taken in sense of law under which offence is punishable.
- 215. Effect of errors.
- 216. Court may alter charge.
- 217. Recall of witnesses when charge altered.

B.—Joinder of charges

- 218. Separate charges for distinct offences.
- 219. Three offences of same kind within year may be charged together.
- 220. Trial for more than one offence.
- 221. Where it is doubtful what offence has been committed.
- 222. When offence proved included in offence charged.
- 223. What persons may be charged jointly.
- 224. Withdrawal of remaining charges on conviction on one of several charges.

CHAPTER XVIII

TRIAL BEFORE A COURT OF SESSION

- 225. Trial to be conducted by Public Prosecutor.
- 226. Opening case for prosecution.
- 227. Discharge.
- 228. Framing of charge.
- 229. Conviction on plea of guilty.
- 230. Date for prosecution evidence.
- 231. Evidence for prosecution.
- 232. Acquittal.
- 233. Entering upon defence.
- 234. Arguments.
- 235. Judgment of acquittal or conviction.
- 236. Previous conviction.
- 237. Procedure in cases instituted under section 199(2).

CHAPTER XIX

TRIAL OF WARRANT-CASES BY MAGISTRATES

A.—Cases instituted on a police report

- 238. Compliance with section 207.
- 239. When accused shall be discharged.
- 240. Framing of charge.
- 241. Conviction on plea of guilty.
- 242. Evidence for prosecution.
- 243. Evidence for defence.

SECTIONS

B.—Cases instituted otherwise than on police report

- 244. Evidence for prosecution.
- 245. When accused shall be discharged.
- 246. Procedure where accused is not discharged.
- 247. Evidence for defence.

C.—Conclusion of trial

- 248. Acquittal or conviction.
- 249. Absence of complainant.
- 250. Compensation for accusation without reasonable cause.

CHAPTER XX

TRIAL OF SUMMONS-CASES BY MAGISTRATES

- 251. Substance of accusation to be stated.
- 252. Conviction on plea of guilty.
- 253. Conviction on plea of guilty in absence of accused in petty cases.
- 254. Procedure when not convicted.
- 255. Acquittal or conviction.
- 256. Non-appearance or death of complainant.
- 257. Withdrawal of complaint.
- 258. Power to stop proceedings in certain cases.
- 259. Power of Court to convert summons-cases into warrant-cases.

CHAPTER XXI

SUMMARY TRIALS

- 260. Power to try summarily.
- 261. Summary trial by Magistrate of the second class.
- 262. Procedure for summary trials.
- 263. Record in summary trials.
- 264. Judgment in cases tried summarily.
- 265. Language of record and judgment.

CHAPTER XXIA

PLEA BARGAINING

- 265A. Application of the Chapter.
- 265B. Application for plea bargaining.
- 265C. Guidelines for mutually satisfactory disposition.
- 265D. Report of the mutually satisfactory disposition to be submitted before the Court.
- 265E. Disposal of the case.
- 265F. Judgment of the Court.
- 265G. Finality of the judgment.
- 265H. Power of the Court in plea bargaining.

SECTIONS

- 265-I. Period of detention undergone by the accused to be set-off against the sentence of imprisonment.
- 265J. Savings.
- 265K. Statements of accused not to be used.
- 265L. Non-application of the Chapter.

CHAPTER XXII

ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

- 266. Definitions.
- 267. Power to require attendance of prisoners.
- 268. Power of State Government to exclude certain persons from operation of section 267.
- 269. Officer in charge of prison to abstain from carrying out order in certain contingencies.
- 270. Prisoner to be brought to Court in custody.
- 271. Power to issue commission for examination of witness in prison.

CHAPTER XXIII

EVIDENCE IN INQUIRIES AND TRIALS

A.—Mode of taking and recording evidence

- 272. Language of Courts.
- 273. Evidence to be taken in presence of accused.
- 274. Record in summons-cases and inquiries.
- 275. Record in warrant-cases.
- 276. Record in trial before Court of Session.
- 277. Language of record of evidence.
- 278. Procedure in regard to such evidence when completed.
- 279. Interpretation of evidence to accused or his pleader.
- 280. Remarks respecting demeanour of witness.
- 281. Record of examination of accused.
- 282. Interpreter to be bound to interpret truthfully.
- 283. Record in High Court.

B.—Commissions for the examination of witnesses

- 284. When attendance of witness may be dispensed with and commission issued.
- 285. Commission to whom to be issued.
- 286. Execution of commissions.
- 287. Parties may examine witnesses.
- 288. Return of commission.
- 289. Adjournment of proceeding.
- 290. Execution of foreign commissions.
- 291. Deposition of medical witness.
- 291A. Identification report of Magistrate.

SECTIONS

- 292. Evidence of officers of the Mint.
- 293. Reports of certain Government scientific experts.
- 294. No formal proof of certain documents.
- 295. Affidavit in proof of conduct of public servants.
- 296. Evidence of formal character on affidavit.
- 297. Authorities before whom affidavits may be sworn.
- 298. Previous conviction or acquittal how proved.
- 299. Record of evidence in absence of accused.

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

- 300. Person once convicted or acquitted not to be tried for same offence.
- 301. Appearance by Public Prosecutors.
- 302. Permission to conduct prosecution.
- 303. Right of person against whom proceedings are instituted to be defended.
- 304. Legal aid to accused at State expense in certain cases.
- 305. Procedure when corporation or registered society is an accused.
- 306. Tender of pardon to accomplice.
- 307. Power to direct tender of pardon.
- 308. Trial of person not complying with conditions of pardon.
- 309. Power to postpone or adjourn proceedings.
- 310. Local inspection.
- 311. Power to summon material witness, or examine person present.
- 311A. Power of Magistrate to order person to give specimen signatures or handwriting.
- 312. Expenses of complainants and witnesses.
- 313. Power to examine the accused.
- 314. Oral arguments and memorandum of arguments.
- 315. Accused person to be competent witness.
- 316. No influence to be used to induce disclosure.
- 317. Provision for inquiries and trial being held in the absence of accused in certain cases.
- 318. Procedure where accused does not understand proceedings.
- 319. Power to proceed against other persons appearing to be guilty of offence.
- 320. Compounding of offences.
- 321. Withdrawal from prosecution.
- 322. Procedure in cases which Magistrate cannot dispose of.
- 323. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.
- 324. Trial of persons previously convicted of offences against coinage, stamp-law or property.
- 325. Procedure when Magistrate cannot pass sentence sufficiently severe.

SECTIONS

- 326. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
- 327. Court to be open.

CHAPTER XXV

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

- 328. Procedure in case of accused being lunatic.
- 329. Procedure in case of person of unsound mind tried before Court.
- 330. Release of person of unsound mind pending investigation or trial.
- 331. Resumption of inquiry or trial.
- 332. Procedure on accused appearing before Magistrate or Court.
- 333. When accused appears to have been of sound mind.
- 334. Judgment of acquittal on ground of unsoundness of mind.
- 335. Person acquitted on such ground to be detained in safe custody.
- 336. Power of State Government to empower officer-in-charge to discharge.
- 337. Procedure where lunatic prisoner is reported capable of making his defence.
- 338. Procedure where lunatic detained is declared fit to be released.
- 339. Delivery of lunatic to care of relative or friend.

CHAPTER XXVI

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

- 340. Procedure in cases mentioned in section 195.
- 341. Appeal.
- 342. Power to order costs.
- 343. Procedure of Magistrate taking cognizance.
- 344. Summary procedure for trial for giving false evidence.
- 345. Procedure in certain cases of contempt.
- 346. Procedure where Court considers that case should not be dealt with under section 345.
- 347. When Registrar or Sub-Registrar to be deemed a Civil Court.
- 348. Discharge of offender on submission of apology.
- 349. Imprisonment or committal of person refusing to answer or produce document.
- 350. Summary procedure for punishment for non-attendance by a witness in obedience to summons.
- 351. Appeals from convictions under sections 344, 345, 349 and 350.
- 352. Certain Judges and Magistrates not to try certain offences when committed before themselves.

CHAPTER XXVII

THE JUDGMENT

- 353. Judgment.
- 354. Language and contents of judgment.
- 355. Metropolitan Magistrate's judgment.

SECTIONS

- 356. Order for notifying address of previously convicted offender.
- 357. Order to pay compensation.
- 357A. Victim compensation scheme.
- 357B. Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.
- 357C. Treatment of victims.
- 358. Compensation to persons groundlessly arrested.
- 359. Order to pay costs in non-cognizable cases.
- 360. Order to release on probation of good conduct or after admonition.
- 361. Special reasons to be recorded in certain cases.
- 362. Court not to alter judgment.
- 363. Copy of judgment to be given to the accused and other persons.
- 364. Judgment when to be translated.
- 365. Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVIII

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

- 366. Sentence of death to be submitted by Court of Session for confirmation.
- 367. Power to direct further inquiry to be made or additional evidence to be taken.
- 368. Power of High Court to confirm sentence or annul conviction.
- 369. Confirmation or new sentence to be signed by two Judges.
- 370. Procedure in case of difference of opinion.
- 371. Procedure in cases submitted to High Court for confirmation.

CHAPTER XXIX

APPEALS

- 372. No appeal to lie unless otherwise provided.
- 373. Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.
- 374. Appeals from convictions.
- 375. No appeal in certain cases when accused pleads guilty.
- 376. No appeal in petty cases.
- 377. Appeal by the State Government against sentence.
- 378. Appeal in case of acquittal.
- 379. Appeal against conviction by High Court in certain cases.
- 380. Special right of appeal in certain cases.
- 381. Appeal to Court of Session how heard.
- 382. Petition of appeal.
- 383. Procedure when appellant in jail.
- 384. Summary dismissal of appeal.
- 385. Procedure for hearing appeals not dismissed summarily.
- 386. Powers of the Appellate Court.
- 387. Judgments of Subordinate Appellate Court.
- 388. Order of High Court on appeal to be certified to lower Court.

SECTIONS

- 389. Suspension of sentence pending the appeal; release of appellant on bail.
- 390. Arrest of accused in appeal from acquittal.
- 391. Appellate Court may take further evidence or direct it to be taken.
- 392. Procedure where Judges of Court of Appeal are equally divided.
- 393. Finality of judgments and orders on appeal.
- 394. Abatement of appeals.

CHAPTER XXX

REFERENCE AND REVISION

- 395. Reference to High Court.
- 396. Disposal of case according to decision of High Court.
- 397. Calling for records to exercise powers of revision.
- 398. Power to order inquiry.
- 399. Sessions Judge's powers of revision.
- 400. Power of Additional Sessions Judge.
- 401. High Court's powers of revision.
- 402. Power of High Court to withdraw or transfer revision cases.
- 403. Option of Court to hear parties.
- 404. Statement by Metropolitan Magistrate of ground of his decision to be considered by High Court.
- 405. High Court's order to be certified to lower Court.

CHAPTER XXXI

TRANSFER OF CRIMINAL CASES

- 406. Power of Supreme Court to transfer cases and appeals.
- 407. Power of High Court to transfer cases and appeals.
- 408. Power of Sessions Judge to transfer cases and appeals.
- 409. Withdrawal of cases and appeals by Sessions Judges.
- 410. Withdrawal of cases by Judicial Magistrate.
- 411. Making over or withdrawal of cases by Executive Magistrates.
- 412. Reasons to be recorded.

CHAPTER XXXII

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A.—Death Sentences

- 413. Execution of order passed under section 368.
- 414. Execution of sentence of death passed by High Court.
- 415. Postponement of execution of sentence of death in case of appeal to Supreme Court.
- 416. Postponement of capital sentence on pregnant woman.

SECTIONS

B.—Imprisonment

- 417. Power to appoint place of imprisonment.
- 418. Execution of sentence of imprisonment.
- 419. Direction of warrant for execution.
- 420. Warrant with whom to be lodged.

C.—Levy of fine

- 421. Warrant for levy of fine.
- 422. Effect of such warrant.
- 423. Warrant for levy of fine issued by a Court in any territory to which this Code does not extend.
- 424. Suspension of execution of sentence of imprisonment.

D.—General provisions regarding execution

- 425. Who may issue warrant.
- 426. Sentence on escaped convict when to take effect.
- 427. Sentence on offender already sentenced for another offence.
- 428. Period of detention undergone by the accused to be set off against the sentence of imprisonment.
- 429. Saving.
- 430. Return of warrant on execution of sentence.
- 431. Money ordered to be paid recoverable as a fine.

E.—Suspension, remission and commutation of sentences

- 432. Power to suspend or remit sentences.
- 433. Power to commute sentence.
- 433A. Restriction on powers of remission or commutation in certain cases.
- 434. Concurrent power of Central Government in case of death sentences.
- 435. State Government to act after consultation with Central Government in certain cases.

CHAPTER XXXIII

PROVISIONS AS TO BAIL AND BONDS

- 436. In what cases bail to be taken.
- 436A. Maximum period for which an undertrial prisoner can be detained.
- 437. When bail may be taken in case of non-bailable offence.
- 437A. Bail to require accused to appear before next appellate Court.
- 438. Direction for grant of bail to person apprehending arrest.
- 439. Special powers of High Court or Court of Session regarding bail.
- 440. Amount of bond and reduction thereof.
- 441. Bond of accused and sureties.
- 441A. Declaration by sureties.
- 442. Discharge from custody.

SECTIONS

- 443. Power to order sufficient bail when that first taken is insufficient.
- 444. Discharge of sureties.
- 445. Deposit instead of recognizance.
- 446. Procedure when bond has been forfeited.
- 446A. Cancellation of bond and bail bond.
- 447. Procedure in case of insolvency of death of surety or when a bond is forfeited.
- 448. Bond required from minor.
- 449. Appeal from orders under section 446.
- 450. Power to direct levy of amount due on certain recognizances.

CHAPTER XXXIV

DISPOSAL OF PROPERTY

- 451. Order for custody and disposal of property pending trial in certain cases.
- 452. Order for disposal of property at conclusion of trial.
- 453. Payment to innocent purchaser of money found on accused.
- 454. Appeal against orders under section 452 or section 453.
- 455. Destruction of libellous and other matter.
- 456. Power to restore possession of immovable property.
- 457. Procedure by police upon seizure of property.
- 458. Procedure where no claimant appears within six months.
- 459. Power to sell perishable property.

CHAPTER XXXV

IRREGULAR PROCEEDINGS

- 460. Irregularities which do not vitiate proceedings.
- 461. Irregularities which vitiate proceedings.
- 462. Proceedings in wrong place.
- 463. Non-compliance with provisions of section 164 or section 281.
- 464. Effect of omission to frame, or absence of, or error in, charge.
- 465. Finding or sentence when reversible by reason of error, omission or irregularity.
- 466. Defect or error not to make attachment unlawful.

CHAPTER XXXVI

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

SECTIONS

- 467. Definitions.
- 468. Bar to taking cognizance after lapse of the period of limitation.
- 469. Commencement of the period of limitation.
- 470. Exclusion of time in certain cases.
- 471. Exclusion of date on which Court is closed.
- 472. Continuing offence.
- 473. Extension of period of limitation in certain cases.

CHAPTER XXXVII

MISCELLANEOUS

- 474. Trials before High Courts.
- 475. Delivery to commanding officers of persons liable to be tried by Court-martial.
- 476. Forms.
- 477. Power of High Court to make rules.
- 478. Power to alter functions allocated to Executive Magistrate in certain cases.
- 479. Case in which Judge or Magistrate is personally interested.
- 480. Practising pleader not to sit as Magistrate in certain Courts.
- 481. Public servant concerned in sale not to purchase or bid for property.
- 482. Saving of inherent power of High Court.
- 483. Duty of High Court to exercise continuous superintendence over Courts of Judicial Magistrates.
- 484. Repeal and savings.

THE FIRST SCHEDULE.—CLASSIFICATION OF OFFENCES.

THE SECOND SCHEDULE.—FORMS.

- FORM NO. 1.—Summons to an accused person.
- FORM NO. 2.—Warrant of arrest.
- FORM NO. 3.—Bond and bail-bond after arrest under a warrant.
- FORM NO. 4.—Proclamation requiring the appearance of a person accused.
- FORM NO. 5.—Proclamation requiring the attendance of a witness.
- FORM NO. 6.—Order of attachment to compel the attendance of a witness.
- FORM NO. 7.—Order of attachment to compel the appearance of a person accused.
- FORM NO. 8.—Order authorising an attachment by the District Magistrate or Collector.
- FORM NO. 9.—Warrant in the first instance to bring up a witness.
- FORM NO. 10.—Warrant to search after information of a particular offence.
- FORM NO. 11.—Warrant to search suspected place of deposit.

FORM NO. 12.—Bond to keep the peace.

FORM NO. 13.—Bond for good behaviour.

FORM NO. 14.—Summons on information of a probable breach of the peace.

FORM NO. 15.—Warrant of commitment on failure to find security to keep the peace.

FORM NO. 16.—Warrant of commitment on failure to find security for good behaviour.

FORM NO. 17.—Warrant to discharge a person imprisoned on failure to give security.

FORM NO. 18.—Warrant of imprisonment on failure to pay maintenance.

FORM NO. 19.—Warrant to enforce the payment of maintenance by attachment and sale.

FORM NO. 20.—Order for the removal of nuisances.

FORM NO. 21.—Magistrate's notice and peremptory order.

FORM NO. 22.—Injunction to provide against imminent danger pending inquiry.

FORM NO. 23.—Magistrate's order prohibiting the repetition, etc., of a nuisance.

FORM NO. 24.—Magistrate's order to prevent obstruction, riot, etc.

FORM NO. 25.—Magistrate's order declaring party entitled to retain possession of land, etc., in dispute.

FORM NO. 26.—Warrant of attachment in the case of a dispute as to the possession of land, etc.

FORM NO. 27.—Magistrate's order prohibiting the doing of anything on land or water.

FORM NO. 28.—Bond and bail-bond on a preliminary inquiry before a Police Officer.

FORM NO. 29.—Bond to prosecute or give evidence.

FORM NO. 30.—Special summons to a person accused of a petty offence.

FORM NO. 31.—Notice of commitment by Magistrate to Public Prosecutor.

FORM NO. 32.—Charges.

I. Charges with one-head.

II. Charges with two or more heads.

III. Charges for theft after previous conviction.

FORM NO. 33.—Summons to witness.

FORM NO. 34.—Warrant of commitment on a sentence of imprisonment or fine if passed by a Court.

FORM NO. 35.—Warrant of imprisonment on failure to pay compensation.

FORM NO. 36.—Order requiring production in Court of person in prison for answering to charge of offence.

FORM NO. 37.—Order requiring production in Court of person in prison for giving evidence.

FORM NO. 38.—Warrant of commitment in certain cases of contempt when a fine is imposed.

FORM NO. 39.—Magistrate's or Judge's warrant of commitment of witness refusing to answer or to produce document.

FORM NO. 40.—Warrant of commitment under sentence of death.

FORM NO. 41.—Warrant after a commutation of a sentence.

FORM NO. 42.—Warrant of execution of a sentence of death.

- FORM NO. 43.—Warrant to levy a fine by attachment and Sale.
- FORM NO. 44.—Warrant for recovery of fine.
- FORM NO. 44A.—Bond for appearance of offender released pending realisation of fine.
- FORM NO. 45.—Bond and bail-bond for attendance before officer in charge of police station or Court.
- FORM NO. 46.—Warrant to discharge a person imprisoned on failure to give security.
- FORM NO. 47.—Warrant of attachment to enforce a bond.
- FORM NO. 48.—Notice to surety on breach of a bond.
- FORM NO. 49.—Notice to surety of forfeiture of bond for good behaviour.
- FORM NO. 50.—Warrant of attachment against a surety.
- FORM NO. 51.—Warrant of commitment of the surety of an accused person admitted to bail.
- FORM NO. 52.—Notice to the principal of forfeiture of bond to keep the peace.
- FORM NO. 53.—Warrant to attach the property of the principal on breach of a bond to keep the peace.
- FORM NO. 54.—Warrant of imprisonment on breach of a bond to keep the peace.
- FORM NO. 55.—Warrant of attachment and sale on forfeiture of bond for good behaviour.
- FORM NO. 56.—Warrant of imprisonment on forfeiture of bond for good behaviour.

APPENDIX I.—[Extracts from the Code of Criminal Procedure (Amendment) Act, 2005 (25 of 2005).]

THE CODE OF CRIMINAL PROCEDURE, 1973
ACT NO. 2 OF 1974

[25th January, 1974.]

An Act to consolidate and amend the law relating to Criminal Procedure.

BE it enacted by Parliament in the twenty-fourth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Code of Criminal Procedure, 1973.

(2) It extends to the whole of India ^{1***}:

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

- (a) to the State of Nagaland,
- (b) to the tribal areas,

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

Explanation.—In this section, “tribal areas” means the territories which immediately before the 21st day of January, 1972, were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than those within the local limits of the municipality of Shillong.

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

STATE AMENDMENT

Haryana

In the Code of Criminal Procedure (Haryana Amendment) Act, 2014,—In section 1, after figures “2014”, the words “as extended to the Union territory of Chandigarh” shall be inserted;

[Vide Notification No. GSR929(E) dated 16th December, 2019.]

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

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

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

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

(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an

1. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

offence, but does not include a police report.

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

(e) “High Court” means,—

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

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

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

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

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

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

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

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

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

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

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

(n) “offence” means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871);

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

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

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

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

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

1. Ins. by Act 45 of 1978, s. 2 (w.e.f. 18-12-1978).

- (t) “prescribed” means prescribed by rules made under this Code;
- (u) “Public Prosecutor” means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor;
- (v) “sub-division” means a sub-division of a district;
- (w) “summons-case” means a case relating to an offence, and not being a warrant-case;
- ¹[(wa) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir;]
- (x) “warrant-case” means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;
- (y) words and expressions used herein and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in that Code.

STATE AMENDMENT

Haryana

In section 2, for the words “State of Haryana”, the words “Union territory of Chandigarh” shall be substituted.

[Vide Notification No. GSR929(E) dated 16th December, 2019.]

3. Construction of references.—(1) In this Code,—

(a) any reference, without any qualifying words, to a Magistrate, shall be construed, unless the context otherwise requires,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATE AMENDMENT

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

Insertion of New section 3A. —In the Code, as it applies to the Union territory of Andaman and Nicobar Islands, after section 3, the following section shall be inserted, namely:—

“3A. Special provision relating to Andaman and Nicobar Islands. —(1) Reference in this Code to—

(a) The Chief Judicial Magistrate shall be construed as references to the District Magistrate or, where the State Government so directs, also to the Additional District Magistrate;

(b) a Magistrate or Magistrate of the first class or of the second class or Judicial Magistrate of the first class or of the second class, shall be construed as references to such Executive Magistrate as the State Government may, by notification in the Official Gazette, specify.

(2) The State Government may, if it is of opinion that adequate number of persons are available for appointment as Judicial Magistrate, by notification in the Official Gazette, declare that the provisions of this section shall, on and from such day as may be specified in the notification, cease to be in force and different dates may be specified for different islands.

(3) On the cesser of operation of the provisions of this section, every inquiry or trial pending, immediately before such cesser, before the District Magistrate or Additional District Magistrate or any Executive Magistrate, as the case may be, shall stand transferred, and shall be dealt with, from the stage which was reached before, such cesser, by such Judicial Magistrate as the State Government may specify in this behalf.”.

[Vide The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974), s. 3.]

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

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

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

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

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

- (i) Courts of Session;
- (ii) Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;
- (iii) Judicial Magistrates of the second class; and
- (iv) Executive Magistrates.

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

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

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

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

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

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

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

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

(4) Where, after an area has been declared, or deemed to have been declared to be, a metropolitan area, the population of such area falls below one million, such area shall, on and from such date as the State Government may, by notification, specify in this behalf, cease to be a metropolitan area; but notwithstanding such cesser, any inquiry, trial or appeal pending immediately before such cesser before any Court or Magistrate in such area shall continue to be dealt with under this Code, as if such cesser had not taken place.

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

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

STATE AMENDMENT

Delhi

In its application to the National Capital Territory of Delhi, in section 8,—

- (a) in sub-section (1), for the words “a city or town”, substitute “a city or town or part thereof”;

(b) for sub-section (3), substitute the following sub-section, namely:—

“(3) The State Government may, by notification divide a metropolitan area into two or more such areas or extend or reduce or alter the limits of a metropolitan area:

Provided that—

(a) the division of metropolitan area shall not be so made as to result in the population of any of the areas into which it has been divided being less than one million; and

(b) the reduction or alteration of metropolitan area shall not be so made as to reduce the population of such area to less than one million.”;

(c) after sub-section (4), insert the following sub-section, namely: —

“(4-A) Where any metropolitan area is divided under sub-section (3), the High Court may issue such directions as it deems fit with respect to the disposal of the proceedings pendings immediately before such division before any Magistrate or court having jurisdiction in respect of such area.”

[Vide Delhi Act 9 of 2011, s. 2.]

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

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

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

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

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

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

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

STATE AMENDMENT

West Bengal.—

To sub-section (3) of section 9 of the principal Act, the following provisos shall be added:—

Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a sub-division, other than the sub-division, by whatever name called, wherein the headquarters of the Sessions Judges are situated, exercising jurisdiction in a Court of Session, shall have all the powers of the Sessions Judge under this Code, in respect of the cases and proceedings in the Criminal Courts in that sub-division, for the purposes of sub-section (7) of section 116, sections 193 and 194, clause (a) of section 209 and sections 409, 439 and 449:

Provided further that the above powers shall not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code.”.

[Vide West Bengal Act, 24 of 1988, s. 3.]

Orissa

Amendment of section 9.—In Section 9 of the Code of Criminal Procedure, 1973 (2 of 1974) (hereinafter referred to as the principal Act), to sub-section (3), the following provisions shall be added, namely:—

“Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a district or subdivision, other than the district or subdivision, by whatever name called, wherein the headquarters of the Sessions Judge are situated, exercising jurisdiction in a Court of Sessions shall have all the powers of the Sessions Judge under this Code, in respect of the cases and the proceedings in the Criminal Courts in that district or subdivision for the purposes of sub-section (7) of section 116, sections 193 and 194, clause (a) of section 209 and sections 409 and 449:

Provided further that the above powers shall be not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code.”

[Vide Orissa Act 6 of 2004, s. 2]

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

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

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

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

¹[Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.]

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

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of

1. Added by Act 45 of 1978, s. 3 (w.e.f. 18-12-1978).

a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

STATE AMENDMENT

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

In the Code, as it applies to the Union Territories to which this regulation extends, in sub-section (3) of section 11, for the words “any member of the judicial service of the state functioning as a judge in a civil court”, the words “any person discharging the functions of a civil court”, shall be substituted.

[Vide The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974), s. 4.]

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

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

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

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

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

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

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

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

STATE AMENDMENT

Assam

For section 13 of the Code, the following shall be substituted, namely:—

“13. (1) The State Government may appoint as many persons as it thinks fit to be sub divisional Magistrates in any district in the State of Assam.

(2) The State Government, or subject to the control of the State Government, the District Magistrate may place one or more Sub divisional Magistrates in charge of a subdivision”.

[Vide Assam Act 13 of 1964, s. 2.]

1. Subs. Act 45 of 1978, s. 4, for certain words (w.e.f. 18-12-1978).

2. Ins. by s. 4, *ibid.* (w.e.f. 18-12-1978).

Himachal Pradesh

Amendment of Section 13.— in Sub-section (1) of section 13 of the Code of Criminal Procedure, 1973 (2 of 1974) in its application to the State of Himachal Pradesh for the words “in any district” the words “in any local area” shall be substituted.

[Vide Himachal Pradesh Act 40 of 1976, s. 2.]

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

¹[Provided that the Court of Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.]

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

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

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

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

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

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

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

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

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

18. Special Metropolitan Magistrates.—(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Metropolitan Magistrate, in respect to particular cases or to particular classes of cases ^{3***}, in any metropolitan area within its local jurisdiction:

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

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

⁴[(3) The High Court or the State Government, as the case may be, may empower any Special Metropolitan

1. Added by Act 45 of 1978, s. 5, (w.e.f. 18-12-1978).

2. Ins. by s. 5, *ibid.* (w.e.f. 18-12-1978).

3. The words “or to cases generally” omitted by s. 6, *ibid.*, (w.e.f. 18-12-1978).

4. Subs. by Act 45 of 1978, s. 6, for sub-section (3) (w.e.f. 18-12-1978).

Magistrate to exercise, in any local area outside the metropolitan area, the powers of a Judicial Magistrate of the first class.]

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

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

(3) The Chief Metropolitan Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

20. Executive Magistrates.—(1) In every district and in every metropolitan area, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have ¹[such] of the powers of a District Magistrate under this Code or under any other law for the time being in force ²[as may be directed by the State Government].

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

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

³[(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.]

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

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

22. Local Jurisdiction of Executive Magistrates.—(1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Code.

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

23. Subordination of Executive Magistrates.—(1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a 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

1. Subs. by Act 45 of 1978, s. 7, for “all or any” (w.e.f. 18-12-1978).

2. Ins. by s. 7, *ibid*, (w.e.f. 18-12-1978).

3. Ins. by Act 25 of 2005, s. 2 (w.e.f. 23-6-2006).

this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

¹[**24. Public Prosecutors.**—(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be.

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

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

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

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

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

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

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

²[*Explanation.*—For the purposes of this sub-section,—

(a) “regular Cadre of Prosecuting Officers” means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) “Prosecuting Officer” means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.]

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

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

³[Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.]

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

1. Subs. by Act 45 of 1978, s. 8, for section 24 (w.e.f. 18-12-1978).

2. Ins. by Act 25 of 2005, s. 3 (w.e.f. 23-6-2006).

3. Ins. by Act 5 of 2009, s. 3 (w.e.f. 31-12-2009).

has been in practice as an advocate.]

STATE AMENDMENT

Karnataka

Amendment of section 24.- In section 24 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) (hereinafter referred to as the principal Act) in sub-section (1),—

(i) the words and punctuation mark “or the State Government shall”, shall be omitted; and

(ii) for the words “appoint a Public Prosecutor” the words “or the State Government shall appoint a Public Prosecutor” shall be substituted.

[Vide Karnataka Act 20 of 1982, s. 2.]

Maharashtra

Amendment of section 24.- In Section 24 of the Code of Criminal Procedure, 1973, (2 of 1974) in its application to the State of Maharashtra:—

(a) in sub-section (6), the proviso shall be deleted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6-A) Notwithstanding anything contained in sub-section (6), the State Government may, subject to the provisions of sub-sections (4) and (5), appoint a person who has been in practice as an advocate for not less than seven years, as the Public Prosecutor or Additional Public Prosecutor for the district.”.

[Vide Maharashtra Act 33 of 2014, s. 2.]

Madhya Pradesh

Amendment of Section 24.—In Section 24 of the principal Act.—

(i) in sub-section (6), for the words, “brackets and figure “Notwithstanding anything contained in sub-section (5)”, the words, brackets, letter and figures “Notwithstanding anything contained in sub-section (5), but subject to the provisions of sub-section (6-A)” shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978;

(ii) after sub-section (6), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978, namely:—

“(6-A) Notwithstanding anything contained in sub-section (6), the State Government may appoint a person who has been in practice as an advocate for not less than seven years as the Public Prosecutor or Additional Public Prosecutor for the district and it shall not be necessary to appoint the Public Prosecutor or Additional Public Prosecutor for the district from among the person constituting the Cadre of Prosecuting Officers in the State of Madhya Pradesh and the provisions of sub-sections (4) and (5) shall apply to the appointment of a Public Prosecutor Additional Public Prosecutor under this sub-section”;

(iii) in sub-section (7), after the words, bracket and figure “sub-section (6)”, the words, brackets, figure and letter “or sub-section (6-A)” shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978; and

(iv) in sub-section (9), for the words, brackets and figure, “sub-section (7)”, the words, brackets, figures and letter “sub-section (6-A) and sub-section (7)” shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978.

[Vide Madhya Pradesh Act 21 of 1995, s. 3.]

West Bengal

In Sub-section (6) of section 24 of the principal Act, for the words “shall appoint a Public Prosecutor or an Additional Public Prosecutor only”, the words “may also appoint a Public Prosecutor or an Additional Public Prosecutor” shall be substituted.

[Vide West Bengal Act 26 of 1990, s. 3.]

West Bengal

In sub-section (6) of section 24 of the principal Act, the proviso shall be omitted.

[Vide West Bengal Act 25 of 1992, s. 3.]

STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 24.— After sub-section (6), insert the following sub-section, namely:—

“(6A).—Notwithstanding anything contained in sub-section (1) and sub-section (6), the Government of the Union territory of Jammu and Kashmir may appoint a person who has been in practice as an Advocate for not less than seven years as Public Prosecutor or Additional Public Prosecutor for High Court and for the District Courts and it shall not be necessary to appoint Public Prosecutor or Additional Public Prosecutor for the High Court in consultation with High Court and Public Prosecutor or Additional Public Prosecutor for the District Court from amongst the person constituting the cadre of Prosecution for the State of Jammu and Kashmir.”

[vide the *Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order*, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020).]

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

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

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

(3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case:

Provided that a police officer shall not be so appointed—

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

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

1. Ins. by Act 45 of 1978, s. 9 (w.e.f. 18-12-1978).

STATE AMENDMENT

Orissa

Amendment of section 25.—In section 25 of the Code of Criminal Procedure, 1973 (2 of 1974) (hereinafter referred to as the said Code), to sub-section (2), the following proviso shall be inserted, namely:—

“Provided that nothing in this sub-section shall be construed, to prohibit the State Government from exercising its control over Assistant Public Prosecutors through police officers.”

[Vide Orissa Act 6 of 1995, s. 2]

¹[**25A. Directorate of Prosecution.**—(1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.

(2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.

(3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the State.

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution.

(7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.]

STATE AMENDMENT

Karnataka

In section 25A of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), —

(a) for sub-section (2), the following shall be substituted, namely:—“(2) The post of Director of prosecution and Government litigations, or a Deputy Director of Prosecution and other cadres shall be filled in accordance with the Cadre and Recruitment Rules framed under the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990).”

(b) for sub-section (5), the following shall be substituted, namely:—“(5) Every Public Prosecutor, Additional Public Prosecutor appointed by the State Government from the cadre of Prosecutors recruited under the recruitment rules framed by the Government under the Karnataka State Civil Services Act, 1978

1. Ins. by Act 25 of 2005, s. 4 (w.e.f. 23-6-2006).

shall be subordinate to the Director of Prosecution and Government litigations and every Public Prosecutor, Additional Prosecutor and Special Prosecutor appointed under sub-section (8) of section 24 shall be subordinate to the Advocate General.”

(c) in sub-section (6), for the words “Deputy Director of Prosecution, the words “Director of Prosecution” shall be substituted.

[Vide Karnataka Act 39 of 2012, s. 2]

Madhya Pradesh

Substitution of Section 25A.—For section 25A of the principal Act, the following section shall be substituted, namely: —

“25A. Directorate of Prosecution.—(1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and such other posts as it thinks fit.

(2) The post of Director of Prosecution, Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and other post shall be filled in accordance with the Madhya Pradesh Public Prosecution (Gazetted) Service Recruitment Rules, 1991, as amended from time to time.

(3) The head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the head of the Home Department in the State.

(4) Every Additional Director of Prosecution, Joint Director of Prosecution, Deputy Director of Prosecution and Assistant Director of Prosecution and other posts specified in sub-section (2) shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor and Additional Public Prosecutor appointed under the Madhya Pradesh Public Prosecution (Gazetted) Service Recruitment Rules, 1991, shall be subordinate to the Director of Prosecution and every Public Prosecutor and Additional Public Prosecutor appointed under sub-section (1) of Section 24 and every Special Public Prosecutor appointed under sub-section (8) of Section 24 to conduct cases in the High Court shall be subordinate to the Advocate General.

(6) Every Public Prosecutor and Additional Public Prosecutor appointed under sub-section (3) of Section 24 and every Special Public Prosecutor appointed under sub-section (8) of Section 24 to conduct cases in District Courts shall be subordinate to the District Magistrate.

(7) The powers and functions of the Director of Prosecution shall be such as the State Government may, by notification, specify.”.

[Vide Madhya Pradesh Act 18 of 2014, s. 3.]

STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 25A.-(i) for sub-sections (1) and (2), substitute—

(1) The Government of the Union territory of Jammu and Kashmir shall establish a Directorate of Prosecution consisting of a Director General of Prosecution and such other officers, as may be provided in rules to be framed by the said Government; and

(2) The Post of Director General of Prosecution and all other officers, constituting the prosecution cadre, shall be filled in accordance with the rules to be framed by the said Government.

(ii) in sub-section (3), substitute “Director of Prosecution” with “Director General of Prosecution”;

(iii) for sub-section (4), substitute “(4) subject to the control of the Director General of Prosecution, the Deputy Director shall be subordinate to and under the Control of a Joint Director.”

(iv) substitute sub-section (5),—

“Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the Government of the Union territory of Jammu and Kashmir under subsection (1), or the case may be under sub-section (8) of section 24 to conduct cases in the High Court shall be subordinate to the Advocate General.”;

(v) for sub-section (7), substitute—

“(7) The powers and functions of the Director General of Prosecution and other officers of the prosecution cadre shall be such as may be provided by the rules”.

[*vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020).*]

CHAPTER III

POWER OF COURTS

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

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

(i) the High Court, or

(ii) the Court of Session, or

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

¹[Provided that any ²[offence under section 376, ³[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860)] shall be tried as far as practicable by a Court presided over by a woman.]

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

(i) the High Court, or

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

27. Jurisdiction in the case of juveniles.—Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

28. Sentences which High Courts and Sessions Judges may pass.—(1) A High Court may pass any sentence authorised by law.

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

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

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

(2) The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not

1. Ins. by Act 5 of 2009, s. 4 (w.e.f. 31-12-2009).

2. Subs. by Act 13 of 2013, s. 11, for “offence under section 376 and sections 376A to 376D of the Indian Penal Code (45 of 1860)” (w.e.f. 3-2-2013).

3. Subs. by Act 22 of 2019, s. 10, for “section 376A, section 376B, section 376C, section 376D” (w.e.f. 21-4-2018).

exceeding three years, or of fine not exceeding ¹[ten thousand rupees], or of both.

(3) The Court of Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding ²[five thousand rupees], or of both.

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

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

Provided that the term—

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

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

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

31. Sentence in cases of conviction of several offences at one trial.—(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code (45 of 1860), sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

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

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

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

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

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

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

1. Subs. by Act 25 of 2005, s. 5, for “five thousand rupees” (w.e.f. 23-6-2006).

2. Subs. by s. 5, *ibid.*, for “one thousand rupees” (w.e.f. 23-6-2006).

subordinate to it.

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

35. Powers of Judges and Magistrates exercisable by their successors-in-office.—(1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

(2) When there is any doubt as to who is the successor-in-office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Additional or Assistant Sessions Judge.

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

CHAPTER IV

A.—POWERS OF SUPERIOR OFFICERS OF POLICE

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

B.—AID TO THE MAGISTRATES AND THE POLICE

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

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

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

(c) in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

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

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

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

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

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

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

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

¹[(va) section 364A (that is to say, offence relating to kidnapping for ransom, etc.);]

1. Ins. by Act 42 of 1993, s. 3 (w.e.f. 22-05-1993).

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

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

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

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

(x) sections 449 and 450 (that is to say, offence of house trespass);

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

(xii) sections 489A to 489E, both inclusive (that is to say, offences relating to currency notes and bank notes),

shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention.

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

40. Duty of officers employed in connection with the affairs of a village to make certain report.—(1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting—

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

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

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

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

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

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

(2) In this section,—

(i) “village” includes village-lands;

(ii) the expression “proclaimed offender” includes any person proclaimed as an offender by any Court or authority in any territory in India to which this Code does not extend, in respect of any act which if committed in the territories to which this Code extends, would be an offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, 302, 304, 382, 392 to 399 (both inclusive), 402, 435, 436, 449, 450 and 457 to 460 (both inclusive);

(iii) the words “officer employed in connection with the affairs of the village” means a member

of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.

CHAPTER V

ARREST OF PERSONS

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

¹[(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making 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 the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing:

²[Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.];

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;]

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

(d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

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

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

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

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

1. Subs. by Act 5 of 2009, s. 5, for cls. (a) and (b) (w.e.f. 1-11-2010).

2. Ins. by Act 41 of 2010, s. 2 (w.e.f. 2-11-2010).

(i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

¹[(2) Subject to the provisions of section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.]

²[**41A. Notice of appearance before police officer.**—(1) ³[The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

⁴[(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.]

41B. Procedure of arrest and duties of officer making arrest.—Every police officer while making an arrest shall—

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be—

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

41C. Control room at districts.—(1) The State Government shall establish a police control room—

(a) in every district; and

(b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

(3) The control room at the Police Headquarters at the State level shall collect from time to time, details about the persons arrested, nature of the offence with which they are charged and maintain a database for the information of the general public.

41D. Right of arrested person to meet an advocate of his choice during interrogation.—When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.]

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

1. Subs. by Act 5 of 2009, s. 5, for sub-section (2) (w.e.f. 1-11-2010).

2. Ins. by s. 6, *ibid.* (w.e.f. 1-11-2010).

3. Subs. by Act 41 of 2010, s. 3, for “The police officer may” (w.e.f. 2-11-2010).

4. Subs. by s. 3, *ibid.*, for sub-section (4) (w.e.f. 2-11-2010).

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

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

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

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

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

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

(3) If there is reason to believe that he has committed a 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 42; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

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

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

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

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

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

¹[Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.]

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

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

¹[(4) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.]

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

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

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

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

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

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

50. Person arrested to be informed of grounds of arrest and of right to bail.—(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

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

²[**50A. Obligation of person making arrest to inform about the arrest, etc., to a nominated person.**—(1) Every police officer or other person making any arrest under this Code shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his friends, relatives or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as may be prescribed in this behalf by the State Government.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.]

51. Search of arrested person.—(1) Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

1. Ins. by Act 25 of 2005, s. 6 (w.e.f. 23-6-2006).

2. Ins. by Act 25 of 2005, s. 7 (w.e.f. 23-6-2006).

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

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

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

52. Power to 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.

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

¹[*Explanation.*—In this section and in sections 53A and 54,—

(a) “examination” shall include the examination of blood, blood stains, semen, swabs in case of 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 Indian Medical Council Act, 1956 (102 of 1956) and whose name has been entered in a State Medical Register.]

²[**53A. 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 rape and there are reasonable grounds for believing that an examination of his person 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 aid and under his direction, to make such an examination of the 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 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.

1. Subs. by Act 25 of 2005, s. 8, for the *Explanation* (w.e.f. 23-6-2006).

2. Ins. by s. 9, *ibid.* (w.e.f. 23-6-2006).

(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 to the investigating 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.]

¹[**54. 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.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.]

²[**54A. 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:]

³[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 Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with:

Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed.]

55. Procedure when police officer deposes subordinate to arrest without warrant.—(1) When any officer in charge of a police station or any police officer making an investigation under Chapter XII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

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

⁴[**55A. Health and safety of arrested person.**—It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.]

56. 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.

57. Person arrested not to be detained more than twenty-four hours.—No police officer shall

1. Subs. by Act 5 of 2009, s. 8, for section 54 (w.e.f. 31-12-2009).

2. Ins. by Act 25 of 2005, s. 11 (w.e.f. 23-6-2006).

3. Ins. by Act 13 of 2013, s. 12 (w.e.f. 3-2-2013).

4. Ins. by Act 5 of 2009, s. 9 (w.e.f. 31-12-2009).

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.

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

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

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

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

¹[**60A. Arrest to be made strictly according to the Code.**—No arrest shall be made except in accordance with the provisions of this Code or any other law for the time being in force providing for arrest.]

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.—*Summons*

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

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

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

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

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

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

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

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

65. Procedure when service cannot be effected as before provided.—If service cannot by the exercise of due diligence be effected as provided in section 62, section 63 or section 64, the serving officer shall affix one of the

1. Ins. by Act 5 of 2009, s.10 (w.e.f. 31-12-2009).

duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

66. Service on Government servant.—(1) Where the person summoned is in the active service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the manner provided by section 62, and shall return it to the Court under his signature with the endorsement required by that section.

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

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

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

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

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

(2) When an 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 has been duly served.

STATE AMENDMENT

Andaman and Nicobar Islands U.T.

In section 69 of the Code of Criminal Procedure, 1974 in its application to the Union Territories of the Andaman and Nicobar Islands and Lakshdeep,—

(a) in sub-section (1), after the words “to be served by registered post” the words “or of the substance thereof to be served by wireless message” shall be inserted.

(b) in sub-section (2), for the words “that the witness refused to take delivery of the summons” the words “or a wireless messenger that the witness refused to take delivery of the summons or the message, as the case may be” shall be substituted.

[Vide Andaman and Nicobar Islands U.T. Act 6 of 1977, s. 2.]

B.—Warrant of arrest

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

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

71. Power to direct security to be taken.—(1) Any Court issuing a warrant for the arrest of any person may

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

(2) The endorsement shall state—

(a) the number of sureties;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The Court issuing a warrant under sub-section (1) shall forward, along with the warrant, the substance of the information against the person to be arrested together with such documents, if any, as may be sufficient to enable the Court acting under section 81 to decide whether bail should or should not be granted to the person.

79. Warrant directed to police officer for execution outside jurisdiction.—(1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it

for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

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

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

80. Procedure on arrest of person against whom warrant issued.—When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within thirty kilometres of the place of arrest or is nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 71, be taken before such Magistrate or District Superintendent or Commissioner.

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

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

Provided further that if the offence is a non-bailable one, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 437), or the Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 78, to release such person on bail.

(2) Nothing in this section shall be deemed to prevent a police officer from taking security under section 71.

C.—Proclamation and attachment

82. Proclamation for person absconding.—(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

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

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

¹[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).]

83. Attachment of property of person absconding.—(1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person:

Provided that where at the time of the issue of the proclamation the Court is satisfied, by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued,—

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

(b) is about to remove the whole or any part of his property from the local jurisdiction of the Court,

it may order the attachment simultaneously with the issue of the proclamation.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made—

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

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

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the State Government, be made through the Collector of the district 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 on delivery of property to the proclaimed person or to any one on his behalf; or

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

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908).

1. Ins. by Act 25 of 2005, s. 12 (w.e.f. 23-6-2006).

84. Claims and objections to attachment.—(1) If any claim is preferred to, or objection made to the attachment of, any property attached under section 83, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under section 83, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(2) Claims or objections under sub-section (1) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed under sub-section (2) of section 83, in the Court of the Chief Judicial Magistrate of the district in which the attachment is made.

(3) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.

(4) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (1) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

85. Release, sale and restoration of attached property.—(1) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(2) If the proclaimed person does not appear within the time specified in the proclamation, the property under the attachment shall be at the disposal of the State Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under section 84 has been disposed of under that section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner; in either of which cases the Court may cause it to be sold whenever it thinks fit.

(3) If, within two years from the date of the attachment, any person whose property is or has been at the disposal of the State Government, under sub-section (2), appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

86. Appeal from order rejecting application for restoration of attached property.—Any person referred to in sub-section (3) of section 85, who is aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first-mentioned Court.

D.—Other rules regarding processes

87. Issue of warrant in lieu of, or in addition to, summons.—A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest—

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

88. Power to take bond for appearance.—When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial.

89. Arrest on breach of bond for appearance.—When any person who is bound by any bond taken under this Code to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

90. Provisions of this Chapter generally applicable to summonses 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.

CHAPTER VII PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A.—Summons to produce

91. Summons to produce document or other thing.—(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed—

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891), or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

92. Procedure as to letters and telegrams.—(1) If any document, parcel or thing in the custody of a postal or telegraph authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the postal or telegraph authority, as the case may be, to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, whether Executive or Judicial, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authority, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the order of a District Magistrate, Chief Judicial Magistrate or Court under sub-section (1).

B.—Search-warrants

93. When search-warrant may be issued.—(1) (a) Where any Court has reason to believe that a person to whom a summons order under section 91 or a requisition under sub-section (1) of section 92 has

been, or might be, addressed, will not or would not produce the document or thing as required by such summons or requisition, or

(b) where such document or thing is not known to the Court to be in the possession of any person, or

(c) where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection, it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

(3) Nothing contained in this section shall authorise any Magistrate other than a District Magistrate or Chief Judicial Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the postal or telegraph authority.

94. Search of place suspected to contain stolen property, forged documents, etc.—(1) If a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable—

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

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

(c) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies,

(d) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety,

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable article to which this section applies.

(2) The objectionable articles to which this section applies are—

(a) counterfeit coin;

(b) pieces of metal made in contravention of the Metal Tokens Act, 1889 (1 of 1889), or brought into India in contravention of any notification for the time being in force under section 11 of the Customs Act, 1962 (52 of 1962);

(c) counterfeit currency note; counterfeit stamps;

(d) forged documents;

(e) false seals;

(f) obscene objects referred to in section 292 of the Indian Penal Code (45 of 1860);

(g) instruments or materials used for the production of any of the articles mentioned in clauses (a) to (f).

95. Power to declare certain publications forfeited and to issue search-warrants for the same.—(1) Where—

(a) any newspaper, or book, or

(b) any document,

wherever printed, appears to the State Government to contain any matter the publication of which is

punishable under section 124A or section 153A or section 153B or section 292 or section 293 or section 295A of the Indian Penal Code (45 of 1860), the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue, or any such book or other document may be or may be reasonably suspected to be.

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

(a) “newspaper” and “book” have the same meaning as in the Press and Registration of Books Act, 1867 (25 of 1867);

(b) “document” includes any painting, drawing or photograph, or other visible representation.

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of section 96.

96. Application to High Court to set aside declaration of forfeiture.—(1) Any person having any interest in any newspaper, book or other document, in respect of which a declaration of forfeiture has been made under section 95, may, within two months from the date of publication in the Official Gazette of such declaration, apply to the High Court to set aside such declaration on the ground that the issue of the newspaper, or the book or other document, in respect of which the declaration was made, did not contain any such matter as is referred to in sub-section (1) of section 95.

(2) Every such application shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of that High Court.

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

(4) The High Court shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained any such matter as is referred to in sub-section (1) of section 95, set aside the declaration of forfeiture.

(5) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

97. Search for persons wrongfully confined.—If any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

98. Power to compel restoration of abducted females.—Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

C.—General provisions relating to searches

99. Direction, etc., of search-warrants.—The provisions of sections 38, 70, 72, 74, 77, 78 and 79 shall, so far as may be, apply to all search-warrants issued under section 93, section 94, section 95 or

section 97.

100. Persons in charge of closed place to allow search.—(1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of section 47.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.

(4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(6) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person.

(7) When any person is searched under sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person.

(8) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code (45 of 1860).

101. Disposal of things found in search beyond jurisdiction.—When, in the execution of a search-warrant at any place beyond the local jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

D.—Miscellaneous

102. Power of police officer to seize certain property.—(1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

¹[(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, ²[or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation,] he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same:]

³[Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.]

103. Magistrate may direct search in his presence.—Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

104. Power to impound document, etc., produced.—Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

105. Reciprocal arrangements regarding processes.—(1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that—

- (a) a summons to an accused person, or
- (b) a warrant for the arrest of an accused person, or
- (c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
- (d) a search-warrant,

⁴[issued by it shall be served or executed at any place,—

(i) within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories;

(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and send to such authority for transmission, as the Central Government may, by notification, specify in this behalf.]

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

- (a) a summons to an accused person, or
- (b) a warrant for the arrest of an accused person, or
- (c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
- (d) a search-warrant,

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

2. Ins. by Act 25 of 2005, s. 13 (w.e.f. 23-6-2006).

3. Added by s. 13, *ibid.*, (w.e.f. 23-6-2006).

4. Subs. by Act 32 of 1988, s. 2, for certain words (w.e.f. 25-5-1988).

²[issued by—

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

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

it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where—

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 80 and 81,

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 101:

¹[Provided that in a case where a summons or search-warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search-warrant through such authority as the Central Government may, by notification, specify in this behalf.]

²[CHAPTER VIIA

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

105A. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) “contracting State” means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;

(b) “identifying” includes establishment of a proof that the property was derived from, or used in, the commission of an offence;

(c) “proceeds of crime” means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property;

(d) “property” means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds of crime;

(e) “tracing” means determining the nature, source, disposition, movement, title or ownership of property.

105B. Assistance in securing transfer of persons.—(1) Where a Court in India, in relation to a criminal matter, desires that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall send such warrant in duplicate in such form to such Court, Judge or Magistrate through such authority, as the Central Government may, by notification, specify in this behalf and that Court, Judge or Magistrate, as the case may be, shall cause the same to be executed.

(2) Notwithstanding anything contained in this Code, if, in the course of an investigation or any inquiry into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that the attendance of a person who is in any place in a contracting State is required in connection with such investigation or inquiry and the Court is satisfied that such attendance is so required, it shall issue a summons or warrant, in duplicate, against the said person to such Court, Judge or Magistrate, in such form as the Central Government may, by notification, specify in this behalf, to cause the same to be served or executed.

(3) Where a Court in India, in relation to a criminal matter, has received a warrant for arrest of any person

1. Ins. by Act 32 of 1988, s. 2, (w.e.f. 25-5-1988).

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

requiring him to attend or attend and produce a document or other thing in that Court or before any other investigating agency, issued by a Court, Judge or Magistrate in a contracting State, the same shall be executed as if it is the warrant received by it from another Court in India for execution within its local limits.

(4) Where a person transferred to a contracting State pursuant to sub-section (3) is a prisoner in India, the Court in India or the Central Government may impose such conditions as that Court or Government deems fit.

(5) Where the person transferred to India pursuant to sub-section (1) or sub-section (2) is a prisoner in a contracting State, the Court in India shall ensure that the conditions subject to which the prisoner is transferred to India are complied with and such prisoner shall be kept in such custody subject to such conditions as the Central Government may direct in writing.

105C. Assistance in relation to orders of attachment or forfeiture of property.—(1) Where a Court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property, as it may deem fit under the provisions of sections 105D to 105J (both inclusive).

(2) Where the Court has made an order for attachment or forfeiture of any property under sub-section (1), and such property is suspected to be in a contracting State, the Court may issue a letter of request to a Court or an authority in the contracting State for execution of such order.

(3) Where a letter of request is received by the Central Government from a Court or an authority in a contracting State requesting attachment or forfeiture of the property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence committed in that contracting State, the Central Government may forward such letter of request to the Court, as it thinks fit, for execution in accordance with the provisions of sections 105D to 105J (both inclusive) or, as the case may be, any other law for the time being in force.

105D. Identifying unlawfully acquired property.—(1) The Court shall, under sub-section (1), or on receipt of a letter of request under sub-section (3) of section 105C, direct any police officer not below the rank of Sub-Inspector of Police to take all steps necessary for tracing and identifying such property.

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institutions or any other relevant matters.

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in sub-section (1) in accordance with such directions issued by the said Court in this behalf.

105E. Seizure or attachment of property.—(1) Where any officer conducting an inquiry or investigation under section 105D has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the said Court, within a period of thirty days of its being made.

105F. Management of properties seized or forfeited under this Chapter.—(1) The Court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an Administrator of such property.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which the order has been made under sub-section (1) of section 105E or under section 105H in such manner and subject to such conditions as may be specified by the Central Government.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

105G. Notice of forfeiture of property.—(1) If as a result of the inquiry, investigation or survey under section 105D, the Court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the source of income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

105H. Forfeiture of property in certain cases.—(1) The Court may, after considering the explanation, if any, to the show-cause notice issued under section 105G and the material available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the Court or represent his case before it within a period of thirty days specified in the show-cause notice, the Court may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

(2) Where the Court is satisfied that some of the properties referred to in the show-cause notice are proceeds of crime but it is not possible to identify specifically such properties, then, it shall be lawful for the Court to specify the properties which, to the best of its judgment, are proceeds of crime and record a finding accordingly under sub-section (1).

(3) Where the Court records a finding under this section to the effect that any property is proceeds of crime, such property shall stand forfeited to the Central Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Central Government under this section, then, the company shall, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956) or the articles of association of the company, forthwith register the Central Government as the transferee of such shares.

105-I. Fine in lieu of forfeiture.—(1) Where the Court makes a declaration that any property stands forfeited to the Central Government under section 105H and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the Court may, by order, revoke the declaration of forfeiture under section 105H and thereupon such property shall stand released.

105J. Certain transfers to be null and void.—Where after the making of an order under sub-section (1) of section 105E or the issue of a notice under section 105G, any property referred to in the said order or notice is transferred by any mode whatsoever such transfers shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 105H, then, the transfer of such property shall be deemed to be null and void.

105K. Procedure in respect of letter of request.—Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

105L. Application of this Chapter.—The Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification.]

CHAPTER VIII

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

106. Security for keeping the peace on conviction.—(1) When a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years, as it thinks fit.

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

(a) any offence punishable under Chapter VIII of the Indian Penal Code (45 of 1860), other than an offence punishable under section 153A or section 153B or section 154 thereof;

(b) any offence which consists of, or includes, assault or using criminal force or committing mischief;

(c) any offence of criminal intimidation;

(d) any other offence which caused, or was intended or known to be likely to cause, a breach of the peace.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an Appellate Court or by a Court when exercising its powers of revision.

107. Security for keeping the peace in other cases.—(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond ¹[with or without sureties,] for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

1. Ins. by Act 45 of 1978, s. 11 (w.e.f. 18-12-1978).

108. Security for good behaviour from persons disseminating seditious matters.—(1) When ¹[an Executive Magistrate] receives information that there is within his local jurisdiction any person who, within or without such jurisdiction,—

(i) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of,—

(a) any matter the publication of which is punishable under section 124A or section 153A or section 153B or section 295A of the Indian Penal Code (45 of 1860), or

(b) any matter concerning a Judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Indian Penal Code (45 of 1860),

(ii) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in section 292 of the Indian Penal Code (45 of 1860),

and the Magistrate is of opinion that there is sufficient ground for proceeding, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

(2) No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867 (25 of 1867), with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.

109. Security for good behaviour from suspected persons.—When ²[an Executive Magistrate] receives information that there is within his local jurisdiction 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, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

110. Security for good behaviour from habitual offenders.—When ²[an Executive Magistrate] receives information that there is within his local jurisdiction a person who—

(a) is by habit a robber, house-breaker, thief, or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property, or

(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code (45 of 1860), or under section 489A, section 489B, section 489C or section 489D of that Code, or

(e) habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace, or

(f) habitually commits, or attempts to commit, or abets the commission of—

(i) any offence under one or more of the following Acts, namely:—

(a) the Drugs and Cosmetics Act, 1940 (23 of 1940);

1. Subs. by Act 63 of 1980, s. 2, for “a Judicial Magistrate of the first class” (w.e.f. 23-9-1980).

¹[(b) the Foreign Exchange Regulation Act, 1973 (46 of 1973);]

(c) the Employees' Provident Fund ²[and Family Pension Fund] Act, 1952 (19 of 1952);

(d) the Prevention of Food Adulteration Act, 1954 (37 of 1954);

(e) the Essential Commodities Act, 1955 (10 of 1955);

(f) the Untouchability (Offences) Act, 1955 (22 of 1955);

(g) the Customs Act, 1962 (52 of 1962); ³***

⁴[(h) the Foreigners Act, 1946 (31 of 1946); or]

(ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous to render his being at large without security hazardous to the community,

such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

111. Order to be made.—When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

112. Procedure in respect of person present in Court.—If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

113. 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.

114. Copy of order to accompany summons or warrant.—Every summons or warrant issued under section 113 shall be accompanied by a copy of the order made under section 111, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

115. Power to dispense with personal attendance.—The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader.

116. Inquiry as to truth of information.—(1) When an order under section 111 has been read or explained under section 112 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 113, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

1. Subs. by Act 56 of 1974, s. 3 and the Second Sch., for item (b) (w.e.f. 10-1-1975).

3. Ins. by s. 3 and the Second Sch., *ibid.* (w.e.f. 10-1-1975).

3. The word “or” omitted by Act 25 of 2005, s. 14 (w.e.f. 23-6-2006).

4. Ins. by s. 14, *ibid.* (w.e.f. 23-6-2006).

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 111 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that—

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110 shall be directed to execute a bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 111.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general reputation 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 where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

117. Order to give security.—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 that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 111;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

118. Discharge of person informed against.—If, on an inquiry under section 116, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

119. Commencement of period for which security is required.—(1) If any person, in respect of whom an order requiring security is made under section 106 or section 117, is at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

120. Contents of bond.—The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

121. Power to reject sureties.—(1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond:

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any), that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

122. Imprisonment in default of security.—(1) (a) If any person ordered to give security under section 106 or section 117 does not give such security on or before the date on which the period for which such security is to be given commences, 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.

(b) If any person after having executed a ¹[bond, with or without sureties] without sureties for keeping the peace in pursuance of an order of a Magistrate under section 117, is proved, to the satisfaction of such Magistrate or his successor-in-office, to have committed breach of the bond, such Magistrate or successor-in-office may, after recording the grounds of such proof, order that the person be arrested and detained in prison until the expiry of the period of the bond and such order shall be without prejudice to any other punishment or forfeiture to which the said person may be liable in accordance with law.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, and after giving the concerned person a reasonable opportunity of being heard, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed

1. Subs. by Act 25 of 2005, s. 15, for “bond without sureties” (w.e.f. 23-6-2006).

three years.

(4) If security has been required in the course of the same proceeding from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (2) such reference shall also include the case of any other of such persons who has been order to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned, shall not exceed the period for which he was ordered to give security.

(5) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (4) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(6) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(7) Imprisonment for failure to give security for keeping the peace shall be simple.

(8) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 108, be simple, and, where the proceedings have been taken under section 109 or section 110, be rigorous or simple as the Court or Magistrate in each case directs.

123. Power to release persons imprisoned for failing to give security.—(1) Whenever ¹[the District Magistrate in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case] is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the High Court or Court of Session, or, where the order was made by any other Court, ²[District Magistrate, in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case], may make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The State Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any person has been discharged is, in the opinion of ²[District Magistrate, in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case] by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the ³[District Magistrate, in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case].

(7) Unless such person gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), ¹[District Magistrate, in the

1. Subs. by Act 45 of 1978, s. 12, for “the Chief Judicial Magistrate” (w.e.f. 18-12-1978).

2. Subs. by s. 12, *ibid.*, for “Chief Judicial Magistrate” (w.e.f. 18-12-1978).

3. Subs. by s. 12, *ibid.*, for “Chief Judicial Magistrate” (w.e.f. 18-12-1978).

case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case] may remand such person to prison to undergo such unexpired portion.

(8) A person remanded to prison under sub-section (7) shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

(9) The High Court or Court of Session may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by any order made by it, and ¹[District Magistrate, in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case] may make such cancellation where such bond was executed under his order or under the order of any other Court in his district.

(10) Any surety for the peaceable conduct or good behaviour of another person ordered to execute a bond under this Chapter may at any time apply to the Court making such order to cancel the bond and on such application being made, the Court shall issue a summons or warrant, as it thinks fit, requiring the person for whom such surety is bond appear or to be brought before it.

124. Security for unexpired period of bond.—(1) When a person for whose appearance a summons or warrant has been issued under the proviso to sub-section (3) of section 121 or under sub-section (10) of section 123, appears or is brought before the Magistrate or Court, the Magistrate or Court shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security.

(2) Every such order shall, for the purposes of sections 120 to 123 (both inclusive) be deemed to be an order made under section 106 or section 117, as the case may be.

CHAPTER IX

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

125. Order for maintenance of wives, children and parents.—(1) If any person having sufficient means neglects or refuses to maintain—

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate ^{1***} 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:

²[Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

1. Certain words omitted by Act 50 of 2001, s. 2 (w.e.f. 24-9-2001).

2. Ins. by s. 2, *ibid.* (w.e.f. 24-9-2001).

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.]

Explanation.—For the purposes of this Chapter,—

(a) “minor” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b) “wife” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

¹[(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.]

(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 ²[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife’s refusal to live with him.

(4) No wife shall be entitled to receive an ³[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] 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.

STATE AMENDMENTS

Madhya Pradesh

Amendment of Section 125.— In sub-section (1) of section 125 of the Principal Act, for the words “five hundred rupees” the words “three thousand rupees” shall be substituted

[*Vide* Madhya Pradesh Act, 10 of 1998, s. 3.]

Madhya Pradesh

Amendment of Section 125.— In section 125 of the principal Act,—

1. Subs. by Act 50 of 2001, s. 2, for sub-section (2) (w.e.f. 24-9-2001).

2. Subs. by s. 2, *ibid.*, for “allowance” (w.e.f. 24-9-2001)

3. Subs. by s. 2, *ibid.*, for “allowance” (w.e.f. 24-9-2001).

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Order for maintenance of wives, children, parents and grand parents.”

(ii) In sub-section (1), —

(a) after clause (d), the following clause shall be inserted, namely: —

“(e) his grand father, grand mother unable to maintain himself or her self.”;

(b) In the existing para, for the words “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 three 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”, the words “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, mother, grand father, grand mother at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct” shall be substituted;

(c) After the existing first proviso, the following proviso shall be inserted, namely:—

“Provided further that the relatives in clause (e) shall only be entitled to monthly allowance for maintenance if their sons daughters are not alive and they are unable to maintain themselves.”

[Vide Madhya Pradesh Act 15 of 2004, s. 3.]

West Bengal

In Sub-section (1) of section 125 of the Principal Act, —

(1) for the words “five hundred rupees”, the words “one thousand and five hundred rupees” shall be substituted;

(2) after the existing proviso, the following proviso shall be inserted:—

“Provided further that where in any proceeding under this section it appears to the Magistrate that the wife referred to in clause (a) or the minor child referred to in clause (b) or the child (not being a married daughter) referred to in clause (c) or the father or the mother referred to in clause (d) is in need of immediate relief for her or its or his support and the necessary expenses of the proceeding, the Magistrate may, on the application of the wife or the minor child or the child (not being a married daughter) or the father or the mother, as the case may be, order the person against whom the allowance for maintenance is claimed, to pay to the petitioner, pending the conclusion of the proceeding, the expenses of the proceeding, and monthly during the proceeding such allowance as, having regard to the income of such person, it may seem to the Magistrate to be reasonable.”.

[Vide West Bengal Act, 25 of 1992, s. 4.]

West Bengal

In sub-section (1) of section 125 of the principal Act, as amended by the Code of Criminal Procedure (West Bengal Amendment) Act, 1992, the words “not exceeding one thousand and five hundred rupees” the proviso shall be omitted.

[Vide West Bengal Act 33 of 2001, s. 3.]

126. Procedure.—(1) Proceedings under section 125 may be taken against any person in any district—

(a) where he is, or

(b) where he or his wife resides, or

(c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

(2) All evidence in such proceedings shall be taken in the presence of the person against whom an order for payment of maintenance is proposed to be made, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed for summons-cases:

Provided that if the Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte* and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 125 shall have power to make such order as to costs as may be just.

127. Alteration in allowance.—¹[(1) On proof of a change in the circumstances of any person, receiving, under section 125 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.]

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 125 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if he is satisfied that—

(a) the woman has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order,—

(i) in the case where such sum was paid before such order, from the date on which such order was made;

(ii) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to ²[maintenance or interim maintenance, as the case may be,] after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a ³[monthly allowance for the maintenance and interim maintenance or any of them has been ordered] to be paid under section 125, the Civil Court shall take into account the sum which has been paid to, or recovered by, such

1. Subs. by Act 50 of 2001, s. 3, for sub-section (1) (w.e.f. 24-9-2001).

2. Subs. by Act 50 of 2001, s. 3, for “maintenance” (w.e.f. 24-9-2001).

3. Subs. by s. 3, *ibid.*, for “monthly allowance has been ordered” (w.e.f. 24-9-2001).

person ¹[as monthly allowance for the maintenance and interim maintenance or any of them, as the case may be, in pursuance of] the said order.

STATE AMENDMENTS

Madhya Pradesh

Amendment of section 127.—In sub-section (1) of section 127 of the principal Act, for the words “father or mother”, the words “father, mother, grand father, grand mother” shall be substituted.

[Vide Madhya Pradesh Act 15 of 2004, s. 4.]

West Bengal

In the proviso to sub-section (1) of section 127 of the principal Act, for the words “five hundred rupees”, the words “one thousand and five hundred rupees” shall be substituted.

[Vide West Bengal Act 14 of 1995, s. 3.]

West Bengal

In Sub-section (1) of section 127 of the principal Act, the proviso shall be omitted.

[Vide West Bengal Act 33 of 2001, s. 4.]

128. Enforcement of order of maintenance.—A copy of the order of ²[maintenance or interim maintenance and expenses of proceedings, as the case may be,] 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 ³[whom the allowance for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be,] 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 the non-payment of the ⁴[allowance, or as the case may be, expenses, due].

CHAPTER X

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A.—*Unlawful assemblies*

129. Dispersal of assembly by use of civil force.—(1) Any Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in

1. Subs. by Act 50 of 2001, s. 3, for “monthly allowance in pursuance of” (w.e.f. 24-9-2001).

2. Subs. by s. 4, *ibid.*, for “maintenance” (w.e.f. 24-9-2001).

3. Subs. by s. 4, *ibid.*, for “whom the allowance” (w.e.f. 24-9-2001).

4. Subs. by s. 4, *ibid.*, for “allowance due” (w.e.f. 24-9-2001).

order to disperse such assembly or that they may be punished according to law.

130. Use of armed forces to disperse assembly.—(1) If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. Power of certain armed force officers to disperse assembly.—When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

132. Protection against prosecution for acts done under preceding sections.—(1) No prosecution against any person for any act purporting to be done under section 129, section 130 or section 131 shall be instituted in any Criminal Court except—

(a) with the sanction of the Central Government where such person is an officer or member of the armed forces;

(b) with the sanction of the State Government in any other case.

(2) (a) No Executive Magistrate or police officer acting under any of the said sections in good faith;

(b) no person doing any act in good faith in compliance with a requisition under section 129 or section 130;

(c) no officer of the armed forces acting under section 131 in good faith;

(d) no member of the armed forces doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

(3) In this section and in the preceding sections of this Chapter,—

(a) the expression “armed forces” means the military, naval and air forces, operating as land forces and includes any other armed forces of the Union so operating;

(b) “officer”, in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(c) “member”, in relation to the armed forces, means a person in the armed forces other than an officer.

B.—Public nuisances

133. Conditional order for removal of nuisance.—(1) Whenever a District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers—

(a) that any unlawful obstruction or nuisance should be removed from any public place or from any way, river or channel which is or may be lawfully used by the public; or

(b) that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

(c) that the construction of any building, or, the disposal of any substance, as is likely to occasion configuration or explosion, should be prevented or stopped; or

(d) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or

(e) that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or

(f) that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or 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—

(i) to remove such obstruction or nuisance; or

(ii) to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

(iii) to prevent or stop the construction of such building, or to alter the disposal of such substance; or

(iv) to remove, repair or support such building, tent or structure, or to remove or support such trees; or

(v) to fence such tank, well or excavation; or

(vi) to destroy, confine or dispose of such dangerous animal in the manner provided in the said order,

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided, why the order should not be made absolute.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A “public place” includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

134. Service or notification of order.—(1) The order shall, if practicable, be served on the person against whom it is made, in the manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the State Government may, by rules, direct, and a copy thereof shall be struck up at such place or places as may be fittest for conveying the information to such person.

135. Person to whom order is addressed to obey or show cause.—The person against whom such order is made shall—

(a) perform, within the time and in the manner specified in the order, the act directed thereby; or

(b) appear in accordance with such order and show cause against the same.

136. Consequences of his failing to do so.—If such person does not perform such act or appear and show cause, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code (45 of 1860), and the order shall be made absolute.

137. Procedure where existence of public right is denied.—(1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 138, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 138.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial.

138. Procedure where he appears to show cause.—(1) If the person against whom an order under section 133 is made appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper, the order shall be made absolute without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case.

139. Power of Magistrate to direct local investigation and examination of an expert.—The Magistrate may, for the purposes of an inquiry under section 137 or section 138—

(a) direct a local investigation to be made by such person as he thinks fit; or

(b) summon and examine an expert.

140. Power of Magistrate to furnish written instructions, etc.—(1) Where the Magistrate directs a local investigation by any person under section 139, the Magistrate may—

(a) furnish such person with such written instructions as may seem necessary for his guidance;

(b) declare by whom the whole or any part of the necessary expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the case.

(3) Where the Magistrate summons and examines an expert under section 139, the Magistrate may direct by whom the costs of such summoning and examination shall be paid.

141. Procedure on order being made absolute and consequences of disobedience.—(1) When an order has been made absolute under section 136 or section 138, the Magistrate shall give notice of the same to the person

against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code (45 of 1860).

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local jurisdiction, and if such other property is without such jurisdiction, the order shall authorise its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

142. Injunction pending inquiry.—(1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. Magistrate may prohibit repetition or continuance of public nuisance.—A District Magistrate or Sub-divisional Magistrate, or any other Executive Magistrate empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code (45 of 1860), or any special or local law.

C.—Urgent cases of nuisance or apprehended danger

144. Power to issue order in urgent cases of nuisance or apprehended danger.—(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public 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 State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind

or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

¹[144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.—(1) The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.

(2) A public notice issued or an order made under this section may be directed to a particular person or to persons belonging to any community, party or organisation.

(3) No public notice issued or an order made under this section shall remain in force for more than three months from the date on which it is issued or made.

(4) The State Government may, if it considers necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by notification, direct that a public notice issued or order made by the District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such public notice or order was issued or made by the District Magistrate would have, but for such direction, expired, as it may specify in the said notification.

(5) The State Government may, subject to such control and directions as it may deem fit to impose, by general or special order, delegate its powers under sub-section (4) to the District Magistrate.

Explanation.—The word “arms” shall have the meaning assigned to it in section 153AA of the Indian Penal Code (45 of 1860).]

D.—Disputes as to immovable property

145. Procedure where dispute concerning land or water is likely to cause breach of peace.—

(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section, the expression “land or water” includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in the manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, persue the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any, as he thinks necessary, and, if possible, decide whether any and which of the parties was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute:

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other

1. Ins. by Act 25 of 2005, s. 16 (date yet to be notified, see appendix)

information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1).

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) (a) If the Magistrate decides that one of the parties was, or should under the proviso to sub-section (4) be treated as being, in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed.

(b) The order made under this sub-section shall be served and published in the manner laid down in sub-section (3).

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purposes of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of powers of the Magistrate to proceed under section 107.

146. Power to attach subject of dispute and to appoint receiver.—(1) If the Magistrate at any time after making the order under sub-section (1) of section 145 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908):

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate—

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just.

147. Dispute concerning right of use of land or water.—(1) Whenever an Executive Magistrate is

satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water within his local jurisdiction, whether such right be claimed as an easement or otherwise, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court in person or by pleader on a specified date and time and to put in written statements of their respective claims.

Explanation.—The expression “land or water” has the meaning given to it in sub-section (2) of section 145.

(2) The Magistrate shall then 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, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he may make an order prohibiting any interference with the exercise of such right, including, in a proper case, an order for the removal of any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the receipt under sub-section (1) of the report of a police officer or other information leading to the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such receipt.

(4) When in any proceedings commenced under sub-section (1) of section 145 the Magistrate finds that the dispute is as regards an alleged right of user of land or water, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1),

and when in any proceedings commenced under sub-section (1) the magistrate finds that the dispute should be dealt with under section 145, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1) of section 145.

148. Local inquiry.—(1) Whenever a local inquiry is necessary for the purposes of section 145, section 146 or section 147, a District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

(3) When any costs have been incurred by any party to a proceeding under section 145, section 146 or section 147, the Magistrate passing a decision may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion and such costs may include any expenses incurred in respect of witnesses and of pleaders' fees, which the Court may consider reasonable.

CHAPTER XI

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 cognizable offences.—Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. Arrest to prevent the commission of cognizable offences.—(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Code or of any other law for the time being in force.

152. Prevention of injury to public property.—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 buoy or other mark used for navigation.

153. Inspection of weights and measures.—(1) Any officer in charge of a police station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

154. Information in cognizable cases.—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

¹[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 376, ²[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, ¹[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is 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 person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be video graphed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.]

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(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 send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

1. Ins. by Act 13 of 2013, s. 13 (w.e.f. 3-2-2013).

2. Subs. by Act 22 of 2018, s. 11, for "section 376A, section 376B, section 376C, section 376D" (w.e.f. 21-4-2019).

STATE AMENDMENT

Chhattisgarh

In first proviso to sub-section (1) of section 154 of the Code of Criminal Procedure (here-in-after referred to as the Code) for the words and figure “or section 509” the words, figures, letters and punctuations, “ section 509, section 509A or section 509B” shall be substituted.

[Vide Chhattisgarh Act 25 of 2015, s. 7.]

155. Information as to non-cognizable cases and investigation of such cases.—(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

156. Police officer’s power to investigate cognizable case.—(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

STATE AMENDMENT

Maharashtra

Amendment of section 156.—In section 156 of the Code of Criminal Procedure, 1973, (2 of 1974) in its application to the State of Maharashtra (Hereinafter referred to as “the said Code”), after sub-section (3), the following provisos shall be added, namely:—

“Provided that, no Magistrate shall order an investigation under this section against a person who is or was a public servant as defined under any other law for the time being in force, in respect of the act done by such public servant while acting or purporting to act in the discharge of his official duties, except with the previous sanction under section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) or under any law for the time being in force:

Provided further that, the sanctioning authority shall take a decision within a period of ninety days from the date of the receipt of the proposal for sanction and in case the sanctioning authority fails to take the decision within the said stipulated period of ninety days, the sanction shall be deemed to have been accorded by the sanctioning authority.”.

[Vide Maharashtra Act 33 of 2016, s. 2.]

157. Procedure for investigation.—(1) If, from information received or otherwise, an officer in charge of a

police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that—

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

¹[Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.]

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

158. Report how submitted.—(1) Every report sent to a Magistrate under section 157 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. Power to hold investigation or 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 the 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 facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person ²[under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person] shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

161. Examination of witnesses by police.—(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty

1. Ins. by Act 5 of 2009, s.11 (w.e.f. 31-12-2009).

2. Subs. by Act 13 of 2013, s. 14, for “under the age of fifteen years or woman” (w.e.f. 3-2-2013).

or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

¹[Provided that statement made under this sub-section may also be recorded by audio-video electronic means:]

²[Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, ³[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.]

STATE AMENDMENT

Chhattisgarh

The second proviso to sub-section (3) of section 161 of the Code, shall be substituted with the following proviso, namely: —

Provided further that statement of the woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376B, section 376C, section 376D, section 376E, section 509, section 509A or section 509B of the Indian Penal Code, is alleged to have been committed or attempted, shall be recorded, as far as possible, by woman police officer and shall also be recorded by audio-video means, as far as possible, and it shall be the duty of such police officer to take all such steps as are necessary to protect the identity of the woman.

[Vide Chhattisgarh Act 25 of 2015, s. 8]

162. Statements to police not to be signed: Use of statements in evidence.—(1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872 (1 of 1872); or to affect the provisions of section 27 of that Act.

Explanation.—An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

163. No inducement to be offered.—(1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the Indian Evidence Act, 1872 (1 of 1872).

(2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:

1. Ins. by Act 5 of 2009, s. 12 (w.e.f. 31-12-2009).

2. Ins. by Act 13 of 2013, s. 15 (w.e.f. 3-2-2013).

3. Subs. by Act 22 of 2018, s. 12, for “section 376A section 376B, section 376C, section 376D” (w.e.f. 22-4-2018).

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 164.

164. Recording of confessions and statements.—(1) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial:

¹[Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence:

Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.]

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:—

“I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A. B.
Magistrate.”

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

²[(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, ³[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB,] section 376E or section 509 of the Indian Penal Code (45 of 1860), the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed.

(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 (1 of 1872) 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.]

(6) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by

1. Subs. by Act 5 of 2009, s.13 (w.e.f. 31-12-2009).

2. Ins. by Act 13 of 2013, s. 16 (w.e.f. 13-3-2013).

3. Subs. by Act 22 of 2018, s. 13, for “section 376A, section 376B, section 376C, section 376D” (w.e.f. 22-4-2018).

whom the case is to be inquired into or tried.

STATE AMENDMENT

Chhattisgarh

In clause (a) of sub-section (5A) of Section 164 of the Code, for the words and figures “or section 509” the punctuation, words and figures, “section 376F, section 509, section 509A or section 509B” shall be substituted.

[Vide Chhattisgarh Act 25 of 2015, s. 9]

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

After sub-section (1) of section 164, the following sub-section shall be inserted, namely: —“(1A) Where; in any island, there is no Judicial Magistrate for the time being, and the State Government is of opinion that it is necessary and expedient so to do, that Government may, after consulting the High Court, specially empower any Executive Magistrate (not being a police officer), to exercise the powers conferred by sub-section (1) on a Judicial Magistrate, and thereupon references in section 164 to a Judicial Magistrate shall be construed as references to the Executive Magistrate so empowered.”;

[Vide The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974), s. 5.]

¹[**164A. Medical examination of the victim of rape.**—(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 registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other 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 the 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 person and prepare a report of his examination giving the following particulars, namely:—

- (i) the name and address of the woman and of the person by whom she was brought;
- (ii) the age of the woman;
- (iii) the description of material taken from the person of the woman for DNA profiling;
- (iv) marks of injury, if any, on the person of the woman;
- (v) general mental condition of the woman; and
- (vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person 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 investigating officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of

1. Ins. by Act 25 of 2005, s. 17 (w.e.f. 23-6-2006).

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 53.]

STATE AMENDMENT

Chhattisgarh

In Section 164A, except explanation clause, of the Code, for the words “registered medical practitioner”, where it occurs for the first time, the words “female registered medical practitioner” shall be substituted.

[*Vide* Chhattisgarh Act 25 of 2015 s. 10.]

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 100 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or 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, free of cost, with a copy of the same by the Magistrate.

166. When officer in charge of police station may require another to issue search-warrant.—(1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of section 165, as if such place were within the limits of his own police station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 100, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in sub-sections (1) and (3) of section 165.

(5) The owner or occupier of the place searched shall, on application, be furnished free of cost with a copy of

any record sent to the Magistrate under sub-section (4).

¹[**166A. Letter of request to competent authority for investigation in a country or place outside India.**—

(1) Notwithstanding anything contained in this Code, if, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court or an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

166B. Letter of request from a country or place outside India to a Court or an authority for investigation in India.—(1) Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit—

(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced; or

(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner,

as if the offence had been committed within India.

(2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the Court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.]

167. Procedure when investigation cannot be completed in twenty-four hours.—(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

²[(a) the Magistrate may authorise the 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 the detention of the accused person in custody under this paragraph for a total period exceeding—

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

1. Ins. by Act 10 of 1990, s. 2 (w.e.f. 19-12-1990).

2. Subs. by Act 45 of 1978, s. 13, for paragraph (a) (w.e.f. 18-12-1978).

(ii) sixty days, where the investigation relates to any other offence,

and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;]

¹[(b) no Magistrate shall authorise 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;]

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

²[*Explanation I*.—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail.]

³[*Explanation II*.—If any question arises whether an accused person was produced before the Magistrate as required under clause (b), the production of the accused person may be proved by his signature on the order authorising 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.]

⁴[Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution.]

⁵[(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.]

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

(5) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(6) Where any order stopping further investigation into an offence has been made under sub-section (5), the

1. Subs. by Act 5 of 2009, s. 14, for cl. (b) (w.e.f. 31-12-2009)

2. Ins. by Act 45 of 1978, s. 13 (w.e.f. 18-12-1978).

3. Subs. by Act 5 of 2009, s.14, for *Explanation II* (w.e.f. 31-12-2009).

4. Ins. by s.14, *ibid.*, (w.e.f. 31-12-2009).

5. Ins. by Act 45 of 1978, s.13 (w.e.f. 18-12-1978).

Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (5) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

STATE AMENDMENTS

Gujarat

In the proviso to sub-Section (2) of section 167 of the Code of Criminal Procedure, 1973, in its application to the State of Gujarat, —

(i) for paragraph (a), the following paragraph shall be substituted, namely: —

(a) the Magistrate may authorise detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this section for a total period exceeding—

(i) one hundred and twenty days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years,

(ii) sixty days, where the investigation relates to any offence;

and, on the expiry of the said period of one hundred and twenty days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail; and every person released on bail under this section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

(ii) in paragraph (b), for the words “no Magistrate shall” the words “no Magistrate shall, except for reason to be recorded in writing” shall be substituted;

(iii) the Explanation shall be numbered as Explanation II, and before Explanation II as so numbered, the following Explanation shall be inserted, namely: —

Explanation I. —For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused person shall be detained in custody so long as he does not furnish bail.

Amendment to apply to pending investigation.—The provisions of section 167 of the Code of Criminal Procedure, 1973, as amended by this Act, shall apply to every investigation pending immediately before the commencement of this Act, if the period of detention of the accused person, otherwise than in the custody of the police, authorised under that section, had not, at such commencement, exceeded sixty days.]

[Vide Gujarat Act 21 of 1976, s. 2 & 3]

Gujarat

In Section 167, in sub-section (2) : —

(1) in the proviso, for paragraph (b), the following paragraph shall be substituted, namely: —

“(b) no Magistrate shall authorise further detention in any custody under this section unless—

(i) where the accused is in the custody of police, he is produced in person before the Magistrate, and

(ii) where the accused is otherwise than in the custody of the police, he is produced before the Magistrate either in person or through the medium of electronic video linkage, in accordance with the direction of the Magistrate.”;

(2) in *Explanation II*, after the words “ whether an accused person was produced before the Magistrate”, the words “in person or, as the case may be, through the medium of electronic video linkage” shall be inserted.

[Vide Gujarat Act 31 of 2003, s. 2.]

Chhattisgarh

(1) In clause (b) of Sub-Section (2) of Section 167 of the principal Act, for the word “any” the word “police” shall be substituted.

(2) After clause (b) of sub-section (2) of Section 167 of the Principal Act, the following new sub-clause (bb) shall be added, namely:—

“(bb) No magistrate shall authorise detention of the accused person other than in the custody of the police under this section unless the accused is produced before him either in person or through the medium of electronic video linkage and represented by his pleader in the Court.”

(3) In explanation II, after words “was produced” the word “from police custody” shall be added.

(4) After explanation II, the following new explanation shall be added:-

“III. If any question arises whether an accused person was produced from otherwise than in the custody of the police in person or (as the case may be) through medium of electronic video linkage before the Magistrate as required under paragraph (bb), the production of the accused person may be proved by his or his pleader’s signature on the order authorising detention.”

[Vide Chhattisgarh Act 13 of 2006, sec. 3]

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

In section 167,—

(i) in sub-section (1) after the words “nearest Judicial Magistrate” the words “or, if there is no Judicial Magistrate in an island, to an Executive Magistrate functioning in that island” shall be inserted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where a copy of the entries in diary is transmitted to an Executive Magistrate, reference in section 167 to a Magistrate shall be construed as references to such Executive Magistrate;”

(iii) to sub-section (3), the following proviso shall be added, namely:—

“Provided that no Executive Magistrate other than the District Magistrate or Sub-divisional Magistrate, shall unless he is specially empowered in this behalf by the State Government, authorise detention in the custody of the police.”

(iv) to sub-section (4), the following proviso shall be added, namely:—

“Provided that, where such order is made by an Executive Magistrate, the Magistrate making the order shall forward a copy of the order, with his reasons for making it, to the Executive Magistrate to whom he is immediately subordinate.”

[Vide The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974), s. 5.]

Maharashtra

Amendment of section 167. — In Section 167 of the Code of Criminal Procedure, 1973, (2 of 1974) in its application to the State of Maharashtra,—

(a) in sub-section (2) in the proviso, for paragraph (b), the following paragraph shall be substituted, namely:—

(b) no Magistrate shall authorise detention in any custody, of the accused person under this section unless, the accused person is produced before him in person, and for any extension of custody otherwise than the extension in the police custody, the accused person may be produced either in person or through the medium of electronic video linkage.” ;

(b) in *Explanation II*, for the words “an accused person was produced”, the words “an accused person was produced in person or as the case may be, through the medium of electronic video linkage” shall be substituted.

[Vide Maharashtra Act 8 of 2005, s. 2]

Madhya Pradesh

Amendment of Section 167.—In sub-section (2) of section 167 of the principal Act,— (i) **in the proviso, for paragraph (b), the following paragraph shall be substituted, namely: —**

“(b) no magistrate shall authorise detention in any custody under this section unless the accused is produced before him in person for the first time and subsequently every time till such time the accused remains in the custody of police, but the Magistrate may extend further detention in judicial custody on production of accused either in person or through the medium of electronic video linkage;”;

(ii) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

“**Explanation II.**—If any question arise whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his

signature on the order authorising detention 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.”.

[*Vide Madhya Pradesh Act 2 of 2008, s. 3.*]

West Bengal

In section 167 of the principal Act,—

(a) In Section 167 of sub-section (5), the following sub-section shall be substituted:—

“(5) If, in respect of—

(i) any case triable by a Magistrate as a summons case, the investigation is not concluded within a period of six months, or

(ii) any case exclusively triable by a Court of Session or a case under Chapter XVIII of the Indian Penal Code (45 of 1860), the investigation is not concluded within a period of three years, or

(iii) any case other than those mentioned in clauses (i) and (ii), the investigation is not concluded within a period of two years, from the date on which the accused was arrested or made his appearance, the Magistrate shall make an order stopping further investigation into the offence and shall discharge the accused 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 periods mentioned in this sub-section is necessary.”;

(b) in sub-section (6), after the “words any order stopping further investigation into an offence has been made” the words “and the accused has been discharged” shall be inserted.

[*Vide West Bengal Act 24 of 1988, s. 4.*]

West Bengal

Amendment of section 167.- In the proviso to sub-section (2) of section 167 of the principal Act, for clause (b), the following clause shall be substituted:—

“(b) no Magistrate shall authorize detention under this section—

(i) in the police custody, unless the accused is produced before him in person every time till the accused is in police custody;

(ii) in the judicial custody, unless the accused is produced before him either in person or through the medium of electronic video linkage;”.

[*Vide West Bengal Act 20 of 2004, s. 3.*]

Assam

In Section 167 of the Code:—

(a) in sub-section (i) the reference to “Judicial Magistrate” shall be construed as reference also to executive Magistrate;

(b) in sub-section (2):—

(i) for the word “Magistrate” at the first two places where that word is preceded by the definite article, the words “Judicial Magistrate or the Executive Magistrate, as the case may be,” shall be substituted;

(ii) for the word “Magistrate”, at the place where that word is preceded by the indefinite article “a”, the words and brackets “Magistrate (whether Judicial or Executive)” shall be substituted;

(iii) paragraph (c) of the proviso shall be omitted;

(c) Sub-section (2A) shall be omitted:—

(d) in sub-section (4), for the words “to the Chief Judicial Magistrate,” the words “where such Magistrate is a Judicial Magistrate, to the Chief Judicial Magistrate and where such Magistrate is an Executive Magistrate to the Session Judge” shall be substituted.

[*Vide Assam Act 3 of 1984, s. 3(3) and the Schedule.*]

Delhi

In its application to the State of Delhi, in section 167, in sub-section (2):—

(i) for clause (b), substitute the following clause, namely:—

“(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him either in person or through the medium of electronic video linkage:

Provided that if the accused is in police custody, no Magistrate shall authorise his detention in any custody unless the accused is produced before him in person;”

(ii) for the *Explanation II* thereunder, substitute the following *Explanation*, namely:—

“*Explanation II.*- If any question arises whether an accused person was produced in person or, as the case may be, through the medium of electronic video linkage before the magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising his detention or by video recording of the proceedings, as the case may be.”.

[*Vide* Delhi Act 4 of 2004, s. 2 (w.e.f. 16-8-2004).]

Orissa

Amendment of section 167.—In the proviso to sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974),-

(i) for paragraph (b), the following paragraph shall be substituted, namely:—

“(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;”, and

(ii) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

“*Explanation II*— If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorizing 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.”.

[*Vide* Orissa Act 16 of 2009, s. 2]

Amendment of section 167.— In section 167 of the Code of Criminal Procedure, 1973, in paragraph (a) of the proviso to sub-section (2),—

(i) For the words “under this paragraph” the words “under this section” shall be substituted; and

(ii) For the words “ninety days” wherever they occur, the words “ one hundred and twenty days” shall be substituted.

[*Vide* Orissa Act 11 of 1997, s. 2]

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 that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.

170. Cases to be sent to Magistrate, when evidence is sufficient.—(1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and

the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the 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 the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.—No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. Diary of proceedings in investigation.—(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 a statement of the circumstances ascertained through his investigation.

¹[(1A) The statements of witnesses recorded during the course of investigation under section 161 shall be inserted in the case diary.

(1B) The diary referred to in sub-section (1) shall be a volume and duly paginated.]

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 161 or section 145, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), shall apply.

173. Report of police officer on completion of investigation.—(1) Every investigation under this Chapter shall be completed without unnecessary delay.

²[(1A) The investigation in relation to ³[an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E] from the date on which the information was recorded by the officer in charge of the police station.]

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

(a) the names of the parties;

1. Ins. by Act 5 of 2009, s. 15 (w.e.f. 31-12-2009).

2. Ins. by s. 16, *ibid.*, (w.e.f. 31-12-2009).

3. Subs. by Act 22 of 2018, s. 14, for “rape of a child may be completed within three months” (w.e.f. 21-4-2018).

- (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.

¹[(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under ²[sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860)].]

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate 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 witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under 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 as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

174. Police to enquire and report on suicide, etc.—(1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District

1. Ins. by Act 5 of 2009, s. 16 (w.e.f. 31-12-2009).

2. Subs. by Act 22 of 2018, s. 14, for “section 376, 376A, 376B, 376C, 387D” (w.e.f. 21-4-2018).

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, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(3) ¹[When—

(i) the case involves suicide by a woman within seven years of her marriage; or

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it expedient so to do,

he shall], subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

175. Power to summon persons.—(1) A police officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

176. Inquiry by Magistrate into cause of death.—(1) ²[³*** when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 174], the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

1. Subs. by Act 46 of 1983, s. 3, for certain words (w.e.f. 25-12-1983).

2. Subs. by, s. 4, *ibid.*, for certain words (w.e.f. 25-12-1983).

3. Certain words omitted by Act 25 of 2005, s. 18 (w.e.f. 23-6-2006).

¹[(1A) Where,—

(a) any person dies or disappears, or

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised by the Magistrate or the Court, under this Code in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed.]

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

³[(5) The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police officer holding an inquiry or investigation, as the case may be, under sub-section (1A) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.]

Explanation.—In this section, the expression “relative” means parents, children, brothers, sisters and spouse.

CHAPTER XIII

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

177. Ordinary place of inquiry and trial.—Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

178. Place of inquiry or trial.—(a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

179. Offence triable where act is done or consequence ensues.—When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

180. Place of trial where act is an offence by reason of relation to other offence.—When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were

1. Ins. by Act 25 of 2005, s. 18 (w.e.f. 23-6-2006).

capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.

181. Place of trial in case of certain offences.—(1) Any offence of being a thug, or murder committed by a thug, of dacoity, of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the accused person is found.

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained.

(3) Any offence of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property which is the subject of the offence was possessed by any person committing it or by any person who received or retained such property knowing or having reason to believe it to be stolen property.

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

(5) Any offence which includes the possession of stolen property may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person who received or retained it knowing or having reason to believe it to be stolen property.

182. Offences committed by letters, etc.—(1) Any offence which includes cheating may, if the deception is practised by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.

(2) Any offence punishable under section 494 or section 495 of the Indian Penal Code (45 of 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage ¹[, or the wife by the first marriage has taken up permanent residence after the commission of the offence].

183. Offence committed on journey or voyage.—When an offence is committed whilst the person by or against whom, or the thing in respect of which, the offence is committed is in the course of performing a journey or voyage, the offence may be inquired into or tried by a Court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage.

184. Place of trial for offences triable together.—Where—

(a) the offences committed by any person are such that he may be charged with, and tried at one trial for, each such offence by virtue of the provisions of section 219, section 220 or section 221, or

(b) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 223,

the offences may be inquired into or tried by any Court competent to inquire into or try any of the offences.

185. Power to order cases to be tried in different sessions divisions.—Notwithstanding anything contained in the preceding provisions of this Chapter, the State Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court or the Supreme Court under the Constitution, or under this Code or any other law for the time being in force.

¹Ins. by Act 45 of 1978, s. 15 (w.e.f. 18.12.1978).

186. High Court to decide, in case of doubt, district where inquiry or trial shall take place.—Where two or more Courts have taken cognizance of the same offence and a question arises as to which of them ought to inquire into or try that offence, the question shall be decided—

(a) if the Courts are subordinate to the same High Court, by that High Court;

(b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced,

and thereupon all other proceedings in respect of that offence shall be discontinued.

187. Power to issue summons or warrant for offence committed beyond local jurisdiction.—(1) When a Magistrate of the first class sees reason to believe that any person within his local jurisdiction has committed outside such jurisdiction (whether within or outside India) an offence which cannot, under the provisions of sections 177 to 185 (both inclusive), or any other law for the time being in force, be inquired into or tried within such jurisdiction but is under some law for the time being in force triable in India, such Magistrate may inquire into the offence as if it had been committed within such local jurisdiction and compel such person in the manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is not punishable with death or imprisonment for life and such person is ready and willing to give bail to the satisfaction of the Magistrate acting under this section, take a bond with or without sureties for his appearance before the Magistrate having such jurisdiction.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

188. Offence committed outside India.—When an offence is committed outside India—

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

189. Receipt of evidence relating to offences committed outside India.—When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of section 188, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before a Judicial officer in or for that territory or before a diplomatic or consular representative of India in or for that territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

CHAPTER XIV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

190. Cognizance of offences by Magistrates.—(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence—

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

STATE AMENDMENTS

Maharashtra

Amendment of section 190.- In section 190 of the said Code, in sub-section (1), after clause (c), following provisos shall be added, namely:—

“Provided that, no Magistrate shall take cognizance of any offence alleged to have been committed by any person who is or was a public servant as defined under any other law for the time being in force, while acting or purporting to act in the discharge of his official duties, except with the previous sanction under section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) or under any law for the time being in force:

Provided further that, the sanctioning authority shall take a decision within a period of ninety days from the date of the receipt of the proposal for sanction and in case the sanctioning authority fails to take the decision within the said stipulated period of ninety days, the sanction shall be deemed to have been accorded by the sanctioning authority.”.

[Vide Maharashtra Act 33 of 2016, s. 3.]

Assam

In Section 190 of the Code, in sub-section (1), after the words “any Magistrate of the first class” the words “any Executive Magistrate” shall be inserted;

[Vide Assam Act 3 of 1984, s. 3(3) and the Schedule.]

191. Transfer on application of the accused.—When a Magistrate takes cognizance of an offence under clause (c) of sub-section (1) of section 190, the accused shall, before any evidence is taken, be informed that he is entitled to have the case inquired into or tried by another Magistrate, and if the accused or any of the accused, if there be more than one, objects to further proceedings before the Magistrate taking cognizance, the case shall be transferred to such other Magistrate as may be specified by the Chief Judicial Magistrate in this behalf.

STATE AMENDMENT

Assam

In Section 191 of the Code, the reference to “Chief Judicial Magistrate” Shall, in relation to an offence taken cognizance of by an Executive Magistrate, be construed as a reference to the District Magistrate.

[Vide Assam Act 3 of 1984, s. 3(3) and the Schedule.]

192. Making over of cases to Magistrates.—(1) Any Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to any competent Magistrate subordinate to him.

(2) Any Magistrate of the first class empowered in this behalf by the Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to such other competent Magistrate as the Chief Judicial Magistrate may, by general or special order, specify, and thereupon such Magistrate may hold the inquiry or trial.

STATE AMENDMENT

Assam

In Section 192 of the Code:—

(i) in sub-section (1), after the word “Any” the words “District Magistrate” shall be inserted;

(ii) sub-section (2) shall be substituted as follows:—

(2) Any Sub-divisional Magistrate or Magistrate of the first class empowered in this behalf by District

Magistrate or Chief Judicial Magistrate, as the case may be, may, after taking cognizance of an offence, make over the case for enquiry or trial to such other competent Magistrate as the District Magistrate or Chief Judicial Magistrate may, by general or special order, specify, and thereupon such Magistrate may hold the enquiry or trial.

[Vide Assam Act 3 of 1984, s. 3(3) and the Schedule.]

193. Cognizance of offences by Courts of Session.—Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code.

194. Additional and Assistant Sessions Judges to try cases made over to them.—As Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.—(1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

¹[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.]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term “Court” means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court

1. Subs. by Act 2 of 2006, s. 3, for certain words (w.e.f. 16-4-2006).

to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

¹[**195A. Procedure for witnesses in case of threatening, etc.**—A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860).]

196. Prosecution for offences against the State and for criminal conspiracy to commit such offence.—(1) No Court shall take cognizance of—

(a) any offence punishable under Chapter VI or under section 153A, ²[section 295A or sub-section (1) of section 505] of the Indian Penal Code (45 of 1860), or

(b) a criminal conspiracy to commit such offence, or

(c) any such abetment, as is described in section 108A of the Indian Penal Code (45 of 1860),

except with the previous sanction of the Central Government or of the State Government.

³[(1A) No Court shall take cognizance of—

(a) any offence punishable under section 153B or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code (45 of 1860), or

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.]

(2) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 120B of the Indian Penal Code (45 of 1860), other than a criminal conspiracy to commit ⁴[an offence] punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of section 195 apply, no such consent shall be necessary.

(3) The Central Government or the State Government may, before according sanction ⁵[under sub-section (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A)] and the State Government or the District Magistrate may, before giving consent under sub-section (2), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 155.

197. Prosecution of Judges and public servants.—(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction ⁶[save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)]—

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

1. Ins. by Act 5 of 2009, s.17 (w.e.f. 31-12-2009).

2. Subs. by Act 63 of 1980, s. 3, for “section 153B, section 295A or section 505” (w.e.f. 23-9-1980).

3. Ins. by s. 3, *ibid.* (w.e.f. 23-9-1980).

4. Subs. by Act 45 of 1978, s. 16, for “a cognizable offence” (w.e.f. 18-12-1978).

5. Subs. by Act 63 of 1980, s. 3, for “under sub-section (1)” (w.e.f. 23-9-1980).

6. Ins. by Act 1 of 2014, s. 58 and the Schedule (w.e.f. 16-1-2014).

¹[Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression “State Government” occurring therein, the expression “Central Government” were substituted.]

²[*Explanation.*—For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, ³[section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB] or section 509 of the Indian Penal Code (45 of 1860).]

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

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

⁴[(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 (43 of 1991), receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.]

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

STATE AMENDMENT

Tripura. —

Insertion of a new Section 197(IA).—In the Code of Criminal Procedure, 1973, in section 197 after sub-section (I) the following sub-section shall be inserted, only for application in the State of Tripura, namely:—

“(IA) When as per provision of any relevant law for the time being in force a public servant referred to in Sub-Section (1) (b) is directly appointed, transferred or posted by the State Government in any local or other authorities including a Government Company, Corporation or Public Sector Undertaking, he shall be deemed to be employed in connection with the affairs of the State and no Court shall take cognizance of any offence as referred to in Sub-Section (I) without previous sanction of the State Government.

[*Vide* Tripura Act 6 of 2003, s. 2]

1. Added by Act 43 of 1991, s. 2 (w.e.f. 2-5-1991).

2. *Explanation* ins. by Act 13 of 2013, s. 18 (w.e.f. 3-2-2013).

3. Subs. by Act 22 of 2018, s. 15, for “section 376A, section 376C, section 376D” (w.e.f. 21-4-2018).

4. Ins. by Act 43 of 1991, s. 2 (w.e.f. 2-5-1991).

Assam.—

In Section 197 of the Code. —

(a) in sub-section (1), for the words “in the discharge of” the words “in or in connection with the discharge of” shall be substituted;

(b) in sub-section (2), for the words “in the discharge of” the words “in or in connection with the discharge of” shall be substituted;

(c) after sub-section (4), the following subsections shall be inserted, namely: —

(5) Notwithstanding anything contained in this Code,—

(a) where a complaint is made to a Court against a public servant belonging to any class or category specified under sub-section (3) alleging that he has committed an offence, the Court shall postpone the issue of process against the accused and make a reference to the State Government; or

(b) where an accused, either by himself or through a pleader, claims before a Court that he belongs to any class or category specified under sub-section (3) and that the offence alleged to have been committed by him arose out of any action taken by him while acting or purporting to act in or in connection with the discharge of his official duty, the Court shall forthwith stay further proceedings and make a reference to the State Government.

(6) (i) Where a reference is received from a Court under sub-section (5), the State Government shall issue a certificate to the Court that the accused person was or was not acting or purporting to act in, or in connection with the discharge of his official duty.

(ii) If the State Government certifies that the accused was acting or purporting to act in or in connection with the discharge of his official duty, the Court shall dismiss the complaint or discharge the accused:

Provided that the complainant may, within sixty days from the date of the issue of such certificate prefer an appeal to the High Court against the Certificate:

Provided further that the High Court may entertain the appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period.

(iii) If the State Government certifies that the accused was not acting or purporting to act in or in connection with, the discharge of his official duty, the Court may proceed further with the complaint in accordance with the provisions of this Code.

(7) The provisions of sub-sections (5) and (6) shall apply to all proceedings pending on the date of commencement of this Act in respect of which a Court had taken cognizance of an offence in accordance with the provisions of this Code.

[Vide Assam Act 3 of 1984, s. 4.]

198. Prosecution for offences against marriage.—(1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence:

Provided that—

(a) where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf;

(b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;

(c) where the person aggrieved by an offence punishable under ¹[section 494 or section 495] of the Indian Penal Code (45 of 1860) is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister ²[, or, with the leave of the Court, by any other person related to her by blood, marriage or adoption].

(2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 497 or section 498 of the said Code:

Provided that in the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf.

(3) When in any case falling under clause (a) of the proviso to sub-section (1), the complaint is sought to be made on behalf of a person under the age of eighteen years or of a lunatic by a person who has not been appointed or declared by a competent authority to be the guardian of the person of the minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give him a reasonable opportunity of being heard.

(4) The authorisation referred to in clause (b) of the proviso to sub-section (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(5) Any document purporting to be such an authorisation and complying with the provisions of sub-section (4), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.

(6) No Court shall take cognizance of an offence under section 376 of the Indian Penal Code (45 of 1860), where such offence consists of sexual intercourse by a man with his own wife, the wife being under ³[eighteen years of age], if more than one year has elapsed from the date of the commission of the offence.

(7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence.

⁴**[198A. Prosecution of offences under section 498A of the Indian Penal Code.]**—No Court shall take cognizance of an offence punishable under section 498A of the Indian Penal Code (45 of 1860) except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.]

⁵**[198B. Cognizance of offence.]**—No Court shall take cognizance of an offence punishable under section 376B of the Indian Penal Code (45 of 1860) where the persons 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 husband.]

199. Prosecution for defamation.—(1) No Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence:

Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs

1. Subs. by Act 45 of 1978, s. 17, for "section 494" (w.e.f. 18-12-1978).

2. Ins. by s. 17, *ibid.* (w.e.f. 18-12-1978).

3. Subs. by Act 5 of 2009, s. 18, for "fifteen years of age" (w.e.f. 31-12-2009)

4. Ins. by Act 46 of 1983, s. 5 (w.e.f. 25-12-1983).

5. Ins. by Act 13 of 2013, s. 19 (w.e.f. 3-2-2013).

and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.

(2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction—

(a) of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(b) of the State Government, in the case of any other public servant employed in connection with the affairs of the State;

(c) of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

CHAPTER XV

COMPLAINTS TO MAGISTRATES

200. Examination of complainant.—A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

201. Procedure by Magistrate not competent to take cognizance of the case.—If the complaint is

made to a Magistrate who is not competent to take cognizance of the offence, he shall,—

(a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;

(b) if the complaint is not in writing, direct the complainant to the proper Court.

202. Postponement of issue of process.—(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, ¹[and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction,] postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,—

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant.

203. Dismissal of complaint.—If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

CHAPTER XVI

COMMENCEMENT OF PROCEEDINGS 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—

(a) a summons-case, he shall issue his summons for the attendance of the accused, or

(b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

1. Ins. by Act 25 of 2005, s. 19 (w.e.f. 23-6-2006).

(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the provisions of section 87.

205. Magistrate may dispense with personal attendance of accused.—(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

206. Special summons in cases of petty offence.—(1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under section 260 ¹[or section 261], the Magistrate shall, except where he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader:

Provided that the amount of the fine specified in such summons shall not exceed ²[one thousand 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) ³, or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

⁴[(3) The State Government may, by notification, specially empower any Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable under section 320 or any offence punishable with imprisonment for a term not exceeding three months, or with fine, or with both where the Magistrate is of opinion that, having regard to the facts and circumstances of the case, the imposition of fine only would meet the ends of justice.]

207. Supply to the accused of copy of police report and other documents.—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

1. Ins. by Act 25 of 2005, s. 20 (w.e.f. 23-6-2006).

2. Subs. by, s. 20, *ibid.*, for “one hundred rupees” (w.e.f. 23-6-2006).

3. Now the Motor Vehicles Act, 1988 (59 of 1988).

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

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 perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

208. Supply of copies of statements and documents to accused in other 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 documents produced before the Magistrate on which the prosecution proposes to rely:

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

209. Commitment of case to Court of Session when offence is triable exclusively by it.—When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

¹[(a) commit, after complying with the provisions of section 207 or section 208, as the case may be, the case to the Court of Session, and subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made;]

(b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session.

STATE AMENDMENT

Gujarat

In section 209 of the Code of Criminal Procedure, 1973, in its application to the State of Gujarat, for clause (a), the following clause shall be substituted, namely:—

“(a) Commit the case, after complying with the provisions of section 207 or section 208, as the case may be, to the Court of Session and, subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made”.

[Vide Gujarat Act 30 of 1976, s. 2]

210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.—(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report

1. Subs. by Act 45 of 1978, s. 19, for clause (a) (w.e.f. 18-12-1978).

cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and 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 XVII

THE CHARGE

A.—*Form of charges*

211. Contents of charge.—(1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed.

Illustrations

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code (45 of 1860); that it did not fall within any of the general exceptions of the said Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

(b) A is charged under section 326 of the Indian Penal Code (45 of 1860), with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the said Code, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions, of those crimes contained in the Indian Penal Code (45 of 1860); but the sections under which the offence is punishable must, in each instance be referred to in the charge.

(d) A is charged under section 184 of the Indian Penal Code (45 of 1860) with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

212. Particulars as to time, place and person.—(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in

respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219:

Provided that the time included between the first and last of such dates shall not exceed one year.

213. When manner of committing offence must be stated.—When the nature of the case is such that the particulars mentioned in sections 211 and 212 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations

(a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

214. Words in charge taken in sense of law under which offence is punishable.—In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

215. Effect of errors.— No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations

(a) A is charged under section 242 of the Indian Penal Code (45 of 1860), with “having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit,” the word “fraudulently” being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many

transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may 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 Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

216. Court may alter charge.—(1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.

(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

217. Recall of witnesses when charge altered.—Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed—

(a) to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice;

(b) also to call any further witness whom the Court may think to be material.

B.—Joinder of charges

218. Separate charges for distinct offences.—(1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately:

Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.

(2) Nothing in sub-section (1) shall affect the operation of the provisions of sections 219, 220, 221 and 223.

Illustration

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

219. Three offences of same kind within year may be charged together.—(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local law:

Provided that, for the purposes of this section, an offence punishable under section 379 of the Indian Penal Code (45 of 1860) shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the said Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

220. Trial for more than one offence.—(1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 212 or in sub-section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(5) Nothing contained in this section shall affect section 71 of the Indian Penal Code (45 of 1860).

Illustrations to sub-section (1)

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code (45 of 1860).

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code (45 of 1860).

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code (45 of 1860).

(d) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code (45 of 1860). A may be separately

charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding, and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code (45 of 1860).

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code (45 of 1860).

(g) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code (45 of 1860).

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code (45 of 1860).

The separate charges referred to in *illustrations (a) to (h)*, respectively, may be tried at the same time.

Illustrations to sub-section (3)

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code (45 of 1860).

(j) Several stolen sacks of corn are made over to A and B, who knew they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code (45 of 1860).

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code (45 of 1860).

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code (45 of 1860). A may be separately charged with, and convicted of, offences under sections 471 (read with section 466) and 196 of that Code.

Illustration to sub-section (4)

(m) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code (45 of 1860).

221. Where it is doubtful what offence has been committed.—(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustrations

(a) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(b) In the case mentioned, A is only charged with theft. It appears that he committed the offence of criminal breach of trust, or

that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

(c) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

222. When offence proved included in offence charged.—(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.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

Illustrations

(a) A is charged, under section 407 of the Indian Penal Code (45 of 1860), with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under section 406 of that Code in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under the said section 406.

(b) A is charged, under section 325 of the Indian Penal Code (45 of 1860), with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

223. What persons may be charged jointly.—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 of, or attempt to commit, such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of section 219 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(f) persons accused of offences under sections 411 and 414 of the Indian Penal Code (45 of 1860) or either of those sections in respect of stolen property the possession of which has been transferred by one offence;

(g) persons accused of any offence under Chapter XII of the Indian Penal Code (45 of 1860) relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges:

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the ¹[Magistrate or Court of Session] may, if such persons by an application in writing, so desire, and ²[if he or it is satisfied] that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.

224. Withdrawal of remaining charges on conviction on one of several charges.—When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges and such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

CHAPTER XVIII

TRIAL BEFORE A COURT OF SESSION

225. Trial to be conducted by Public Prosecutor.—In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

226. Opening case for prosecution.—When the accused appears or is brought before the Court in pursuance of a commitment of the case under section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

227. Discharge.—If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of charge.—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, ³[or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of

1. Subs. by Act 25 of 2005, s. 21, for “Magistrate” (w.e.f. 23-6-2006).

2. Subs. by s. 21, *ibid.*, for certain words (w.e.f. 23-6-2006).

3. Subs. by s. 22, *ibid.*, for certain words (w.e.f. 23-6-2006).

warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of 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.

STATE AMENDMENT

Chhattisgarh

In sub-section (2) of section 228 of the Principal Act, after the word “to the accused” the following shall be added, namely: —

“present in person or through the medium of electronic video linkage and being represented by his pleader in the Court.”

[Vide Chhattisgarh Act 13 of 2006, s. 4.]

Karnataka

Amendment of section 228.— In section 228 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), in sub-section (1), in clause (a), for the words “to the Chief Judicial Magistrate and thereupon the Chief Judicial Magistrate” the words “to the Chief Judicial Magistrate or to any Judicial Magistrate competent to try the case and thereupon the Chief Judicial Magistrate or such other Judicial magistrate to whom the case may have been transferred” shall be substituted.

[Vide Karnataka Act 22 of 1994, s. 2.]

West Bengal

In section 228 of the said Code, in clause (a) of sub-section (1) of section 228, for the words “to the Chief Judicial Magistrate, and thereupon the Chief Judicial Magistrate” the words “to the Chief Judicial Magistrate or to any Judicial Magistrate competent to try the case, and thereupon the Chief Judicial Magistrate or such other Judicial Magistrate to whom the case may have been transferred” shall be substituted.

[Vide West Bengal Act 63 of 1978, s. 3.]

229. Conviction on plea of guilty.—If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.

230. Date for prosecution evidence.—If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 229, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

231. Evidence for prosecution.—(1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution.

(2) The Judge may, in his discretion, permit the 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.

232. 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.

233. Entering upon defence.—(1) Where the accused is not acquitted under section 232, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof.

(2) If the accused puts in any written statement, the Judge shall file it with the record.

(3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

234. Arguments.—When the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his pleader shall be entitled to reply:

Provided that where any point of law is raised by the accused or his pleader, the prosecution may, with the permission of the Judge, make his submissions with regard to such point of law.

235. Judgment of acquittal or conviction.—(1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the questions of sentence, and then pass sentence on him according to law.

236. Previous conviction.—In a case where a previous conviction is charged under the provisions of sub-section (7) of section 211, and the accused does not admit that he has been previously convicted as alleged in the charge, the Judge may, after he has convicted the said accused under section 229 or section 235, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Judge nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under section 229 or section 235.

237. Procedure in cases instituted under section 199(2).—(1) A Court of Session taking cognizance of an offence under sub-section (2) of section 199 shall try the case in accordance with the procedure for the trial of warrant-cases instituted otherwise than on a police report before a Court of Magistrate:

Provided that the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded, otherwise directs, be examined as a witness for the prosecution.

(2) Every trial under this section shall be held *in camera* if either party thereto so desires or if the Court thinks fit so to do.

(3) If, in any such case, the Court discharges or acquits all or any of the accused and is of opinion that there was no reasonable cause for making the accusation against them or any of them, it may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor of a State or the Administrator of a Union territory) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(4) The Court shall record and consider any cause which may be shown by the person so directed, and if it is satisfied that there was no reasonable cause for making the accusation, it may, for reasons to be recorded, make an order that compensation to such amount not exceeding one thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(5) Compensation awarded under sub-section (4) shall be recovered as if it were a fine imposed by a Magistrate.

(6) No person who has been directed to pay compensation under sub-section (4) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(7) The person who has been ordered under sub-section (4) to pay compensation may appeal from the order, in so far as it relates to the payment of compensation, to the High Court.

(8) When an order for payment of compensation to an accused person is made, the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

CHAPTER XIX

TRIAL OF WARRANT-CASES BY MAGISTRATES

A.—Cases instituted on a police report

238. Compliance with section 207.—When, in any warrant-case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, the Magistrate shall satisfy himself that he has complied with the provisions of section 207.

239. When accused shall be discharged.—If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

240. Framing of charge.—(1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

STATE AMENDMENT

Chhattisgarh

In sub-section (2) of section 240 of the Principal Act, after the word “to the accused” the following shall be added:—

“present either in person or through the medium of electronic video linkage in the presence of his pleader in the Court.”

[Vide Chhattisgarh Act 13 of 2006, s. 5.]

241. Conviction on plea of guilty.—If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

242. Evidence for prosecution.—(1) If the accused refuses to plead or does not plead, or claims to be tried or the Magistrate does not convict the accused under section 241, the Magistrate shall fix a date for the examination of witnesses:

¹[Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police.]

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

(3) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

243. Evidence for defence.—(1) The accused shall then be called upon to enter upon his defence and produce his evidence; and if the accused puts in any written statement, the Magistrate shall file it with the record.

(2) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or 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 and such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness

1. Ins. by Act 5 of 2009, s.19 (w.e.f. 31-12-2009).

before entering on his defence, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the ends of justice.

(3) The Magistrate may, before summoning any witness on an application under sub-section (2), require that the reasonable expenses incurred by the witness in attending for the purposes of the trial be deposited in Court.

B.—Cases instituted otherwise than on police report

244. Evidence for prosecution.—(1) When, in any warrant-case instituted otherwise than on a police report, the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution.

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

245. When accused shall be discharged.—(1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

STATE AMENDMENT

West Bengal

In section 245 of the principal Act, after sub-section (2), the following sub-section shall be inserted: —

“(3) If all the evidence referred to in section 244 are not produced in support of the prosecution within four years from the date of appearance of the accused, the Magistrate shall discharge the accused unless the prosecution satisfies the Magistrate that upon the evidence already produced and for special reasons there is ground for presuming that it shall not be in the interest of justice to discharge the accused.”.

[Vide West Bengal Act 24 of 1988, s. 5.]

246. Procedure where accused is not discharged.—(1) If, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty or has any defence to make.

(3) If the accused pleads guilty, the Magistrate shall record the plea, and may, in his discretion, convict him thereon.

(4) If the accused refuses to plead, or does not plead or claims to be tried or if the accused is not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken.

(5) If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged.

(6) The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any), they shall also be discharged.

247. Evidence for defence.—The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 243 shall apply to the case.

C.—Conclusion of trial

248. Acquittal or conviction.—(1) If, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) Where, in any case under this Chapter, the Magistrate finds the accused guilty, but does not proceed in accordance with the provisions of section 325 or section 360, he shall, after hearing the accused on the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction is charged under the provisions of sub-section (7) of section 211 and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Magistrate nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under sub-section (2).

249. Absence of complainant.—When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

250. Compensation for accusation without reasonable cause.—(1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of fine he is empowered to impose, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code (45 of 1860) shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second class to pay compensation exceeding one hundred rupees, may appeal from the order, as if such complainant or informant

had been convicted on a trial held by such Magistrate.

(7) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided; and where such order is made in a case which is not so subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

(8) The provisions of this section apply to summons-cases as well as to warrant-cases.

CHAPTER XX

TRIAL OF SUMMONS-CASES BY MAGISTRATES

251. Substance of accusation to be stated.—When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge.

STATE AMENDMENT

Chhattisgarh

In Section 251 of the Principal Act, after the word “brought before the Magistrate” the following shall be added :—

“Or appears through the medium of electronic video linkage in the presence of his pleader in the Court”.

[*Vide* Chhattisgarh Act 13 of 2006, s. 6]

252. Conviction on plea of guilty.—If the accused pleads guilty, the Magistrate shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him thereon.

253. Conviction on plea of guilty in absence of accused in petty cases.—(1) Where a summons has been issued under section 206 and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or by messenger, a letter containing his plea and also the amount of fine specified in the summons.

(2) The Magistrate may, in his discretion, convict the accused in his absence, on his plea of guilty and sentence him to pay the fine specified in the summons, and the amount transmitted by the accused shall be adjusted towards that fine, or where a pleader authorised by the accused in this behalf pleads guilty on behalf of the accused, the Magistrate shall record the plea as nearly as possible in the words used by the pleader and may, in his discretion, convict the accused on such plea and sentence him as aforesaid.

254. Procedure when not convicted.—(1) If the Magistrate does not convict the accused under section 252 or section 253, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he thinks fit, on the application of the prosecution or the accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that the reasonable expenses of the witness incurred in attending for the purposes of the trial be deposited in Court.

255. Acquittal or conviction.—(1) If the Magistrate, upon taking the evidence referred to in section 254 and such further evidence, if any, as he may, of his own motion, cause to be produced, finds the accused not guilty, he shall record an order of acquittal.

(2) Where the Magistrate does not proceed in accordance with the provisions of section 325 or section 360, he shall, if he finds the accused guilty, pass sentence upon him according to law.

(3) A Magistrate may, under section 252 or section 255, convict the accused of any offence triable under this Chapter, which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons, if the Magistrate is satisfied that the accused would not be prejudiced thereby.

256. Non-appearance or death of complainant.—(1) If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day:

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may, dispense with his attendance and proceed with the case.

(2) The provisions of sub-section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant is due to his death.

257. Withdrawal of complaint.—If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, or if there be more than one accused, against all or any of them, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused against whom the complaint is so withdrawn.

258. Power to stop proceedings in certain cases.—In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.

259. Power of Court to convert summons-cases into warrant-cases.—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, such Magistrate may proceed to re-hear the case in the manner provided by this Code for the trial of warrant-cases and may re-call any witness who may have been examined.

CHAPTER XXI SUMMARY TRIALS

260. Power to try summarily.—(1) Notwithstanding anything contained in this Code—

(a) any Chief Judicial Magistrate;

(b) any Metropolitan Magistrate;

(c) any Magistrate of the first class specially empowered in this behalf by the High Court,

may, if he thinks fit, try in a summary way all or any of the following offences:—

(i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(ii) theft, under section 379, section 380 or section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed ¹[two thousand rupees];

(iii) receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where

1. Subs. by Act 25 of 2005, s. 23, for “two hundred rupees” (w.e.f. 23-6-2006).

the value of the property does not exceed ¹[two thousand rupees];

(iv) assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed ¹[two thousand rupees];

(v) offences under sections 454 and 456 of the Indian Penal Code (45 of 1860);

(vi) insult with intent to provoke a breach of the peace, under section 504, and ¹[criminal intimidation punishable with imprisonment for a term which may extend to two years, or with fine, or with both], under section 506 of the Indian Penal Code (45 of 1860);

(vii) abetment of any of the foregoing offences;

(viii) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(ix) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871).

(2) When, in the course of a summary trial it appears to the Magistrate that the nature of the case is such that it is undesirable to try it summarily, the Magistrate shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by this Code.

261. Summary trial by Magistrate of the second class.—The High Court may confer on any Magistrate invested with the powers of a Magistrate of the second class power to try summarily any offence which is punishable only with fine or with imprisonment for a term not exceeding six months with or without fine, and any abetment of or attempt to commit any such offence.

262. Procedure for summary trials.—(1) In trials under this Chapter, the procedure specified in this Code for the trial of summons-case shall be followed except as hereinafter mentioned.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

263. Record in summary trials.—In every case tried summarily, the Magistrate shall enter, in such form as the State Government may direct, the following particulars, namely:—

(a) the serial number of the case;

(b) the date of the commission of the offence;

(c) the date of the report or complaint;

(d) the name of the complainant (if any);

(e) the name, parentage and residence of the accused;

(f) the offence complained of and the offence (if any) proved, and in cases coming under clause (ii), clause (iii) or clause (iv) of sub-section (1) of section 260, the value of the property in respect of which the offence has been committed;

(g) the plea of the accused and his examination (if any);

(h) the finding;

(i) the sentence or other final order;

(j) the date on which proceedings terminated.

264. Judgment in cases tried summarily.—In every case tried summarily in which the accused does not plead guilty, the Magistrate shall record the substance of the evidence and a judgment containing a brief statement of the

1. Subs. by Act 25 of 2005, s. 23, for “criminal intimidation” (w.e.f. 23-6-2006).

reasons for the finding.

265. Language of record and judgment.—(1) Every such record and judgment shall be written in the language of the Court.

(2) The High Court may authorise any Magistrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.

¹[CHAPTER XXIA

PLEA BARGAINING

265A. Application of the Chapter.—(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 witnesses under section 200, issued the process under section 204,

but does not apply where such offence affects the socio-economic condition of the country or has been committed against a woman, or a child below the age of fourteen years.

(2) For the purposes of sub-section (1), the Central Government shall, by notification, determine the offences under the law for the time being in force which shall be the offences affecting the socio-economic condition of the country.

265B. Application for plea bargaining.—(1) A person accused of an offence may file an 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 had been charged with the same offence.

(3) After receiving the application under sub-section (1), 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 filed 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 a Court in a case in which he had been charged with the same offence, it shall proceed further in

1. Ins. by Act 2 of 2006, s. 4 (w.e.f. 5-7-2006).

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 265B, 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, 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 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 265C, 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 this Code from the stage the application under sub-section (1) of section 265B has been filed in such case.

265E. Disposal of the case.—Where a satisfactory disposition of the case has been worked out under section 265D, 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 265D 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 Probation of Offenders Act, 1958 (20 of 1958) 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 360 or the provisions of the Probation of Offenders Act, 1958 (20 of 1958) or any other law for the time being in force are attracted in the case of the accused, it 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 finds 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. Judgment of the Court.—The Court shall deliver its judgment in terms of section 265E in the open Court and the same shall be signed by the presiding officer of the Court.

265G. Finality of the judgment.—The judgment delivered by the Court under section 265G 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) shall lie in any Court against such judgment.

265H. Power of the Court in plea bargaining.—A Court shall have, for the purposes of discharging its functions under this Chapter, all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Code.

265I. Period of detention undergone by the accused to be set off against the sentence of imprisonment.—The provisions of section 428 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.

265J. 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 provision of this Chapter.

Explanation.—For the purposes of this Chapter, the expression “Public Prosecutor” has the meaning assigned to it under clause (u) of section 2 and includes an Assistant Public Prosecutor appointed under section 25.

265K. Statements of accused not to be used.—Notwithstanding anything contained in any law for the time being in force, the statements or facts stated by an accused in an application for plea bargaining filed under section 265B shall not be used for any other purpose except for the purpose of this Chapter.

265L. Non-application of the Chapter.—Nothing in this Chapter shall apply to any juvenile or child as defined in clause (k) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000).]

CHAPTER XXII

ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

266. Definitions.—In this Chapter,—

(a) “detained” includes detained under any law providing for preventive detention;

(b) “prison” includes,—

(i) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail;

(ii) any reformatory, Borstal institution or institution of a like nature.

267. Power to require attendance of prisoners.—(1) Whenever, in the course of an inquiry, trial or proceeding under this Code, it appears to a Criminal Court,—

(a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him, or

(b) that it is necessary for the ends of justice to examine such person as a witness,

the Court may make an order requiring the officer in charge of the prison to produce such person before the Court answering to the charge or for the purpose of such proceeding or, as the case may be, for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate, to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom

it is submitted may, after considering such statement, decline to countersign the order.

268. Power of State Government to exclude certain persons from operation of section 267.—(1) The State Government may, at any time, having regard to the matters specified in sub-section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under section 267, whether before or after the order of the State Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under sub-section (1), the State Government shall have regard to the following matters, namely:—

(a) the nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;

(b) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison;

(c) the public interest, generally.

269. Officer in charge of prison to abstain from carrying out order in certain contingencies.—Where the person in respect of whom an order is made under section 267—

(a) is by reason of sickness or infirmity unfit to be removed from the prison; or

(b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

(c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or

(d) is a person to whom an order made by the State Government under section 268 applies,

the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining:

Provided that where the attendance of such person is required for giving evidence at a place not more than twenty-five kilometres distance from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in clause (b).

270. Prisoner to be brought to Court in custody.—Subject to the provisions of section 269, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 267 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained.

271. Power to issue commission for examination of witness in prison.—The provisions of this Chapter shall be without prejudice to the power of the Court to issue, under section 284, a commission for the examination, as a witness, of any person confined or detained in a prison; and the provisions of Part B of Chapter XXIII shall apply in relation to the examination on commission of any such person in the prison as they apply in relation to the examination on commission of any other person.

CHAPTER XXIII

EVIDENCE IN INQUIRIES AND TRIALS

A.—*Mode of taking and recording evidence*

272. Language of Courts.—The State Government may determine what shall be, for purposes of this Code, the language of each Court within the State other than the High Court.

273. Evidence to be taken in presence of accused.—Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader:

¹[Provided that where the evidence of a woman 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 woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.]

Explanation.—In this section, “accused” includes a person in relation to whom any proceeding under Chapter VIII has been commenced under this Code.

STATE AMENDMENT

Gujarat

In the Code of Criminal Procedure, 1973 (hereinafter referred to as “the principal Act”), in section 273, after the words “in the presence of his pleader”, the words “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” shall be added.

[*Vide* Gujarat Act 31 of 2017, sec. 2.]

274. Record in summons-cases and inquiries.—(1) In all summons-cases tried before a Magistrate, in all inquiries under sections 145 to 148 (both inclusive), and in all proceedings under section 446 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of the evidence in the language of the Court:

Provided that if the Magistrate is unable to make such memorandum himself, he shall, after recording the reason of his inability, cause such memorandum to be made in writing or from his dictation in open Court.

(2) Such memorandum shall be signed by the Magistrate and shall form part of the record.

275. Record in warrant-cases.—(1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf:

²[Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence.]

(2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative; but the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

276. Record in trial before Court of Session.—(1) In all trials before a Court of Session, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the presiding Judge himself or by his dictation in open Court, or under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

³[(2) Such evidence shall ordinarily be taken down in the form of a narrative, but the presiding Judge may, in his discretion, take down, or cause to be taken down, any part of such evidence in the form of question and answer.]

(3) The evidence so taken down shall be signed by the presiding Judge and shall form part of the record.

1. Proviso ins. by Act 13 of 2013, s. 20 (w.e.f. 3-2-2013).

2. Ins. by Act 5 of 2009, s. 20 (w.e.f. 31-12-2009)

3. Subs. by Act 45 of 1978, s. 20, for sub-section (2) (w.e.f. 18-12-1978).

277. Language of record of evidence.—In every case where evidence is taken down under section 275 or 276,—

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(b) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or presiding Judge, and shall form part of the record;

(c) where under clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or presiding Judge, and shall form part of the record:

Provided that when under clause (b) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

278. Procedure in regard to such evidence when completed.—(1) As the evidence of each witness taken under section 275 or section 276 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or presiding Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness and shall add such remarks as he thinks necessary.

(3) If the record of the evidence is in a language different from that in which it has been given and the witness does not understand that language, the record shall be interpreted to him in the language in which it was given, or in a language which he understands.

STATE AMENDMENT

Gujarat

In the principal Act, in section 278, after sub-section (3), the following sub-sections shall be added, namely: —

“(4) Nothing contained in sub-sections (1) to (3) shall apply when the evidence under section 273 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 (21 of 2000)”

[Vide Gujarat Act 31 of 2017, sec. 3.]

279. Interpretation of evidence to accused or his pleader.—(1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

280. Remarks respecting demeanour of witness.—When a presiding Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

281. Record of examination of accused.—(1) Whenever the accused is examined by a Metropolitan Magistrate, the Magistrate shall make a memorandum of the substance of the examination of the accused in the language of the Court and such memorandum shall be signed by the Magistrate and shall form part of the

record.

(2) Whenever the accused is examined by any Magistrate other than a Metropolitan Magistrate, or by a Court of Session, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full by the presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf.

(3) The record shall, if practicable, be in the language in which the accused is examined or, if that is not practicable, in the language of the Court.

(4) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(5) It shall thereafter be signed by the accused and by the Magistrate or presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(6) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

STATE AMENDMENT

Gujarat

In the principal Act, in section 281, in sub-section (6), after the words “the examination of an accused person”, the words “either through the medium of Electronic Video Linkage or” shall be inserted.

[Vide Gujarat Act 31 of 2017, sec. 4.]

282. Interpreter to be bound to interpret truthfully.—When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

283. Record in High Court.—Every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it, and such evidence and examination shall be taken down in accordance with such rule.

B.—*Commissions for the examination of witnesses*

284. When attendance of witness may be dispensed with and commission issued.—(1) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a Court or Magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter:

Provided that where the examination of the President or the Vice-President of India or the Governor of a State or the Administrator of a Union territory as a witness is necessary for the ends of Justice, a commission shall be issued for the examination of such a witness.

(2) The Court may, when issuing a commission for the examination of a witness for the prosecution, direct that such amount as the Court considers reasonable to meet the expenses of the accused, including the pleader's fees, be paid by the prosecution.

285. Commission to whom to be issued.—(1) If the witness is within the territories to which this Code extends, the commission shall be directed to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, within whose local jurisdiction the witness is to be found.

(2) If the witness is in India, but in a State or an area to which this Code does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification, specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission as the Central Government may, by notification, prescribe in this behalf.

286. Execution of commissions.—Upon receipt of the commission, the Chief Metropolitan Magistrate, or Chief Judicial Magistrate or such Metropolitan or Judicial Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials or warrant-cases under this Code.

287. Parties may examine witnesses.—(1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Court or Magistrate directing the commission may think relevant to the issue, and it shall be lawful for the Magistrate, Court or officer to whom the commission, is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such magistrate, Court or Officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

288. Return of commission.—(1) After any commission issued under section 284 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court or Magistrate issuing the commission; and the commission, the return thereto and the deposition shall be 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 Indian Evidence Act, 1872 (1 of 1872), may also be received in evidence at any subsequent stage of the case before another Court.

289. Adjournment of proceeding.—In every case in which a commission is issued under section 284, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

290. Execution of foreign commissions.—(1) The provisions of section 286 and so much of section 287 and section 288 as relate to the execution of a commission and its return shall apply in respect of commissions issued by any of the Courts, Judges or Magistrates hereinafter mentioned as they apply to commissions issued under section 284.

(2) The Courts, Judges and Magistrates referred to in sub-section (1) are—

(a) any such Court, Judge or Magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification, specify in this behalf;

(b) any Court, Judge or Magistrate exercising jurisdiction in any such country or place outside India, as the Central Government may, by notification, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters.

291. Deposition of medical witness.—(1) The deposition of civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in

evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition.

STATE AMENDMENT

Gujarat

In the principal Act, in section 291, in sub-section (1), after the words “in the presence of accused”, the words “or, as the case may be through the medium of Electronic Video Linkage” shall be inserted.

[*Vide Gujarat Act 31 of 2017, sec. 5.*]

¹**[291A. Identification report of Magistrate.]**—(1) Any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property may be used as evidence in any inquiry, trial or other proceeding under this Code, although such Magistrate is not called as a witness:

Provided that where such report contains a statement of any suspect or witness to which the provisions of section 21, section 32, section 33, section 155 or section 157, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), apply, such statement shall not be used under this sub-section except in accordance with the provisions of those sections.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or of the accused, summon and examine such Magistrate as to the subject-matter of the said report.]

292. Evidence of officers of the Mint.—(1) Any document purporting to be a report under the hand of any such ²[officer of any Mint or of any Note Printing Press or of any Security Printing Press (including the officer of the Controller of Stamps and Stationery) or of any Forensic Department or Division of Forensic Science Laboratory or any Government Examiner of Questioned Documents or any State Examiner of Questioned Documents, as the case may be,] as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code, although such officer is not called as a witness.

(2) The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

(3) Without prejudice to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), no such officer shall, ²[except with the permission of the General Manager or any officer in charge of any Mint or of any Note Printing Press or of any Security Printing Press or of any Forensic Department or any officer in charge of the Forensic Science Laboratory or of the Government Examiner of Questioned Documents Organisation or of the State Examiner of Questioned Documents Organisation, as the case may be,] be permitted—

(a) to give any evidence derived from any unpublished official records on which the report is based; or

(b) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

293. Reports of certain Government scientific experts.—(1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

1. Ins. by Act 25 of 2005, s. 24 (w.e.f. 23-6-2006).

2. Subs. by Act 2 of 2006, s. 5, for certain words (w.e.f. 16-4-2006).

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court, and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:—

(a) any Chemical Examiner or Assistant Chemical Examiner to Government;

¹[(b) the Chief Controller of Explosives;]

(c) the Director of the Finger Print Bureau;

(d) the Director, Haffkine Institute, Bombay;

(e) the Director ²[, Deputy Director or Assistant Director] of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;

(f) the Serologist to the Government;

³[(g) any other Government scientific expert specified, by notification, by the Central Government for this purpose.]

294. No formal proof of certain documents.—(1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused, as the case may be, or the pleader for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document.

(2) The list of documents shall be in such form as be prescribed by the State Government.

(3) Where the genuineness of any document is not disputed, such document may be read in evidence in inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.

295. Affidavit in proof of conduct of public servants.—When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

296. Evidence of formal character on affidavit.—(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.

297. Authorities before whom affidavits may be sworn.—(1) Affidavits to be used before any Court under this Code may be sworn or affirmed before—

⁴[(a) any Judge or Judicial or Executive Magistrate, or]

(b) any Commissioner of Oaths appointed by a High Court or Court of Session, or

(c) any notary appointed under the Notaries Act, 1952 (53 of 1952).

(2) Affidavits shall be confined to, and shall state separately, such facts as the deponent is able to prove from his

1. Subs. by Act 25 of 2005, s. 26, for cl. (b) (w.e.f. 23-6-2006).

2. Ins. by Act 45 of 1978, s. 21 (w.e.f. 18-12-1978).

3. Ins. by Act 25 of 2005, s. 26 (w.e.f. 23-6-2006).

4. Subs. by Act 45 of 1978, s. 22, for cl. (a) (w.e.f. 18-12-1978).

own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

(3) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.

298. Previous conviction or acquittal how proved.—In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was held, to be a copy of the sentence or order, or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the Jail in which the punishment or any part thereof was undergone, or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

299. Record of evidence in absence of accused.—(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 ¹[, or commit for trial,] such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

300. Person once convicted or acquitted not to be tried for same offence.—(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted 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

1. Ins. by Act 45 of 1978, s. 23 (w.e.f. 18-12-1978).

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) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897) or of section 188 of this Code.

Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Illustrations

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(c) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(d) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within sub-section (3) of this section.

(e) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may subsequently be charged with, and tried for, robbery on the same facts.

(f) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

301. Appearance by Public Prosecutors.—(1) The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

(2) If in any such case any private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case.

STATE AMENDMENT

West Bengal

For sub-section (1) of section 301 of the principal Act, the following sub-sections shall be substituted:—

“(1) (a) The Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

(b) The Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry or trial.”.

[Vide West Bengal Act 26 of 1990, s. 4.]

302. Permission to conduct prosecution.—(1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of inspector; but no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor,

shall be entitled to do so without such permission:

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) Any person conducting the prosecution may do so personally or by a pleader.

303. Right of person against whom proceedings are instituted to be defended.—Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.

304. Legal aid to accused at State expense in certain cases.—(1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government, make rules providing for—

(a) the mode of selecting pleaders for defence under sub-section (1);

(b) the facilities to be allowed to such pleaders by the Courts;

(c) the fees payable to such pleaders by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Session.

305. Procedure when corporation or registered society is an accused.—(1) In this section, “corporation” means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860 (21 of 1860).

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation.

(3) Where a representative of a corporation appears, any requirement of this Code that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall be examined.

(4) Where a representative of a corporation does not appear, any such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the managing director of the corporation or by any person (by whatever name called) having, or being one of the persons having the management of the affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, is filed, the Court shall, unless the contrary is proved, presume that such person has been so appointed.

(6) If a question arises as to whether any person, appearing as the representative of a corporation in an inquiry or trial before a Court is or is not such representative, the question shall be determined by the Court.

306. Tender of pardon to accomplice.—(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial

Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to—

(a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952);

(b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record—

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)—

(a) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) shall, unless he is already on bail, be detained in custody until the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case—

(a) commit it for trial—

(i) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

(ii) to a Court of Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952), if the offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

307. Power to direct tender of pardon.—At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

308. Trial of person not complying with conditions of pardon.—(1) Where, in regard to a person who has accepted a tender of pardon made under section 306 or section 307, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 195 or section 340 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 164 or by a Court under sub-section (4) of section 306 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Court shall—

(a) if it is a Court of Session, before the charge is read out and explained to the accused;

(b) if it is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall, notwithstanding anything contained in this Code, pass judgment of acquittal.

309. Power to postpone or adjourn proceedings.—¹[(1) In every inquiry or trial the proceedings 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:

Provided that when the inquiry or trial relates to an offence under section 376, ²[section 376A, section 376AB, , section 376B, section 376C, section 376D, section 376DA or section DB of the Indian Penal Code (45 of 1860), the inquiry or trial shall] be completed within a period of two months from the date of filing of the charge sheet.]

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

³[Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.]

⁴[Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond

1. Subs. by Act 13 of 2013, s. 21, for sub-section (1) (w.e.f. 3-2-2013).

2. Subs. by Act 22 of 2018, s. 16, for “section 376A, section 376B, section 376C, section 376D” (w.e.f. 21-4-2018).

3. Ins. by Act 45 of 1978, s. 24 (w.e.f. 18-12-1978).

4. Ins. by Act 5 of 2009, s. 21 (w.e.f. 1-11-2010).

the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

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

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

STATE AMENDMENT

Chhattisgarh

In proviso to sub-section (1) of Section 309 of the Code, for the words, figures and letters “section 376, section 376A, section 376B, section 376C or section 376D”, the words, figures and letters “section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376B, section 376C, section 376D, section 376E, section 376F, section 509, section 509A or section 509B” shall be substituted.

[*Vide* Chhattisgarh Act 25 of 2015, s. 11.]

Maharashtra

In section 309 of the Code of Criminal Procedure, 1973 (2 of 1974), in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the Code of Criminal Procedure”), after the existing proviso, the following proviso shall be added, namely:—

“Provided further that, when the enquiry or trial relates to an offence under section 332 or 333 (45 of 1860) of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of six months from the date of filing of the charge sheet”.

[*Vide* Maharashtra Act, 40 of 2018, s. 4.]

310. Local inspection.—(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place in which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost.

311. Power to summon material witness, or examine person present.—Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

¹[**311A. Power of Magistrate to order person to give specimen signatures or handwriting.**—If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:

Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.]

312. Expenses of complainants and witnesses.—Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of the Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

313. Power to examine the accused.—(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court—

(a) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

(b) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case:

Provided that in a summons-case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

²[(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section.]

314. Oral arguments and memorandum of arguments.—(1) Any party to a proceeding may, as soon as may be, after the close of his evidence, address concise oral arguments, and may, before he concludes the oral arguments, if any, submit a memorandum to the Court setting forth concisely and under distinct headings, the arguments in support of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party.

(3) No adjournment of the proceedings shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The Court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments.

315. Accused person to be competent witness.—(1) Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(a) he shall not be called as a witness except on his own request in writing;

1. Ins. by Act 25 of 2005, s. 27 (w.e.f. 23-6-2006).

2. Ins. by Act 5 of 2009, s. 22 (w.e.f. 31-12-2009).

(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 that the same trial.

(2) Any person against whom proceedings are instituted in any Criminal Court under section 98, or section 107 or section 108, or section 109, or section 110, or under Chapter IX or under Part B, Part C or Part D of Chapter X, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 108, section 109, or section 110, the failure of such person to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against him or any other person proceeded against together with him at the same inquiry.

316. No influence to be used to induce disclosure.—Except as provided in sections 306 and 307, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

317. Provision for inquiries and trial being held in the absence of accused in certain cases.—(1) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

STATE AMENDMENT

Gujarat

In the principal Act, to section 317, the following Explanation shall be added, namely: —

“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 273.”.

[Vide Gujarat Act 31 of 2017, s. 6.]

318. Procedure where accused does not understand proceedings.—If the accused, though not of unsound mind, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

319. Power to proceed against other persons appearing to be guilty of offence.—(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then—

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

320. Compounding of offences.—(1) The offences punishable under the sections of the Indian Penal Code (45 of 1860) 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:—

¹[TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Voluntarily causing hurt.	323	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	334	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Wrongfully confining a person for three days or more	343	The person confined.
Wrongfully confining a person for ten days or more.	344	Ditto.
Wrongfully confining a person in secret.	346	The person confined.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Theft.	379	The owner of the property stolen.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	407	The owner of the property in respect of which the breach of trust has been committed.
Dishonestly receiving stolen property knowing it to be stolen.	411	The owner of the property stolen.

1. Subs. by Act 5 of 2009, s. 23, for the TABLE (w.e.f. 31-12-2009).

1	2	3
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	414	Ditto.
Cheating.	417	The person cheated.
Cheating by personation.	419	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
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.
Mischief by killing or maiming animal.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc.	429	The owner of the cattle or animal.
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	430	The person to whom the loss or damage is caused.

1	2	3
Criminal trespass.	447	The person in possession of the property trespassed upon.
House-trespass.	448	Ditto.
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 or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	Ditto.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Criminal breach of contract of service.	491	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	The husband of the woman and the woman
Defamation, except such cases as are specified against section 500 of the Indian Penal Code (45 of 1860) in column 1 of the Table under sub-section (2).	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	Ditto.
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation.	506	The person intimidated.
Inducing person to believe himself an object of divine displeasure.	508	The person induced.]

(2) The offences punishable under the sections of the Indian Penal Code (45 of 1860) 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:—

¹[TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Causing miscarriage.	312	The woman to whom miscarriage is caused .
Voluntarily causing grievous hurt.	325	The person to whom hurt is caused.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Assault or criminal force in attempt- ing wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	381	The owner of the property stolen.
Criminal breach of trust	406	The owner of property in respect of which breach of trust has been committed.
Criminal breach of trust by a clerk or servant.	408	The owner of the property in respect of which the breach of trust has been committed.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	The person cheated.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.

1. Subs. by Act 5 of 2009, s. 23, for TABLE (w.e.f. 31-12-2009).

1	2	3
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory or a Minister in respect of his public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.]

¹[(3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under section 34 or 149 of the Indian Penal Code (45 of 1860) may be compounded in like manner.]

(4) (a) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to contract on his behalf may, with the permission of the Court, compound such offence.

(b) When the person who would otherwise be competent to compound an offence under this section is dead, the legal representative, as defined in the Code of Civil Procedure, 1908 (5 of 1908) of such person may, with the consent of the Court, compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.

(7) No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence.

(8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(9) No offence shall be compounded except as provided by this section.

STATE AMENDMENT

Madhya Pradesh

Amendment of Section 320.—In the table below sub-section (2) of Section 320 of the principal Act,-

1. Subs. by Act 5 of 2009, s. 23, for sub-section (3) (w.e.f. 31-12-2009).

(i) in column first, second and third, before section 324 and entries relating thereto, the following sections and entries relating thereto shall be inserted, namely:—

“(1)”	(2)	(3)
Rioting	147	The person against whom the force or violence is used at the time of committing an offence:
		Provided that the accused is not charged with other offence which is not compoundable.
Rioting armed with deadly weapon	148	The person against whom the force or violence is used at the time of committing an offence:
		Provided that the accused is not charged with other offence which is not compoundable.
Obscene acts or use of obscene words	294	The person against whom obscene acts were done or obscene words were used.”.

(ii) in column first, second and third, after section 500 and entries relating thereto, the following section and entries relating thereto shall be inserted, namely:—

“(1)”	(2)	(3)
Criminal intimidation if threat to be caused death or grievous hurt, etc.	Part II of Section 506	The person against whom the offence of Criminal Intimidation was committed.”.

[Vide Madhya Pradesh 17 of 1999, s. 3.]

321. Withdrawal from prosecution.—The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and, upon such withdrawal,—

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences:

Provided that where such offence—

(i) was against any law relating to a matter to which the executive power of the Union extends, or

(ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or

(iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

and the Prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the

prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution.

322. Procedure in cases which Magistrate cannot dispose of.—(1) If, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption—

(a) that he has no jurisdiction to try the case or commit it for trial, or

(b) that the case is one which should be tried or committed for trial by some other Magistrate in the district,
or

(c) that the case should be tried by the Chief Judicial Magistrate, he shall stay the proceedings and submit the case, with a brief report explaining its nature, to the Chief Judicial Magistrate or to such other Magistrate, having jurisdiction, as the Chief Judicial Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

323. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.—If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing the judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained ¹[and thereupon the provisions of Chapter XVIII shall apply to the commitment so made].

324. Trial of persons previously convicted of offences against coinage, stamp-law or property.— (1) Where a person, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code (45 of 1860), with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, and the Magistrate before whom the case is pending is satisfied that there is ground for presuming that such person has committed the offence, he shall be sent for trial to the Chief Judicial Magistrate or committed to the Court of Session, unless the Magistrate is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial Magistrate or committed to the Court of Session under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly sent or committed, unless the Magistrate discharges such other person under section 239 or section 245, as the case may be.

325. Procedure when Magistrate cannot pass sentence sufficiently severe.—(1) Whenever a Magistrate is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or, being a Magistrate of the second class, is of opinion that the accused ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the Chief Judicial Magistrate to whom he is subordinate.

(2) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1), in regard to any of such accused, he shall forward all the accused, who are in his opinion guilty, to the Chief Judicial Magistrate.

1. Ins. by Act 45 of 1978, s. 26 (w.e.f. 18-12-1978).

(3) The Chief Judicial Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence and shall pass such judgment, sentence or order in the case as he thinks fit, and is according to law.

326. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.—¹(1) Whenever any ¹[Judge or Magistrate], after having heard and recorded the whole or any part of the evidence in any enquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another ¹[Judge or Magistrate] who has and who exercises such jurisdiction, the ¹[Judge or Magistrate] so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself:

Provided that if the succeeding ¹[Judge or Magistrate] is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of Justice, he may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged.

(2) When a case is transferred under the provisions of this Code ²[from one judge to another Judge or from one Magistrate to another Magistrate], the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter, within the meaning of sub-section (1).

(3) Nothing in this section applies to summary trials or to cases in which proceedings have been stayed under section 322 or in which proceedings have been submitted to a superior Magistrate under section 325.

327. Court to be open.—³[(1)] The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open 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.

⁴[(2) Notwithstanding anything contained in sub- section (1), the inquiry into and trial of rape or an offence under section 376, ⁵[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB] section 376E of the Indian Penal Code (45 of 1860)] 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:

⁶[Provided further that *in camera* trial shall be conducted as far as practicable by a woman Judge or Magistrate.]

(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:]

⁶[Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.]

1. Subs. by Act 45 of 1978, s. 27, for “Magistrate” (w.e.f. 18-12-1978).

2. Subs. by s. 27, *ibid.*, for “from one Magistrate to another Magistrate”(w.e.f. 18-12-1978).

3. S. 327 renumbered as sub-section (1) thereof by Act 43 of 1983, s. 4 (w.e.f. 25-12-1983).

4. Ins. by Act 43 of 1983, s. 4 (w.e.f. 25-12-1978).

5. Subs. by Act 22 of 2018, s. 17, for “section 376A, section 376B, section 376C section 376D” (w.e.f. 21-4-2018).

6. Ins. by Act 5 of 2009, s. 24 (w.e.f. 31-12-2009).

STATE AMENDMENT

Chhattisgarh

In sub-section (2) of the section 327 of the Code, for the words, figures and letters “or an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code”, the words, figures, letters and punctuations “sexual harassment, outraging modesty of woman or an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376B, section 376C, section 376D, section 376E, section 376F, section 509, section 509A or section 509B of the Indian Penal Code” shall be substituted.

[*Vide* Chhattisgarh Act 25 of 2015, s. 12.]

CHAPTER XXV

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

328. Procedure in case of accused being lunatic.—(1) When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness of mind, and shall cause such person to be examined by the civil surgeon of the district or such other medical officer as the State Government may direct, and thereupon shall examine such surgeon or other officer as a witness, and shall reduce the examination to writing.

¹[(1A) If the civil surgeon finds the accused to be of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist for care, treatment and prognosis of the condition and the psychiatrist or clinical psychologist, as the case may be, shall inform the Magistrate whether the accused is suffering from unsoundness of mind or mental retardation:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.]

(2) Pending such examination and inquiry, the Magistrate may deal with such person in accordance with the provisions of section 330.

²[(3) If such Magistrate is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate shall further determine whether the unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate shall record a finding to that effect, and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if he finds that no *prima facie* case is made out against the accused, he shall, instead of postponing the enquiry, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the proceeding for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused, and order the accused to be dealt with as provided under section 330.

(4) If such Magistrate is informed that the person referred to in sub-section (1A) is a person with mental

1. Ins. by Act 5 of 2009, s. 25, (w.e.f. 31-12-2009).

2. Subs. by s. 25, *ibid.*, for sub-section (3) (w.e.f. 31-12-2009).

retardation, the Magistrate shall further determine whether the mental retardation renders the accused incapable of entering defence, and if the accused is found so incapable, the Magistrate shall order closure of the inquiry and deal with the accused in the manner provided under section 330.]

329. Procedure in case of person of unsound mind tried before Court.—(1) If at the trial of any person before a Magistrate or Court of Session, it appears to the Magistrate or Court that such person is of unsound mind and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

¹[(1A) If during trial, the Magistrate or Court of Sessions finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.]

²[(2) If such Magistrate or Court is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate or Court shall further determine whether unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no *prima facie* case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate or Court finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(3) If the Magistrate or Court finds that a *prima facie* case is made out against the accused and he is incapable of entering defence by reason of mental retardation, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 330.]

³[**330. Release of person of unsound mind pending investigation or trial.**—(1) Whenever a person is found under section 328 or section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be shall, whether the case is one in which bail may be taken or not, order release of such person on bail:

Provided that the accused is suffering from unsoundness of mind or mental retardation which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Health Act, 1987 (14 of 1987).

(3) Whenever a person is found under section 328 or section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or mental retardation, further determine if the release of the accused can be ordered:

1. Ins. by Act 5 of 2009, s. 26 (w.e.f. 31-12-2009)

2. Subs. by s. 26, *ibid.*, for sub-section (2), (w.e.f. 31-12-2009).

3. Subs. by s. 27, *ibid.*, for section 330 (w.e.f. 31-12-2009).

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be, decide to order discharge of the accused, as provided under section 328 or section 329, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person;

(b) if the Magistrate or Court, as the case may be, is of opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons of unsound mind or mental retardation may be ordered wherein the accused may be provided care and appropriate education and training.]

331. Resumption of inquiry or trial.—(1) Whenever an inquiry or a trial is postponed under section 328 or section 329, the Magistrate or Court, as the case may be, may at any time after the person concerned has ceased to be of unsound mind, resume the inquiry or trial and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 330, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

332. Procedure on accused appearing before Magistrate or Court.—(1) If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall act according to the provisions of section 328 or section 329, as the case may be, and if the accused is found to be of unsound mind and consequently incapable making his defence, shall deal with such accused in accordance with the provisions of section 330.

333. When accused appears to have been of sound mind.—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 tried by the Court of Session, commit him for trial before the Court of Session.

334. Judgment of acquittal on ground of unsoundness of mind.—Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

335. Person acquitted on such ground to be detained in safe custody.—(1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence,—

(a) order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit; or

(b) order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a lunatic asylum shall be made under clause (a) of sub-section (1) otherwise than in accordance with such rules as the State Government may have made under the Indian Lunacy Act, 1912 (4 of 1912).

(3) No order for the delivery of the accused to a relative or friend shall be made under clause (b) of sub-section (1) except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or Court that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct.

(4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

336. Power of State Government to empower officer-in-charge to discharge.—The State Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 330 or section 335 to discharge all or any of the functions of the Inspector-General of Prisons under section 337 or section 338.

337. Procedure where lunatic prisoner is reported capable of making his defence.—If such person is detained under the provisions of sub-section (2) of section 330, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum, or any two of them shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 332; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

338. Procedure where lunatic detained is declared fit to be released.—(1) If such person is detained under the provisions of sub-section (2) of section 330, or section 335, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the State Government may thereupon order him to be released, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a Judicial and two medical officers.

(2) Such Commission shall make a formal inquiry into the state of mind of such person, take such evidence as is necessary, and shall report to the State Government, which may order his release or detention as it thinks fit.

339. Delivery of lunatic to care of relative or friend.—(1) Whenever any relative or friend of any person detained under the provisions of section 330 or section 335 desires that he shall be delivered to his care and custody, the State Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such State Government, that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct;

(c) in the case of a person detained under sub-section (2) of section 330, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence, the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in clause (b) of sub-section (1), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production the Magistrate or Court shall proceed in accordance with the provisions of section 332, and the certificate of the inspecting officer shall be receivable as evidence.

CHAPTER XXVI

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

340. Procedure in cases mentioned in section 195.—(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of Justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence

in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed,—

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

¹[(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.]

(4) In this section, “Court” has the same meaning as in section 195.

341. Appeal.—(1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 340, and, if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section, and subject to any such order, an order under section 340, shall be final, and shall not be subject to revision.

342. Power to order costs.—Any Court dealing with an application made to it for filing a complaint under section 340 or an appeal under section 341, shall have power to make such order as to costs as may be just.

343. Procedure of Magistrate taking cognizance.—(1) A Magistrate to whom a complaint is made under section 340 or section 341 shall, notwithstanding anything contained in Chapter XV, proceed, as far as may be, to deal with the case as if it were instituted on a police report.

(2) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage, adjourn the hearing of the case until such appeal is decided.

344. Summary procedure for trial for giving false evidence.—(1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding, a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, it or he may, if satisfied that it is necessary and expedient in the interest of justice that the witness should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the

1. Subs. by Act 2 of 2006, s. 6, for clause (b) (w.e.f. 16-4-2006).

offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or with both.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

(3) Nothing in this section shall affect the power of the Court to make a complaint under section 340 for the offence, where it does not choose to proceed under this section.

(4) Where, after any action is initiated under sub-section (1), it is made to appear to the Court of Session or Magistrate of the first class that an appeal or an application for revision has been preferred or filed against the judgment or order in which the opinion referred to in that sub-section has been expressed, it or he shall stay further proceedings of the trial until the disposal of the appeal or the application for revision, as the case may be, and thereupon the further proceedings of the trial shall abide by the results of the appeal or application for revision.

345. Procedure in certain cases of contempt.—(1) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender to be detained in custody, and may, at any time before the rising of the Court or the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the fact constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal Code (45 of 1860), the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

346. Procedure where Court considers that case should not be dealt with under section 345.—(1) If the Court in any case considers that a person accused of any of the offences referred to in section 345 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 345, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police report.

347. When Registrar or Sub-Registrar to be deemed a Civil Court.—When the State Government so directs, any Registrar or any Sub-Registrar appointed under the ^{1***} Registration Act, 1908 (16 of 1908), shall be deemed to be a Civil Court within the meaning of sections 345 and 346.

348. Discharge of offender on submission of apology.—When any Court has under section 345 adjudged an offender to punishment, or has under section 346 forwarded him to a Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

349. Imprisonment or committal of person refusing to answer or 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

1. The word "Indian" omitted by Act 56 of 1974, s. 3 and the Second Schedule (w.e.f. 20-12-1974).

does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 345 or section 346.

350. Summary procedure for punishment for non-attendance by a witness in obedience to summons.—*(1)*

If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interest of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

351. Appeals from convictions under sections 344, 345, 349 and 350.—*(1)* Any person sentenced by any Court other than a High Court under section 344, section 345, section 349, or section 350 may, notwithstanding anything contained in this Code appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXIX shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any Registrar or Sub-Registrar deemed to be a Civil Court by virtue of a direction issued under section 347 shall lie to the Court of Session for the sessions division within which the office of such Registrar or Sub-Registrar is situate.

352. Certain Judges and Magistrates not to try certain offences when committed before themselves.—

Except as provided in sections 344, 345, 349 and 350, no Judge of a Criminal Court (other than a Judge of a High Court) or Magistrate shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

CHAPTER XXVII

THE JUDGMENT

353. Judgment.—*(1)* The judgment in every trial in any Criminal Court or original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders,—

(a) by delivering the whole of the judgment; or

(b) by reading out the whole of the judgment; or

(c) by reading out the operative part of the judgment and explaining the substance of the judgment in a language which is understood by the accused or his pleader.

(2) Where the judgment is delivered under clause *(a)* of sub-section *(1)*, the presiding officer shall cause it to be taken down in short-hand, sign the transcript and every page thereof as soon as it is made ready, and write on it the date of the delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out under clause (b) or clause (c) of sub-section (1), as the case may be, it shall be dated and signed by the presiding officer in open Court, and if it is not written with his own hand, every page of the judgment shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in clause (c) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their pleaders free of cost.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced.

(6) If the accused is not in custody, he shall be required by the Court to attend to hear the judgment pronounced, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted:

Provided that, where there are more accused than one, and one or more of them do not attend the Court on the date on which the judgment is to be pronounced, the presiding officer may, in order to avoid undue delay in the disposal of the case, pronounce the judgment notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(8) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 465.

354. Language and contents of judgment.—(1) Except as otherwise expressly provided by this Code, every judgment referred to in section 353,—

(a) shall be written in the language of the Court;

(b) shall contain the point or points for determination, the decision thereon and the reasons for the decision;

(c) shall specify the offence (if any) of which, and the section of the Indian Penal Code (45 of 1860) or other law under which, the accused is convicted, and the punishment to which he is sentenced;

(d) if it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(2) When the conviction is under the Indian Penal Code (45 of 1860) and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Code.

(5) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(6) Every order under section 117 or sub-section (2) of section 138 and every final order made under section 125, section 145 or section 147 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

355. Metropolitan Magistrate's judgment.—Instead of recording a judgment in the manner hereinbefore provided, a Metropolitan Magistrate shall record the following particulars, namely:—

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the name of the complainant (if any);
- (d) the name of the accused person, and his parentage and residence;
- (e) the offence complained of or proved;
- (f) the plea of the accused and his examination (if any);
- (g) the final order;
- (h) the date of such order;
- (i) in all cases in which an appeal lies from the final order either under section 373 or under sub-section (3) of section 374, a brief statement of the reasons for the decision.

356. Order for notifying address of previously convicted offender.—(1) When any person, having been convicted by a Court in India of an offence punishable under section 215, section 489A, section 489B, section 489C or section 489D ¹[or section 506 (in so far as it relates to criminal intimidation punishable with imprisonment for a term which may extend to seven years, or with fine, or with both)] of the Indian Penal Code (45 of 1860), or of any offence punishable under Chapter XII ¹[or Chapter XVI] or Chapter XVII of that Code, with imprisonment for a term of three years, or upwards, is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by any Court other than that of a Magistrate of the second class, such Court may, if it thinks fit, at the time of passing a sentence of imprisonment on such person, also order that his residence and any change of, or absence from, such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) The provisions of sub-section (1) with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abatement of such offences and attempts to commit them.

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) The State Government may, by notification, make rules to carry out the provisions of this section relating to the notification of residence or change of, or absence from, residence by released convicts.

(6) Such rules may provide for punishment for the breach thereof and any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated.

357. Order to pay compensation.—(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

- (a) in defraying the expenses of properly incurred in the prosecution;

1. Ins. by Act 25 of 2005, s. 29 (w.e.f. 23-6-2006).

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bona fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

STATE AMENDMENTS

Karnataka

Amendments of section 357. —

In section 357 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974).—

(1) In section 357, in sub-section (1), after the words “the Court may” the brackets, figures and words “and where the person against whom an offence is committed belongs to a Scheduled Caste or a Scheduled Tribe as defined in clauses (24) and (25) of Article 366 of the Constitution and the accused person doesn’t belong to a Scheduled Caste or a Scheduled Tribe the Court shall”, shall be inserted:

(2) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) When a Court imposes a sentence of which the fine does not form a part, the Court may, and where a person against whom an offence is committed belongs to a Scheduled Caste or a Scheduled Tribe as defined in clauses (24) and (25) of article 366 of the Constitution and the accused person does not belong to a Scheduled Caste or a Scheduled Tribe, the Court shall, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced”.

[Vide Karnataka Act 27 of 1987, s. 2].

Madhya Pradesh

Amendment of section 357.—In section 357 of the Principal Act, —

(i) In sub-section (1), for the brackets, figure and words “(1) When a Court imposes a sentence of fine

or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied” the brackets, figure and words “(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, and where a person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes as defined in clauses (24) and (25) and of Article 366 of the Constitution except when both the accused person and the person against whom an offence is committed belong either to such Castes or Tribes, the Court shall, when passing judgment, order the whole or any part of the fine recovered to be applied—” shall be substituted; and

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) When Court imposes a sentence, of which fine does not form a part, the Court may, and where a person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes as defined in clauses (24) and (25) of Article 366 of the Constitution, the Court shall when passing judgment order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced:

“Provided that the Court may not order the accused person to pay by way of compensation any amount if both the accused person and the person against whom an offence is committed belong either to the Scheduled Castes or the Scheduled Tribes.”

[*Vide* Madhya Pradesh Act 29 of 1978, s. 3.]

West Bengal

In section 357 of the principal Act,—

(a) In sub-section (1), for the words and brackets “When a Court imposes a sentence of fine or a sentence including a (sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—”, the words and brackets “When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, and where the person against whom an offence has been committed belongs to Scheduled Castes or Scheduled Tribes, except when both the accused person and the person against whom an offence has been committed belong either to Scheduled Castes or to Scheduled Tribes shall, when passing judgment, order the whole or any part of the fine recovered to be applied—” shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, and where the person against whom an offence has been committed belongs to Scheduled Castes or Scheduled Tribes, shall, when passing judgment order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced:

Provided that the Court may not order the accused person to pay by way of compensation, any amount if both the accused person and the person against whom an offence has been committed belong either to Scheduled Castes or to Scheduled Tribes.”;

(c) after sub-section (5), the following Explanation shall be inserted:—

‘*Explanation.*—For the purposes of the section the expression “Scheduled Castes” and “Scheduled Tribes” shall have the meaning respectively assigned to them in clauses (24) and (25) of Article 366 of the Constitution of India.’.

[*Vide* West Bengal Act 33 of 1985, s. 3.]

¹[**357A. Victim compensation scheme.**—(1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.]

²[**357B. Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.**—The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim ³[under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code (45 of 1860)].

357C. Treatment of victims.—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, ⁴[376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860), and shall immediately inform the police of such incident.]

358. Compensation to persons groundlessly arrested.—(1) Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding ⁵[one thousand rupees], to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding ⁵[one thousand rupees], as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

359. Order to pay costs in non-cognizable cases.—(1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witnesses and pleader's fees which the Court may consider reasonable.

(2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

360. Order to release on probation of good conduct or after admonition.—(1) When any person not under

1. Ins. by Act 5 of 2009, s. 28 (w.e.f. 31-12-2009).

2. Ins. by Act 13 of 2013, s. 23 (w.e.f. 3-2-2013).

3. Subs. by Act 22 of 2018, s. 18, for “under section 326A or section 376D of the Indian Penal Code (45 of 1860)” (w.e.f. 21-4-2018).

4. Subs. by s. 19, *ibid.*, for “376A, 376B, 376C, 376D” (w.e.f. 21-4-2018).

5. Subs. by Act 25 of 2005, s. 30, for “one hundred rupees” (w.e.f. 23-6-2006).

twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code (45 of 1860), punishable with not more than two years, imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

(7) The Court, before directing the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

(10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958 (20 of 1958), or the Children Act, 1960 (60 of 1960) or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

361. Special reasons to be recorded in certain cases.—Where in any case the Court could have dealt with,—

(a) an accused person under section 360 or under the provisions of the Probation of Offenders Act, 1958 (20 of 1958); or

(b) a youthful offender under the Children Act, 1960 (60 of 1960) or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders,

but has not done so, it shall record in its judgment the special reasons for not having done so.

362. Court not to alter judgment.—Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

363. Copy of judgment to be given to the accused and other persons.—(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 117 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

(5) Save as otherwise provided in sub-section (2), any person affected by a judgment or order passed by a Criminal Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or of any deposition or other part of the record:

Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost.

(6) The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.

STATE AMENDMENT

Karnataka

Amendment of section 363.— In section 363 of the Code of Criminal Procedure, 1973 (Central Act of 1974), after the proviso to sub-section (5), the following proviso shall be inserted, namely:—

“Provided further that the State shall, on an application made in this behalf by the Prosecuting Officer be given, free of cost, a certified copy of such judgement, order, deposition or record with the prescribed endorsement”.

[Vide Karnataka Act 19 of 1985, s. 2.]

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

365. Court of Session to send copy of finding and sentence to District Magistrate.—In cases tried by the Court

of Session or a Chief Judicial Magistrate, the Court or such Magistrate, as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.

CHAPTER XXVIII

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

366. Sentence of death to be submitted by Court of Session for confirmation.—(1) When the Court of Session passes a sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

(2) The Court passing the sentence shall commit the convicted person to jail custody under a warrant.

367. Power to direct further inquiry to be made or additional evidence to be taken.—(1) If, when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.

(3) When the inquiry or evidence (if any) is not made or taken by the High Court, the result of such inquiry or evidence shall be certified to such Court.

368. Power of High Court to confirm sentence or annul conviction.—In any case submitted under section 366, the High Court—

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Court of Session might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

369. Confirmation or new sentence to be signed by two Judges.—In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

370. Procedure in case of difference of opinion.—Where any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case shall be decided in the manner provided by section 392.

371. Procedure in cases submitted to High Court for confirmation.—In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

CHAPTER XXIX

APPEALS

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

¹[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]

373. Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.—Any person,—

(i) who has been ordered under section 117 to give security for keeping the peace or for good behaviour, or

(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 121,

may appeal against such order to the Court of Session:

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 122.

374. Appeals from convictions.—(1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other court in which a sentence of imprisonment for more than seven years ²[has been passed against him or against any other person convicted at the same trial], may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person,—

(a) convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class, or of the second class, or

(b) sentenced under section 325, or

(c) in respect of whom an order has been made or a sentence has been passed under section 360 by any Magistrate,

may appeal to the Court of Session.

³[(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860), the appeal shall be disposed of within a period of six months from the date of filing of such appeal.]

STATE AMENDMENT

Assam

In Section 374 of the Code, in clause (a) of sub-section (3), for the words “Magistrate of the first class, or of the second class,” the words “Magistrate of the first class, Executive Magistrate or a Magistrate of the second class,” shall be substituted.

[Vide Assam Act 3 of 1984, s. 3(3) and the Schedule.]

375. No appeal in certain cases when accused pleads guilty.—Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,—

(a) if the conviction is by a High Court; or

(b) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence.

1. Ins. by Act 5 of 2009, s. 29 (w.e.f. 31-12-2009).

2. Subs. by Act 45 of 1978, s. 28, for “has been passed” (w.e.f. 18-12-1978).

3. Ins. by Act 22 of 2018, s. 20 (w.e.f. 21-4-2018).

376. No appeal in petty cases.—Notwithstanding anything contained in section 374, there shall be no appeal by a convicted person in any of the following cases, namely:—

(a) where a High Court passes only a sentence of imprisonment for a term not exceeding six months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;

(b) where a Court of Session or a Metropolitan Magistrate passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine;

(c) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or

(d) where, in a case tried summarily, a Magistrate empowered to act under section 260 passes only a sentence of fine not exceeding two hundred rupees:

Provided that an appeal may be brought against such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground—

(i) that the person convicted is ordered to furnish security to keep the peace; or

(ii) that a direction for imprisonment in default of payment of fine is included in the sentence; or

(iii) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case.

377. Appeal by the State Government against sentence.—(1) Save as otherwise provided in sub-section (2), the State Government may, in any case of conviction on a trial held by any Court other than a High Court, direct the Public Prosecutor to present ¹[an appeal against the sentence on the ground of its inadequacy—

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court.]

(2) If such conviction is in a case in which the offence has been investigated by the Delhi Special Police Establishment, constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, ²[the Central Government may also direct] the Public Prosecutor to present ¹[an appeal against the sentence on the ground of its inadequacy—

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court].

(3) When an appeal has been filed against the sentence on the ground of its inadequacy, ³[the Court of Session or, as the case may be, the High Court] shall not enhance the sentence except after giving to the accused a reasonable opportunity of showing cause against such enhancement and while showing cause, the accused may plead for his acquittal or for the reduction of the sentence.

⁴[(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860), the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

378. Appeal in case of acquittal.—⁵[(1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-sections (3) and (5),—

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of

1. Subs. by Act 25 of 2005, s. 31, for certain words (w.e.f. 23-6-2006).

2. Subs. by Act 45 of 1978, s. 29, for certain words (w.e.f. 18-12-1978).

3. Subs. by s. 31, *ibid.*, for “the High Court” (w.e.f. 23-6-2006).

4. Subs. by Act 22 of 2018, s. 21 (w.e.f. 21-4-2018).

5. Subs. by Act 25 of 2005, s. 32, for sub-section (1) (w.e.f. 23-6-2006).

Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision.]

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, ¹[the Central Government may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal—

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision].

(3) ²[No appeal to the High Court] under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).

379. Appeal against conviction by High Court in certain cases.—Where the High Court has, on appeal, reversed an order of acquittal of an accused person and convicted him and sentenced him to death or to imprisonment for life or to imprisonment for a term of ten years or more, he may appeal to the Supreme Court.

380. Special right of appeal in certain cases.—Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.

381. Appeal to Court of Session how heard.—(1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a Magistrate of the second class may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate.

(2) An Additional Sessions Judge, Assistant Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

382. Petition of appeal.—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.

1. Subs. by Act 25 of 2005, s. 32, for certain words (w.e.f. 23-6-2006).

2. Subs. by s. 32, *ibid.*, for “No appeal” (w.e.f. 23-6-2006).

STATE AMENDMENT

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

Section 382 shall be re-numbered as sub-section (1) of that section, and sub-section (1) as so re-numbered, the following provisos and *Explanation* shall be added, namely: —

“Provided that where it is not practicable to file the petition of appeal to the proper Appellate Court, the petition of appeal may be presented to the Administrator or to an Executive Magistrate, not below the rank of Sub-Divisional Magistrate, who shall forward the same to the proper Appellate Court; and, when any such appeal is presented to the Administrator or to an Executive Magistrate, he shall record thereon the date of its date of presentation and, if he is satisfied that, by reason of the weather, transport or other difficulties, it is not possible for the appellant to obtain, from the proper Appellate Court, orders for the suspension of sentence or for bail, he may, in respect of such appeal, or an appeal forwarded to him under section 383, exercise all or any of the powers of the proper Appellate Court and sub-section (1) of section 389 with regard to suspension of sentence or release of a convicted person on bail:

Provided further that the order so made by Administrator or the Executive Magistrate shall have effect until it is reversed or modified by the proper Appellate Court.

Explanation:—For the purposes of the provisos to this section, and section 383, ‘Administrator’, in relation to a Union territory means the Administrator appointed by the President under article 239 of the Constitution, for that Union territory.”;

In section 382 after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) For purposes of computation of the period of limitation, and for all other purposes, an appeal presented to an Administrator or an Executive Magistrate under sub-section (1) or as the case may be, under section 383, shall be deemed to be an appeal presented to the proper Appellate Court.”;

[*Vide* The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974) s. 5.]

383. Procedure when appellant in jail.—If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

STATE AMENDMENT

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

In section 383, the following words shall be inserted at the end, namely: —

“or if, by reason of the weather, transport or other difficulties, it is not possible to forward them to the proper Appellate Court they shall be forwarded to the Administrator or an Executive Magistrate, not below the rank of a Sub-Divisional Magistrate, who shall, on receipt of such petition of appeal and copies, record thereon the date of receipt thereof and thereafter forward the same to the proper Appellate Court.”.

[*Vide* The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974), s. 5.]

384. Summary dismissal of appeal.—(1) If upon examining the petition of appeal and copy of the judgment received under section 382 or section 383, the Appellate Court considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that—

(a) no appeal presented under section 382 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same;

(b) no appeal presented under section 383 shall be dismissed except after giving the appellant a reasonable opportunity of being heard in support of the same, unless the Appellate Court considers that the appeal is frivolous or that the production of the accused in custody before the Court would involve such inconvenience as would be disproportionate in the circumstances of the case;

(c) no appeal presented under section 383 shall be dismissed summarily until the period allowed for preferring such appeal has expired.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this section is a Court of Session or of the Chief Judicial Magistrate, it shall record its reasons for doing so.

(4) Where an appeal presented under section 383 has been dismissed summarily under this section and the Appellate Court finds that another petition of appeal duly presented under section 382 on behalf of the same appellant has not been considered by it, that Court may, notwithstanding anything contained in section 393, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

385. Procedure for hearing appeals not dismissed summarily.—(1) If the Appellate Court does not dismiss the appeal summarily, it shall cause notice of the time and place at which such appeal will be heard to be given—

(i) to the appellant or his pleader;

(ii) to such officer as the State Government may appoint in this behalf;

(iii) if the appeal is from a judgment of conviction in a case instituted upon complaint, to the complainant;

(iv) if the appeal is under section 377 or section 378, to the accused, and shall also furnish such officer, complainant and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record of the case, if such record is not already available in that Court, and hear the parties:

Provided that if the appeal is only as to the extent or the legality of the sentence, the Court may dispose of the appeal without sending for the record.

(3) Where the only ground for appeal from a conviction is the alleged severity of the sentence, the appellant shall not, except with the leave of the Court, urge or be heard in support of any other ground.

386. Powers of the Appellate Court.—After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 377 or section 378, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(a) in an appeal from an order or acquittal, reverse such order and direct that further inquiry be made, or that the accused be re-tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction—

(i) reverse the finding and sentence and acquit or discharge the accused, or order him to be re-tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or

(ii) alter the finding, maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same—

(c) in an appeal for enhancement of sentence—

(i) reverse the finding and sentence and acquit or discharge the accused or order him to be re-tried by a Court competent to try the offence, or

(ii) alter the finding maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or, the nature and extent, of the sentence, so as to enhance or reduce the same;

(d) in an appeal from any other order, alter or reverse such order;

(e) make any amendment or any consequential or incidental order that may be just or proper:

Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement:

Provided further that the Appellate Court shall not inflict greater punishment for the offence which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal.

387. Judgments of Subordinate Appellate Court.—The rules contained in Chapter XXVII as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment in appeal of a Court of Session or Chief Judicial Magistrate:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

388. Order of High Court on appeal to be 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 and if such Court is that of a Judicial Magistrate other than the Chief Judicial Magistrate, the High Court's judgment or order shall be sent through the Chief Judicial Magistrate, and if such Court is that of an Executive Magistrate, the High Court's judgment or order shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and if necessary, the record shall be amended in accordance therewith.

389. Suspension of sentence pending the appeal; release of appellant 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[Provided that the Appellate Court shall, before releasing on bail or on his own bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release:

Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.]

(2) The power conferred by this section on a Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto.

(3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall,—

1. Ins. by Act 25 of 2005, s. 33 (w.e.f. 23-6-2006).

(i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years, or

(ii) where the offence of which such person has been convicted is a bailable one, and he is on bail,

order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.

(4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

390. Arrest of accused in appeal from acquittal.—When an appeal is presented under section 378, the High Court may issue a warrant directing that the accused be arrested and brought before it or any Subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit him to bail.

391. Appellate Court may take further evidence or direct it to be taken.—(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) The accused or his pleader shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIII, as if it were an inquiry.

392. Procedure where Judges of Court of Appeal are equally divided.—When an appeal under this Chapter is heard by a High Court before a Bench of Judges and they are divided in opinion, the appeal, with their opinions, shall be laid before another Judge of that Court, and that Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow that opinion:

Provided that if one of the Judges constituting the Bench, or, where the appeal is laid before another Judge under this section, that Judge, so requires, the appeal shall be re-heard and decided by a larger Bench of Judges.

393. Finality of judgments and orders on appeal.—Judgments and orders passed by an Appellate Court upon an appeal shall be final, except in the cases provided for in section 377, section 378, sub-section (4) of section 384 or Chapter XXX:

Provided that notwithstanding the final disposal of an appeal against conviction in any case, the Appellate Court may hear and dispose of, on the merits,—

(a) an appeal against acquittal under section 378, arising out of the same case, or

(b) an appeal for the enhancement of sentence under section 377, arising out of the same case.

394. Abatement of appeals.—(1) Every other appeal under section 377 or section 378 shall finally abate on the death of the accused.

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation.—In this section, “near relative” means a parent, spouse, lineal descendant, brother or sister.

CHAPTER XXX

REFERENCE AND REVISION

395. Reference to High Court.—(1) Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that Court is Subordinate or by the Supreme Court, the Court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation.—In this section, “Regulation” means any Regulation as defined in the General Clauses Act, 1897 (10 of 1897), or in the General Clauses Act of a State.

(2) A Court of Session or a Metropolitan Magistrate may, if it or he thinks fit in any case pending before it or him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any Court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.

396. Disposal of case according to decision of High Court.—(1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Court by which the reference was made, which shall dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such reference shall be paid.

397. Calling for records to exercise powers of revision.—(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; to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

398. Power to order inquiry.—On examining any record under section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the 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 (4) of section 204, or into the case of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

399. Sessions Judge's powers of revision.—(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High

Court under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of 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.

400. Power of Additional Sessions Judge.—An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge.

401. High Court's powers of revision.—(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307, and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of Justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

402. Power of High Court to withdraw or transfer revision cases.—(1) Whenever one or more persons convicted at the same trial makes or make application to a High Court for revision and any other person convicted at the same trial makes an application to the Sessions Judge for revision, the High Court shall decide, having regard to the general convenience of the parties and the importance of the questions involved, which of the two Courts should finally dispose of the applications for revision and when the High Court decides that all the applications for revision should be disposed of by itself, the High Court shall direct that the applications for revision pending before the Sessions Judge be transferred to itself and where the High Court decides that it is not necessary for it to dispose of the applications for revision, it shall direct that the applications for revision made to it be transferred to the Sessions Judge.

(2) Whenever any application for revision is transferred to the High Court, that Court shall deal with the same as if it were an application duly made before itself.

(3) Whenever any application for revision is transferred to the Sessions Judge, that Judge shall deal with the same as if it were an application duly made before himself.

(4) Where an application for revision is transferred by the High Court to the Sessions Judge, no further application for revision shall lie to the High Court or to any other Court at the instance of the person or persons whose applications for revision have been disposed of by the Sessions Judge.

403. Option of Court to hear parties.—Save as otherwise expressly provided by this Code, no party has any right to be heard either personally or by pleader before any Court exercising its powers of revision; but the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader.

404. Statement by Metropolitan Magistrate of grounds of his decision to be considered by High Court.—

When the record of any trial held by a Metropolitan Magistrate is called for by the High Court or Court of Session under section 397, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue, and that Court shall consider such statement before overruling or setting aside the said decision or order.

405. High Court's order to be certified to lower Court.—When a case is revised under this Chapter by the High Court or a Sessions Judge, it or he shall, in the manner provided by section 388, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith.

CHAPTER XXXI

TRANSFER OF CRIMINAL CASES

406. Power of Supreme Court to transfer cases and appeals.—(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney-General of India or the Advocate-General of the State, be supported by affidavit or affirmation.

(3) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.

407. Power of High Court to transfer cases and appeals.—(1) Whenever it is made to appear to the High Court—

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order—

(i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to

another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the applications unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any Subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interest of Justice, order that, pending the disposal of the application the proceedings in the Subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

Provided that such stay shall not affect the Subordinate Court's power of remand under section 309.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under section 197.

408. Power of Sessions Judge to transfer cases and appeals.—(1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 407 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under sub-section (1) of section 407, except that sub-section (7) of that section shall so apply as if for the words "one thousand rupees" occurring therein, the words "two hundred and fifty rupees" were substituted.

STATE AMENDMENT

Kerala

Amendment of section 408. —In section 408 of the principal Act, for the words "any other Magistrate", the words "other Magistrate of the first class", and for the words "any Magistrate" the words "a Magistrate of the first class", shall be substituted.

[Vide Kerala Act 5 of 1957, s. 3.]

409. Withdrawal of cases and appeals by Session Judge.—(1) A Sessions Judge may withdraw any case or appeal from, or recall any case or appeal which he has made over to, any Assistant Sessions Judge or Chief Judicial Magistrate subordinate to him.

(2) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, a Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(3) Where a Sessions Judge withdraws or recalls case or appeal under sub-section (1) or sub-section (2), he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.

STATE AMENDMENT

Kerala

Substitution of new section for section 409.—For section 409 of the principal Act, the following section shall be substituted, namely:—

409. Appeals to Court of Session how heard.—An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an Additional Sessions Judge shall hear only such appeals as the State Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.

[Vide Kerala Act 5 of 1957, s. 4.]

410. Withdrawal of cases by Judicial Magistrate.—(1) Any Chief Judicial Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

(2) Any Judicial Magistrate may recall any case made over by him under sub-section (2) of section 192 to any other Magistrate and may inquire into or try such cases himself.

411. Making over or withdrawal of cases by Executive Magistrates.—Any District Magistrate or Sub-Divisional Magistrate may—

(a) make over, for disposal, any proceeding which has been started before him, to any Magistrate subordinate to him;

(b) withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and dispose of such proceeding himself or refer it for disposal to any other Magistrate.

412. Reasons to be recorded.—A Sessions Judge or Magistrate making an order under section 408, section 409, section 410 or section 411 shall record his reasons for making it.

CHAPTER XXXII

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A.—*Death Sentences*

413. Execution of order passed under section 368.—When in a case submitted to the High Court for the confirmation of a sentence of death, the Court of Session receives the order of confirmation or other order of the High Court thereon, it shall cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

414. Execution of sentence of death passed by High Court.—When a sentence of death is passed by the High

Court in appeal or in revision, the Court of Session shall, on receiving the order of the High Court, cause the sentence to be carried into effect by issuing a warrant.

415. Postponement of execution of sentence of death in case of appeal to Supreme Court.—(1) Where a person is sentenced to death by the High Court and an appeal from its judgment lies to the Supreme Court under sub-clause (a) or sub-clause (b) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until the period allowed for preferring such appeal has expired, or if, an appeal is preferred within that period, until such appeal is disposed of.

(2) Where a sentence of death is passed or confirmed by the High Court, and the person sentenced makes an application to the High Court for the grant of a certificate under article 132 or under sub-clause (c) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until such application is disposed of by the High Court, or if a certificate is granted on such application, until the period allowed for preferring an appeal to the Supreme Court on such certificate has expired.

(3) Where a sentence of death is passed or confirmed by the High Court, and the High Court is satisfied that the person sentenced intends to present a petition to the Supreme Court for the grant of special leave to appeal under article 136 of the Constitution, the High Court shall order the execution of the sentence to be postponed for such period as it considers sufficient to enable him to present such petition.

416. Postponement of capital sentence on pregnant woman.—If a woman sentenced to death is found to be pregnant, the High Court shall ¹[****], commute the sentence to imprisonment for life.

B.—Imprisonment

417. Power to appoint place of imprisonment.—(1) Except when otherwise provided by any law for the time being in force, the State Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

(2) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under 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 released from the civil jail under section 58 of the Code of Civil Procedure, 1908 (5 of 1908), or section 23 of the Provincial Insolvency Act, 1920 (5 of 1920), as the case may be; or

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be released under section 58 of the Code of Civil Procedure, 1908 (5 of 1908), or under section 23 of the Provincial Insolvency Act, 1920 (5 of 1920), as the case may be.

418. Execution of sentence of imprisonment.—(1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 413, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined, and, unless the accused is already confined in such jail or other place, shall forward him to such jail or other place, with the warrant:

Provided that where the accused is sentenced to imprisonment till the rising of the Court, it shall not be necessary to prepare or forward a warrant to a jail, and the accused may be confined in such place as the Court may direct.

(2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in sub-section (1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other

1. Certain words omitted by Act 5 of 2009, s. 30 (w.e.f. 31-12-2009).

place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

419. Direction of warrant for execution.—Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

420. Warrant with whom to be lodged.—When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

C.—Levy of fine

421. Warrant for levy of fine.—(1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.

(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

422. Effect of such warrant.—A warrant issued under clause (a) of sub-section (1) of section 421 by any Court may be executed within the local jurisdiction of such Court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local jurisdiction such property is found.

423. Warrant for levy of fine issued by a Court in any territory to which this Code does not extend.—Notwithstanding anything contained in this Code or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in any territory to which this Code does not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Code extends, authorising him to realise the amount as if it were an arrear of land revenue, such warrant shall be deemed to be a warrant issued under clause (b) of sub-section (1) of section 421 by a Court in the territories to which this Code extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

424. Suspension of execution of sentence of imprisonment.—(1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days;

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be,

is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.

D.—General provisions regarding execution

425. Who may issue warrant.—Every warrant for the execution of a sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor-in-office.

426. Sentence on escaped convict when to take effect.—(1) When a sentence of death, imprisonment for life or fine is passed under this Code on an escaped convict, such sentence shall, subject to the provisions hereinbefore contained, take effect immediately.

(2) When a sentence of imprisonment for a term is passed under this Code on an escaped convict,—

(a) if such sentence is severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately;

(b) if such sentence is not severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

(3) For the purposes of sub-section (2), a sentence of rigorous imprisonment shall be deemed to be severer in kind than a sentence of simple imprisonment.

427. Sentence on offender already sentenced for another offence.—(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

428. Period of detention undergone by the accused to be set off against the sentence of imprisonment.—Where an accused person has, on conviction, been sentenced to imprisonment for a term, ¹[, not being imprisonment in default of payment of fine], the period of detention, if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him:

²[Provided that in cases referred to in section 433A, such period of detention shall be set off against the period of fourteen years referred to in that section.]

1. Ins. by Act 45 of 1978, s. 31 (w.e.f.18-12-1978).

2. Ins. by Act 25 of 2005, s. 34 (w.e.f. 23-6-2006).

429. Saving.—(1) Nothing in section 426 or section 427 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 and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences of imprisonment, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

430. Return of warrant on execution of sentence.—When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it is issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

431. Money ordered to be paid recoverable as a fine.—Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine:

Provided that section 421 shall, in its application to an order under section 359, by virtue of this section, be construed as if in the proviso to sub-section (1) of section 421, after the words and figures “under section 357”, the words and figures “or an order for payment of costs under section 359” had been inserted.

E.—Suspension, remission and commutation of sentences

432. Power to suspend or remit sentences.—(1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the 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 a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 433, the expression “appropriate Government” means,—

(a) in cases where the sentence is for an offence against, or the order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

(b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

433. Power to commute sentence.—The appropriate Government may, without the consent of the person sentenced, commute—

(a) a sentence of death, for any other punishment provided by the Indian Penal Code (45 of 1860);

(b) a sentence of imprisonment for life, for imprisonment for a term not exceeding fourteen years or for fine;

(c) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced, or for fine;

(d) a sentence of simple imprisonment, for fine.

¹[**433A. Restriction on powers of remission or commutation in certain cases.**—Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.]

434. Concurrent power of Central Government in case of death sentences.—The powers conferred by sections 432 and 433 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

435. State Government to act after consultation with Central Government in certain cases.—(1) The powers conferred by sections 432 and 433 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence—

(a) which was investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, or

(b) which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(c) which was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

shall not be exercised by the State Government except after consultation with the Central Government.

(2) No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

1. Ins. by Act 45 of 1978, s. 32 (w.e.f.18-12-1978).

CHAPTER XXXIII

PROVISIONS AS TO BAIL AND BONDS

436. In what cases bail to be taken.—⁽¹⁾ When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, ¹[may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail] from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

²[*Explanation.*—Where a person is unable to give bail within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso:]

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116 ³[or section 446A].

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

⁴[**436A. Maximum period for which an undertrial prisoner can be detained.**—Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that 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 by it in 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 the 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 the maximum period of imprisonment provided for the said offence under that 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.]

437. When bail may be taken in case of non-bailable offence.—⁵[(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of session, he may be released on bail, but—

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more,

1. Subs. by Act 25 of 2005, s. 35, for certain words (w.e.f. 23-6-2006).

2. Ins. by Act 25 of 2005, s. 35, (w.e.f. 23-6-2006).

3. Ins. by Act 63 of 1980, s. 4 (w.e.f. 23-9-1980).

4. Ins. by Act 25 of 2005, s. 36 (w.e.f. 23-6-2006).

5. Subs. by Act 63 of 1980, s. 5, for sub-section (1) (w.e.f. 23-9-1980).

or he had been previously convicted on two or more occasions of ¹[a cognizable offence punishable with imprisonment for three years or more but not less than seven years:]

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

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court:]

²[Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.]

(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, ³[the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail], or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code (45 of 1860) or abatement of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), ⁴[the Court shall impose the conditions,—

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such 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 or tamper with the evidence,

and may also impose, in the interests of justice, such other conditions as it considers necessary.]

(4) 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 ⁵[reasons or special reasons] for so doing.

(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

1. Subs. by Act 25 of 2005, s. 37, for “a non-bailable and cognizable offence” (w.e.f. 23-6-2006).

2. Ins. by Act 25 of 2005, s. 37 (w.e.f. 23-6-2006).

3. Subs. by Act 63 of 1980, s. 5, for certain words (w.e.f. 23-9-1980).

4. Subs. by Act 25 of 2005, s. 37, for certain words (w.e.f. 23-6-2006).

5. Subs. by Act 63 of 1980, s. 5, for “reasons” (w.e.f. 23-9-1980).

(7) If, at any time, after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

¹[**437A. Bail to require accused to appear before next appellate Court.**—(1) Before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bail bonds shall be in force for six months.

(2) If such accused fails to appear, the bond stand forfeited and the procedure under section 446 shall apply.]

438. Direction for grant of bail to person apprehending arrest.—(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should be issued 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).

²[(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code (45 of 1860).]

STATE AMENDMENTS

West Bengal.—

To sub-section (1) of section 438 of the principal Act, the following proviso shall be added:—

“Provided that where the apprehended accusation relates to an offence punishable with death, imprisonment for

1. Ins. by Act 5 of 2009, s. 31 (w.e.f. 31-12-2009)

1. Ins. by Act 22 of 2018, s. 22 (w.e.f. 21-4-2018).

life or imprisonment for a term of not less than seven years, no final order shall be made on such application without giving the State not less than seven days' notice to present its case.

[*Vide* West Bengal Act 47 of 1981, s. 3.]

West Bengal.—

For sub-section (1) of section 438, of the principal Act the following sub-sections shall be substituted, namely:—

“(1) (a) 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 that in the event of such arrest, he shall be released on bail:

Provided that the mere fact that a person has applied to the High Court or the Court of Session for a direction under this section shall not, in the absence of any order by that Court, be a bar to the apprehension of such person, or the detention of such person in custody, by an officer-in-charge of a police station.

(b) The High Court or the Court of Session, as the case may be, shall dispose of an application for a direction under this sub-section within thirty days of the date of such application:

Provided that where the apprehended accusation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than seven years, no final order shall be made on such application without giving the State not less than seven days notice to present its case.

(c) If any person is arrested and detained in custody by an officer-in-charge of a police station before the disposal of the application of such person for a direction under this sub-section, the release of such person on bail by a Court having jurisdiction, pending such disposal, shall be subject to the provisions of section 437.

(1A) The provisions of sub-section (1) shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any judgment, decree or order of any Court, tribunal or other authority.”.

[*Vide* West Bengal Act 25 of 1990, s. 3.]

STATE AMENDMENT

Orissa

Amendment of section 438.—In section 438 of the Code of Criminal Procedure, 1973 (2 of 1974), to sub-section (1), the following proviso shall be added, namely:—

“Provided that where the apprehended accusation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than seven years, no final order shall be made on such application without giving the State notice to present its case.”:

[*Vide* Orissa Act 11 of 1988, s. 2]

439. Special powers of High Court or Court of Session regarding bail.—(1) A High Court or Court of Session may direct,—

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with

imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

¹[Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code (45 of 1860), give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.]

¹[(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section DB of the Indian Penal Code (45 of 1860).]

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

STATE AMENDMENT

Assam.—

439-A. Power to grant bail.—(1) Notwithstanding anything contained in this Code, no person—

(a) who, being accused or suspected of committing an offence under any of the following Sections, namely, —Sections 120B, 121, 121A, 122, 123, 124A, 153A, 302, 303, 304, 307, 326, 333, 363, 364, 365, 367, 368, 392, 394, 395, 396, 399, 412, 431, 436, 449 and 450 of the Indian Penal Code, 1860, Sections 3, 4, 5 and 6 of the Indian Explosive Substances Act, 1908, and Sections 25, 26, 27, 28, 29, 30 and 31 of the Arms Act, 1959, is arrested or appears or is brought before a court; or

(b) who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a), has applied to the High Court or the Court of Sessions for a direction for his release on bail in the event of his arrest, shall be released on bail or as the case may be, directed to be released on bail, except on one or more of the following grounds, namely: —

(i) that the Court including the High Court or the Court of Session for reasons to be recorded in writing is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);

(ii) that such person is under the age of sixteen years or a woman or a sick or an infirm person;

(iii) that the court including the High Court or the Court of Sessions for reasons to be recorded in writing is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail.”

[Vide Assam Act 3 of 1984, s. 5.]

440. Amount of bond and reduction thereof.—(1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

1. Ins. by Act 22 of 2018, s. 23 (w.e.f. 21-4-2018).

(2) The High Court or the Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

441. Bond of accused and sureties.—(1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an enquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

STATE AMENDMENT

Andhra Pradesh

Amendment of Section 441 Central Act 2 of 1974.—In the Code of Criminal Procedure, 1973 (hereinafter referred to as the Principal Act) in section 441, in sub-section (1), the following words shall be added at the end, namely. —

“and for imposition of a fine not exceeding the amount prescribed in the surety bond, in case the surety fails to produce the accused on the date fixed by the court in grave/serious offences.”

[Vide Andhra Pradesh Act 17 of 2019, s. 2]

¹[**441A. Declaration by sureties.**—Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.]

442. Discharge from custody.—(1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the orders shall release him.

(2) Nothing in this section, section 436 or section 437, shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

443. Power to order sufficient bail when that first taken is insufficient.—If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

444. Discharge of sureties.—(1) All or any sureties for the attendance and appearance of a person released on

1. Ins. by Act 25 of 2005, s. 39 (w.e.f. 23-6-2006).

bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

STATE AMENDMENT

West Bengal

In section 444 of the Principal Act,—

(1) in sub-section (1) after the words “at any time”, the words, “on showing sufficient cause,” shall be inserted;

(2) after sub-section (1), the following sub-section shall be inserted:—

“(1A) On such application being made, the Magistrate may either hold an inquiry himself, or cause an inquiry to be made by a Magistrate subordinate to him, on the correctness of the reason shown, in the application to discharge the bond as stated in sub-section (1)”;

(3) for sub-section (2), the following sub-section shall be substituted:—

“(2) If the Magistrate is satisfied, on enquiry made under sub-section (1A), that all or any of the sureties applying for discharge may be discharged, he shall issue warrant of arrest directing that the person so released be brought before him.”

[Vide West Bengal Act 24 of 2003, s. 3.]

445. Deposit instead of recognizance.—When any person is required by any Court or officer to execute a bond with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.

STATE AMENDMENT

West Bengal

In section 445 of the principal Act,—

(a) the words “with or without sureties” shall be omitted; and

(b) for the word “permit”, the word “direct” shall be substituted.

[Vide West Bengal Act 24 of 2003, s. 4.]

446. Procedure when bond has been forfeited.—(1) Where a bond under this Code is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited,

or where, in respect of any other bond under this Code, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited,

the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

Explanation.—A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, before any

Court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Code:

¹[Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months.]

(3) The Court may, ²[after recording its reasons for doing so], remit any portion of the penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(5) Where any person who has furnished security under section 106 or section 117 or section 360 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 448, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

³[**446A. Cancellation of bond and bail bond.**—Without prejudice to the provisions of section 446, where a bond under this Code is for appearance of a person in a case and it is forfeited for breach of a condition,—

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond in that case, if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provisions of this Code he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the Police Officer or the Court, as the case may be, thinks sufficient.]

447. Procedure in case of insolvency of death of surety or when a bond is forfeited.—When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 446, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh securities 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.

448. Bond required from 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, a bond executed by a surety or sureties only.

449. Appeal from orders under section 446.—All orders passed under section 446 shall be appealable,—

(i) in the case of an order made by a Magistrate, to the Sessions Judge;

(ii) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

450. Power to direct levy of amount due on certain recognizances.—The High Court or Court of Sessions may direct any Magistrate to levy the amount due on a bond for appearance or attendance at such High Court or

1. Added by Act 63 of 1980, s. 6 (w.e.f. 23-9-1980).

2. Subs. by Act 25 of 2005, s. 40, for “at its discretion” (w.e.f. 23-6-2006).

3. Ins. by Act 63 of 1980, s. 7 (w.e.f. 23-9-1980).

CHAPTER XXXIV

DISPOSAL OF PROPERTY

451. Order for custody and disposal of property pending trial in certain cases.—When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.—For the purposes of this section, “property” includes—

- (a) property of any kind or document which is produced before the Court or which is in its custody;
- (b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

452. Order for disposal of property at conclusion of trial.—(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without securities, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

(3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

453. Payment to innocent purchaser of money found on accused.—When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

454. Appeal against orders under section 452 or section 453.—(1) Any person aggrieved by an order made by a Court under section 452 or section 453, may appeal against it to the Court to which appeals ordinarily lie from convictions by the former Court.

(2) On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be exercised by a Court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made.

455. Destruction of libellous and other matter.—(1) On a conviction under section 292, section 293, section 501 or section 502 of the Indian Penal Code (45 of 1860), the Court may order the destruction of all the copies of the

thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under section 272, section 273, section 274 or section 275 of the Indian Penal Code (45 of 1860), order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

456. Power to restore possession of immovable property.—(1) When a person is convicted of an offence attended by criminal force or show of force or by criminal intimidation, and it appears to the Court that, by such force or show of force or intimidation, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property:

Provided that no such order shall be made by the Court more than one month after the date of the conviction.

(2) Where the Court trying the offence has not made an order under sub-section (1), the Court of appeal, confirmation or revision may, if it thinks fit, make such order while disposing of the appeal, reference or revision, as the case may be.

(3) Where an order has been made under sub-section (1), the provisions of section 454 shall apply in relation thereto as they apply in relation to an order under section 453.

(4) No order made under this section shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

457. Procedure by police upon seizure of property.—(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

458. Procedure where no claimant appears within six months.—(1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the Magistrate may by order direct that such property shall be at the disposal of the State Government and may be sold by that Government and the proceeds of such sale shall be dealt with in such manner as may be prescribed.

(2) An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

459. Power to sell perishable property.—If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is ¹[less than five hundred rupees], the Magistrate may at any time direct it to be sold; and the provisions of sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

CHAPTER XXXV

IRREGULAR PROCEEDINGS

460. Irregularities which do not vitiate proceedings.—If any Magistrate not empowered by law to do any of the following things, namely:—

1. Subs. by Act 25 of 2005, s. 41, for “less than ten rupees” (w.e.f. 23-6-2006).

- (a) to issue a search-warrant under section 94;
- (b) to order, under section 155, the police to investigate an offence;
- (c) to hold an inquest under section 176;
- (d) to issue process under section 187, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;
- (e) to take cognizance of an offence under clause (a) or clause (b) of sub-section (1) of section 190;
- (f) to make over a case under sub-section (2) of section 192;
- (g) to tender a pardon under section 306;
- (h) to recall a case and try it himself under section 410; or
- (i) to sell property under section 458 or section 459,

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

461. Irregularities which vitiate proceedings.—If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

- (a) attaches and sells property under section 83;
- (b) issues a search-warrant for a document, parcel or other things in the custody of a postal or telegraph authority;
- (c) demands security to keep the peace;
- (d) demands security for good behaviour;
- (e) discharges a person lawfully bound to be of good behaviour;
- (f) cancels a bond to keep the peace;
- (g) makes an order for maintenance;
- (h) makes an order under section 133 as to a local nuisance;
- (i) prohibits, under section 143, the repetition or continuance of a public nuisance;
- (j) makes an order under Part C or Part D of Chapter X;
- (k) takes cognizance of an offence under clause (c) of sub-section (1) of section 190;
- (l) tries an offender;
- (m) tries an offender summarily;
- (n) passes a sentence, under section 325, on proceedings recorded by another Magistrate;
- (o) decides an appeal;
- (p) calls, under section 397, for proceedings; or
- (q) revises an order passed under section 446,

his proceedings shall be void.

462. Proceedings in wrong place.—No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

463. Non-compliance with provisions of section 164 or section 281.—(1) If any Court before which a

confession or other statement of an accused person recorded, or purporting to be recorded under section 164 or section 281, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 91 of the Indian Evidence Act, 1872 (1 of 1872), take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence on the merits and that he duly made the statement recorded, admit such statement.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

464. Effect of omission to frame, or absence of, or error in, charge.—(1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal, confirmation or revision, is of opinion that a failure of justice has in fact been occasioned, it may,—

(a) in the case of an omission to frame a charge, order that a charge be framed, and that the trial be recommended from the point immediately after the framing of the charge;

(b) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

465. Finding or sentence when reversible by reason of error, omission or irregularity.—(1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

(2) In determining whether any error, omission or irregularity in any proceeding under this Code, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

466. Defect or error not to make attachment unlawful.—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 XXXVI¹

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

467. Definitions.—For the purposes of this Chapter, unless the context otherwise requires, “period of limitation” means the period specified in section 468 for taking cognizance of an offence.

468. Bar to taking cognizance after lapse of the period of limitation.—(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;

1. Provisions of this Chapter shall not apply to certain economic offences, *see* the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), s. 2 and Sch.

(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.

¹[(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]

469. Commencement of the period of limitation.—(1) The period of limitation, in relation to an offender, shall commence,—

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

470. Exclusion of time in certain cases.—(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.—In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender—

(a) has been absent from India or from any territory outside India which is under the administration of the Central Government, or

(b) has avoided arrest by absconding or concealing himself,

shall be excluded.

471. Exclusion of date on which Court is closed.—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.

1. Ins. by Act 45 of 1978, s. 33 (w.e.f. 18.12.1978).

Explanation.—A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

472. Continuing offence.—In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

473. Extension of period of limitation in certain cases.—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 XXXVII

MISCELLANEOUS

474. Trials before High Courts.—When an offence is tried by the High Court otherwise than under section 407, it shall, in the trial of the offence, observe the same procedure as a Court of Sessions would observe if it were trying the case.

475. Delivery to commanding officers of persons liable to be tried by Court-martial.—(1) The Central Government may make rules consistent with this Code and the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), and the Air Force Act, 1950 (45 of 1950), and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to military, naval or air-force law, or such other law, shall be tried by a Court to which this Code applies, or by a Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Code applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest military, naval or air-force station, as the case may be, for the purpose of being tried by a Court-martial.

Explanation.—In this section—

(a) “Unit” includes a regiment, corps, ship, detachment, group, battalion or Company,

(b) “Court-martial” includes any Tribunal with the powers similar to those of a Court-martial constituted under the relevant law applicable to the Armed Forces of the Union.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any unit or body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

(3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.

476. Forms.—Subject to the power conferred by article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

477. Power of High Court to make rules.—(1) Every High Court may, with the previous approval of the State Government, make rules—

(a) as to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them;

(c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed;

(d) any other matter which is required to be, or may be, prescribed.

(2) All rules made under this section shall be published in the Official Gazette.

¹[**478. Power to alter functions allocated to Executive Magistrate in certain cases.**—If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with the High Court, by notification, direct that references in sections 108, 109, 110, 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.]

STATE AMENDMENT

Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

In the Code, as it applies to the Union territories to which this Regulation extends, in sections, 478, the words “if the State Legislature by a resolution so requires.” Shall be omitted.

[*Vide* The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974) s. 6.]

479. Case in which Judge or Magistrate is personally interested.—No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any case by reason only that he is concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

480. Practising pleader not to sit as Magistrate in certain Courts.—No pleader who practises in the Court of any Magistrate shall sit as a Magistrate in that Court or in any Court within the local jurisdiction of that Court.

STATE AMENDMENT

Karnataka

Insertion of new section 480A. —After section 480 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) the following Section shall be inserted, namely:—

“480A. Other powers of Magistrate.—Any Judicial Magistrate or Executive Magistrate shall be entitled to attest, verify or authenticate any document brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by any law for the time being in force.”.

[*Vide* Karnataka Act 35 of 1984, s. 2]

1. Subs. by Act 63 of 1980, s. 8, for s. 478 (w.e.f. 23-9-1980).

481. Public servant concerned in sale not to purchase or bid for property.—A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

483. Duty of High Court to exercise continuous superintendence over Courts of Judicial Magistrates.—Every High Court shall so exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates.

484. Repeal and savings.—(1) The Code of Criminal Procedure, 1898 (5 of 1898), is hereby repealed.

(2) Notwithstanding such repeal—

(a) if, immediately before the date on which this Code comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), as in force immediately before such commencement (hereinafter referred to as the old Code), as if this Code had not come into force:

Provided that every inquiry under Chapter XVIII of the Old Code, which is pending at the commencement of this Code, shall be dealt with and disposed of in accordance with the provisions of this Code;

(b) all notifications published, proclamations issued, powers conferred, forms prescribed, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the Old Code and which are in force immediately before the commencement of this Code, shall be deemed, respectively, to have been published, issued, conferred, prescribed, defined, passed or made under the corresponding provisions of this Code;

(c) any sanction accorded or consent given under the Old Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Code and proceedings may be commenced under this Code in pursuance of such sanction or consent;

(d) the provisions of the Old Code shall continue to apply in relation to every prosecution against a Ruler within the meaning of article 363 of the Constitution.

(3) Where the period prescribed for an application or other proceeding under the Old Code had expired on or before the commencement of this Code, nothing in this Code shall be construed as enabling any such application to be made or proceeding to be commenced under this Code by reason only of the fact that a longer period therefor is prescribed by this Code or provisions are made in this Code for the extension of time.

THE FIRST SCHEDULE

CLASSIFICATION OF OFFENCES

EXPLANATORY NOTES:

(1) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian Penal Code, but merely as indication of the substance of the section.

(2) In this Schedule, (i) the expression “Magistrate of the first class” and “Any Magistrate” include Metropolitan Magistrates but not Executive Magistrates; (ii) the word “cognizable” stands for “a police officer may arrest without warrant”; and (iii) the word “non-cognizable” stands for “a police officer shall not arrest without warrant”.

I.—OFFENCES UNDER THE INDIAN PENAL CODE

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6

CHAPTER V. —ABETMENT

109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	Same as for offence abetted.	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto.
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Same as for offence intended to be abetted.	Ditto	Ditto	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Same as for offence committed.	Ditto	Ditto	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto.
115	Abetment of an offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.
116	Abetment of any offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto	According as offence abetted is bailable or non-bailable.	Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.

1	2	3	4	5	6
117	Abetting the commission of an offence by the public or by more than ten persons.	Imprisonment for 3 years, or fine, or both.	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
118	Concealing a design to commit an offence punishable with death or imprisonment for life, if the offence be committed. If the offence be not committed	Imprisonment for 7 years and fine. Imprisonment for 3 years and fine.	Ditto Ditto	Non-bailable. Bailable.	Ditto. Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed. If the offence be punishable with death or imprisonment for life. If the offence be not committed.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both. Imprisonment for 10 years. Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto Ditto Ditto	According as offence abetted is bailable or non-bailable. Non-bailable. Bailable.	Ditto. Ditto. Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if offence be committed. If the offence be not committed.	Ditto Imprisonment extending to one-eighth part of the longest term provided for the offence, or fine, or both.	Ditto Ditto	According as offence abetted is bailable or non-bailable. Bailable.	Ditto. Ditto.
CHAPTER VA.—CRIMINAL CONSPIRACY					
120B	Criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of 2 years or upwards. Any other criminal conspiracy.	Same as for abetment of the offence which is the object of the conspiracy. Imprisonment for 6 months, or fine, or both.	According as the offence which is the object of conspiracy is cognizable or non-cognizable. Non-cognizable.	According as offence which is object of conspiracy is bailable or non-bailable. Bailable.	Court by which abetment of the offence which is the object of conspiracy is triable. Magistrate of the first class.
CHAPTER VI.—OFFENCES AGAINST THE STATE					
121	Waging or attempting to wage war, or abetting the waging of war, against the Government of India.	Death, or imprisonment for life and fine.	Cognizable.	Non-bailable.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Government of India.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
124	Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.

1	2	3	4	5	6
124A	Sedition	Imprisonment for life and fine, or imprisonment for 3 years and fine, or fine.	Cognizable	Non-bailable	Court of Session.
125	Waging war against any Asiatic power in alliance or at peace with the Government of India, or abetting the waging of such war.	Imprisonment for life and fine, or imprisonment for 7 years and fine, or fine.	Ditto	Ditto	Ditto.
126	Committing depredation on the territories of any power in alliance or at peace with the Government of India.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Ditto	Ditto.	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto.	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Ditto	Bailable	Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

131	Abetting mutiny, or attempting to seduce an officer, soldier, sailor or airman from his allegiance or duty.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
133	Abetment of an assault by an officer, soldier, sailor or airman on his superior officer, when in the execution of his office.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
135	Abetment of the desertion of an officer, soldier, sailor or airman.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Any Magistrate.
136	Harbouring such an officer, soldier, sailor or airman who has deserted.	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Fine of 500 rupees.	Non-cognizable	Ditto.	Ditto.
138	Abetment of act of insubordination by an officer, soldier, sailor or airman, if the offence be committed in consequence.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, sailor or airman with intent that it may be believed that he is such a soldier, sailor or airman.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.	Ditto	Ditto

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY

143	Being member of an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Ditto
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto.
147	Rioting.	Ditto	Ditto	Ditto	Ditto.

1	2	3	4	5	6
148	Rioting, armed with a deadly weapon.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
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.	The same as for the offence.	According as offence is cognizable or non-cognizable	According as offence is bailable or non-bailable	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Cognizable	Ditto	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Imprisonment for 6 months, or fine or both.	Ditto	Bailable	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
	If not committed.	Imprisonment for 6 months, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
153A	Promoting enmity between classes.	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto
	Promoting enmity between classes in place of worship, etc.	Imprisonment for 5 years, and fine.	Ditto	Ditto	Ditto
¹ [153A A	Knowingly carrying arms in any procession or organising or holding or taking part in any mass drill or mass training with arms.	Imprisonment for 6 months and fine of 2,000 rupees	Ditto	Ditto	Any Magistrate.]
153B	Imputations, assertions prejudicial to national integration.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	² [Magistrate of the first-class.]
	If committed in a place of public worship, etc.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto
154	Owner or occupier of land not giving information of riot, etc.	Fine of 1,000 rupees.	Non-cognizable	Bailable	Any Magistrate.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Fine	Ditto	Ditto	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto
157	Harbouring persons hired for an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto
	Or to go armed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
160	Committing affray	Imprisonment for one month, or fine of 100 rupees or both.	Ditto	Ditto	Ditto.

1. Ins. by Act 25 of 2005, s. 42 (date yet to be notified, see appendix)

2. Subs. by s. 42, for "Ditto", *ibid.* (date yet to be notified, see appendix)

1	2	3	4	5	6
CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS					
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Magistrate of the first class.
162	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Simple imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Ditto.
165A	Punishment for abetment of offences punishable under section 161 or section 165.	Ditto	Ditto	Ditto	Ditto.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto.
¹ [166A	Public servant disobeying direction under law	Imprisonment for minimum 6 months which may extend to 2 years and fine.	Cognizable	Bailable	Magistrate of the first class
166B	Non-treatment of victim by hospital	Imprisonment for 1 year or fine or both.	Non-cognizable	Bailable	Magistrate of the first class.]
167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto.	Ditto.
168	Public servant unlawfully engaging in trade.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Ditto.
169	Public servant unlawfully buying or bidding for property.	Simple imprisonment for 2 years, or fine, or both and confiscation of property, if purchased.	Ditto.	Ditto.	Ditto.
170	Personating a public servant.	Imprisonment for 2 years or fine, or both .	Cognizable	Non-bailable	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Ditto	Bailable	Ditto.
CHAPTER IXA.—OFFENCES RELATING TO ELECTIONS					
171E	Bribery.	Imprisonment for 1 year or fine, or both, or if treating only, fine only.	Non-cognizable	Ditto	Magistrate of the first class.
171F	Undue influence at an election.	Imprisonment for one year, or fine, or both.	Ditto	Ditto	Ditto.
	Personation at an election	Ditto	Cognizable	Ditto	Ditto.
171G	False statement in connection with an election.	Fine	Non-cognizable	Ditto	Ditto.
171H	Illegal payments in connection with elections.	Fine of 500 rupees.	Ditto.	Ditto.	Ditto.
171-I	Failure to keep election accounts.	Ditto	Ditto	Ditto	Ditto.

1. Ins. by Act 13 of 2013, s. 24 (w.e.f. 3-2-2013).

1	2	3	4	5	6
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS					
172	Absconding to avoid service of summons or other proceeding from a public servant.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto	Ditto	Ditto.
173	Preventing the service or the affixing of any summons of notice, or the removal of it when it has been affixed, or preventing a proclamation.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto	Ditto	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing there from without authority.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
	If the order requires personal attendance, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
¹ [174A	Failure to appear at specified place and specified time as required by a proclamation published under sub-section (1) of section 82 of this Code	Imprisonment for 3 years, or with fine, or with both	Cognizable	Non-bailable	Magistrate of the first class.
	In a case where declaration has been made under sub-section (4) of section 82 of this Code pronouncing a person as proclaimed offender	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto].
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	² [Non-cognizable]	² [Bailable]	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed, in a court, any Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.	Ditto.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.	Ditto.	Any Magistrate.
	If the notice or information required respects the commission of an offence, etc.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.	Ditto.	Ditto.
	If the notice or information is required by an order passed under sub-section (1) of section 356 of this Code.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, etc.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.

1. Ins. by Act 25 of 2005, s. 42 (w.e.f. 23-6-2006).

2. Subs. by s. 42, *ibid.*, for the word "Ditto", for the respective entries in column 4 and 5 relating to s.175 (w.e.f. 23-6-2006).

1	2	3	4	5	6
178	Refusing oath when duly required to take oath by a public servant.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable	Bailable	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
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.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Any Magistrate..
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
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.	Imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto	Ditto	Ditto.
186	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto	Ditto	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Cognizable	Ditto	Ditto.
	If such disobedience causes danger to human life, health or safety, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
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.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.

1	2	3	4	5	6
CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE					
193	Giving or fabricating false evidence in a judicial proceeding.	Imprisonment for 7 years and fine.	Non-cognizable	Bailable	Magistrate of the first class.
	Giving or fabricating false evidence in any other case	Imprisonment for 3 years and fine.	Ditto	Ditto	Any Magistrate.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of capital offence.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of session.
	If innocent person be thereby convicted and executed.	Death, or as above.	Ditto	Ditto	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for 7 years, or upwards.	The same as for the offence.	Ditto	Ditto	Ditto.
¹ [195A]	Threatening any person to give false evidence.	Imprisonment for 7 years, or fine, or both.	Cognizable	Ditto	Court by which offence of giving false evidence is triable.
	If innocent person is convicted and sentenced in consequence of false evidence with death, or imprisonment for more than seven years.	The same as for the offence.	Ditto	Ditto	Ditto]
196	Using in a judicial proceeding evidence known to be false or fabricated.	The same as for giving or fabricating false evidence.	² [Non-cognizable]	According as offence of giving such evidence is bailable or non-bailable.	Court by which offence of giving or fabricating false evidence is triable.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	Court by which offence of giving false evidence is triable.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Imprisonment for 7 years and fine.	According as the offence in relation to which disappearance of evidence is caused is cognizable or non-cognizable.	Ditto	Court of Session.
	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Non-cognizable	Ditto	Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Imprisonment for 6 months, or fine, or both.	Ditto	Ditto	Any Magistrate.
203	Giving false information respecting an offence committed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.

1. Ins. by Act 2 of 2006, s. 7 (w.e.f. 16-4-2006).

2. Subs. by s. 7, *ibid.* for the word "Ditto", occurring in column 4 relating to s.196 (w.e.f. 16-4-2006).

1	2	3	4	5	6
204	Secreting or destroying any document to prevent its production as evidence.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture or in satisfaction of a fine under sentence, or in execution of a decree.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
207	Claiming property without right, or practicing 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.	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Magistrate of the first class.
209	False claim in a Court of Justice.	Imprisonment for 2 years and fine.	Ditto	Ditto	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto.
	If offence charged be punishable with imprisonment for 7 years or upwards.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
	If offence charged be capital or punishable with imprisonment for life.	Ditto	Ditto	Ditto	Court of Session.
212	Harbouring an offender, if the offence be capital.	Imprisonment for 5 years and fine.	Cognizable	Ditto	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term, and of the descriptions, provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
213	Taking gift, etc., to screen an offender from punishment if the offence be capital.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
214	Offering gift or restoration of property in consideration of screening offender if the offence be capital.	Imprisonment for 7 years and fine.	Non-cognizable	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term, provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence without causing apprehension of offender.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto.

1	2	3	4	5	6
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Imprisonment for 7 years and fine.	Cognizable	Bailable	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
216A	Harbouring robbers or dacoits.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Magistrate of the first class.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Imprisonment for 7 years, or fine, or both.	Non-cognizable	Ditto	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Imprisonment for 7 years, with or without fine.	According as the offence in relation to which such omission has been made is cognizable or non-cognizable.	Ditto	Ditto.
	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Cognizable	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for 2 years, with or without fine.	Ditto	Ditto	Ditto.
222	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.	Imprisonment for life, or imprisonment for 14 years, with or without fine.	Ditto	Non-bailable	Court of Session.
	If under sentence of imprisonment for life or imprisonment for 10 years, or upwards.	Imprisonment for 7 years, with or without fine.	Ditto	Ditto	Magistrate of the first class.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Imprisonment for 3 years, or fine, or both.	Ditto	Bailable	Ditto.
223	Escape from confinement negligently suffered by a public servant.	Simple imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto.
225	Resistance or obstruction to the lawful apprehension of any person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
	If charged with a capital offence.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.

1	2	3	4	5	6
	If the person is sentenced to imprisonment for life, or imprisonment for 10 years, or upwards. If under sentence of death	Imprisonment for 7 years and fine. Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable Ditto	Non-bailable Ditto	Magistrate of the first class. Court of Session.
225A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for:— (a) in case of intentional omission or sufferance; (b) in case of negligent omission or sufferance.	Imprisonment for 3 years, or fine, or both. Simple imprisonment for 2 years, or fine, or both.	Non-cognizable Ditto	Bailable Ditto	Magistrate of the first class. Any Magistrate.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto.
227	Violation of condition of remission of punishment.	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	Ditto	Non-bailable	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable	Bailable	The Court in which the offence is committed subject to the provisions of Chapter XXVI.
¹ [228A	Disclosure of identity of the victim of certain offences, etc. Printing or publication of a proceeding without prior permission of court.	Imprisonment for two years and fine. Ditto	Cognizable Ditto	Ditto Ditto	Any Magistrate. Ditto.]
229	Personation of a juror or assessor.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Magistrate of the first class.
² [229A	Failure by person released on bail or bond to appear in Court	Imprisonment for 1 year, or fine, or both	Cognizable	Non-bailable	Any Magistrate.]

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
232	Counterfeiting, or performing any part of the process of counterfeiting, Indian coin.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting Indian coin.	Imprisonment for 7 years and fine.	Ditto	Ditto	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
	If Indian coin.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.

1. Ins. by Act 43 of 1983, s. 5 (w.e.f. 25.12.1983).

2. Ins. by Act 25 of 2005, s. 42 (w.e.f. 23-6-2006).

1	2	3	4	5	6
236	Abetting, in India, the counterfeiting, out of India, of coin.	The punishment provided for abetting the counterfeiting of such coin within India.	Cognizable	Non-bailable	Court of Session.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
238	Import or export of counterfeit of Indian coin, knowing the same to be counterfeit.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Imprisonment for 5 years and fine.	Ditto	Ditto	Magistrate of the first class.
240	Same with respect to Indian coin.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
241	Knowingly delivering to another any counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.	Imprisonment for 2 years, or fine, or 10 times the value of the coin counterfeited, or both.	Ditto	Ditto	Any Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
243	Possession of Indian coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto	Ditto	Ditto.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of Indian coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
247	Fraudulently diminishing the weight or altering the composition of Indian coin.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
249	Altering appearance of Indian coin with intent that it shall pass as a coin of a different description.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto.
251	Delivery of Indian coin possessed with the knowledge that it is altered.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
253	Possession of Indian coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Imprisonment for 2 years or fine, or 10 times the value of the coin.	Ditto	Ditto	Any Magistrate.
255	Counterfeiting a Government stamp.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.

1	2	3	4	5	6
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
258	Sale of counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Bailable	Ditto.
260	Using as genuine a Government stamp known to be counterfeit.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, removing from a document a stamp used for it, with intent to cause a loss to Government.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
262	Using a Government stamp known to have been before used.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
263	Erasure of mark denoting that stamps have been used.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
263A	Fictitious stamps	Fine of 200 rupees	Ditto	Ditto	Any Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES

264	Fraudulent use of false instrument for weighing.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto.	Cognizable	Non-bailable	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
271	Knowingly disobeying any quarantine rule.	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto.	Ditto.	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	¹ [Non-bailable]	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	² [Bailable]	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto.

1. Subs. by Act 25 of 2005, s. 42(f)(i), for the word "Ditto", occurring in column 5 relating to s. 274 (w.e.f. 23-6-2006).

2. Subs. by s. 42 (ii), *ibid.*, for the word "Ditto", occurring in column 5 relating to s. 275 (w.e.f. 23-6-2006).

1	2	3	4	5	6
277	Defiling the water of a public spring or reservoir.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Cognizable	Bailable	Any Magistrate.
278	Making atmosphere noxious to health.	Fine of 500 rupees	Non-cognizable	Ditto	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Ditto	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto	Ditto	Ditto	Ditto.
281	Exhibition of a false light, mark or buoy.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Any Magistrate.
283	Causing danger, obstruction or, injury in any public way or line of navigation.	Fine of 200 rupees.	Ditto	Ditto	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	Ditto	Ditto	Ditto	Ditto.
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery.	Ditto	Non-cognizable	Ditto	Ditto.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	Ditto	Cognizable	Ditto	Ditto.
290	Committing a public nuisance.	Fine of 200 rupees	Non-cognizable	Ditto	Ditto.
291	Continuance of nuisance after injunction to discontinue.	Simple imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto.
292	Sale, etc., of obscene books, etc.	On first conviction, with imprisonment for 2 years, and with fine of 2,000 rupees, and, in the event of second or subsequent conviction, with imprisonment for five years, and with fine of 5,000 rupees.	Ditto	Ditto	Ditto.
293	Sale, etc., of obscene objects to young persons.	On first conviction, with imprisonment for 3 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees.	Ditto	Ditto	Ditto.
294	Obscene songs	Imprisonment for 3 months, or fine or both.	Ditto	Ditto	Ditto.
294A	Keeping a lottery office	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto.
	Publishing proposals relating to lotteries.	Fine of 1,000 rupees	Ditto	Ditto	Ditto.

1	2	3	4	5	6
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.	Imprisonment for 2 years, or fine or both.	Cognizable	Non-Bailable	Any Magistrate.
295A	Maliciously insulting the religion or the religious beliefs of any class.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
296	Causing a disturbance to an assembly engaged in religious worship.	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.
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.	Ditto	Ditto	Ditto	Ditto.
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.	Ditto	Non-cognizable	Ditto	Ditto.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY					
302	Murder	Death, or imprisonment for life, and fine.	Cognizable	Non-bailable	Court of Session.
303	Murder by a person under sentence of imprisonment for life.	Death	Ditto	Ditto	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Imprisonment for 10 years, or fine, or both.	Ditto	Ditto	Ditto.
304A	Causing death by rash or negligent act.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
¹ [304B	Dowry death.	Imprisonment of not less than seven years but which may extend to imprisonment for life.	Ditto	Non-bailable	Court of Session.]
305	Abetment of suicide committed by child, or insane or delirious person or an idiot, or a person intoxicated.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
306	Abetting the commission of suicide.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto.
	If such act causes hurt to any person.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Death, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
308	Attempt to commit culpable homicide	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
	If such act causes hurt to any person	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.

1. Ins. by Act 43 of 1986, s. 11 (w.e.f. 19.11.1986).

1	2	3	4	5	6
309	Attempt to commit suicide.	Simple imprisonment for 1 year, or fine, or both.	Cognizable	Bailable	Any Magistrate.
311	Being a thug.	Imprisonment for life and fine.	Ditto	Non-bailable	Court of Session.
312	Causing miscarriage.	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
	If the woman be quick with child.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
313	Causing miscarriage without women's consent.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
314	Death caused by an act done with intent to cause miscarriage.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	If act done without women's consent.	Imprisonment for life, or as above.	Ditto	Ditto	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Imprisonment for 10 years, or fine, or both.	Ditto	Ditto	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
318	Concealment of birth by secret disposal of dead body.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
323	Voluntarily causing hurt.	Imprisonment for 1 year or fine of 1,000 rupees, or both.	Non-cognizable	Ditto	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Ditto.
325	Voluntarily causing grievous hurt.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
¹ [326A]	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session
326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.]
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.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Court of Session.
329	Voluntarily causing grievous 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.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 7 years and fine.	Ditto	Bailable	Magistrate of the first class.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
332	Voluntarily causing hurt to deter public servant from his duty.	Imprisonment for 3 years or fine or both.	Ditto	² [Ditto]	Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Imprisonment for 10 years and fine.	Ditto	³ [Ditto]	Court of Session.

1. Ins. by Act 13 of 2013, s. 24 (w.e.f. 3-2-2013).

2. Subs. by Act 25 of 2005, s. 42(f)(v), occurring in column 5, relating to s. 332, for "Bailable" (w.e.f. 23-6-2006).

3. Subs. by s. 42(f)(vi), *ibid.*, occurring in column 5, relating to s. 333, for "Non-bailable", (w.e.f. 23-6-2006).

1	2	3	4	5	6
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 1 month, or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 4 years, or fine of 2,000 rupees, or both.	Cognizable	Ditto	Magistrate of the first class.
336	Doing any act which endangers human life or the personal safety of others.	Imprisonment for 3 months, or fine of 250 rupees, or both.	Ditto	Ditto	Any Magistrate.
337	Causing hurt by an act which endangers human life, etc.	Imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
338	Causing grievous hurt by an act which endangers human life, etc.	Imprisonment for 2 years, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
341	Wrongfully restraining any person.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
342	Wrongfully confining any person.	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
343	Wrongfully confining for three or more days.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
344	Wrongfully confining for 10 or more days.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Imprisonment for 2 years, in addition to imprisonment under any other section.	Ditto	Ditto	Magistrate of the first class.
346	Wrongful confinement in secret.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Imprisonment for 3 years and fine.	Ditto	Ditto	Any Magistrate.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	Ditto	Ditto.
352	Assault or use of criminal force otherwise than on grave provocation.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Non-cognizable	Ditto	Ditto.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	Imprisonment for 2 years, or fine, or both.	Cognizable	¹ [Non-bailable]	Ditto.
² [354]	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non-bailable	Any Magistrate
354A	Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours, showing pornography.	Imprisonment which may extend to 3 years or with fine or with both.	Cognizable	Bailable	Any Magistrate
	Sexual harassment of the nature of making sexually coloured remark.	Imprisonment which may extend to 1 year or with fine or with both.	Cognizable	Bailable	Any Magistrate.
354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Any Magistrate.
354C	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
		Imprisonment of not less than 3 years but which may extend 7 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate
354D	Stalking.	Imprisonment up to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
		Imprisonment up to 5 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate.]
355	Assault or criminal force with intent to dishonor a person, otherwise than on grave and sudden provocation.	Ditto	Non-cognizable	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	Ditto	Cognizable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for one month, or fine of 200 rupees, or both.	Non-cognizable	Ditto	Ditto.
363	Kidnapping	Imprisonment for 7 years and fine.	Cognizable	Ditto	Magistrate of the first class.

1. Subs. by Act 25 of 2005, s. 42 (f) (vii), occurring in column 5, relating to s. 353, for "Ditto" (w.e.f. 23-6-2006).

2. Subs. by Act 13 of 2013, s. 24, for entry relating to s. 354 (w.e.f. 3-2-2013).

1	2	3	4	5	6
363A	Kidnapping or obtaining the custody of a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for 10 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
	Maiming a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for life and fine.	Ditto	Ditto	Court of Session.
364	Kidnapping or abducting in order to murder.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
¹ [364A	Kidnapping for ransom, etc.	Death, or imprisonment for life and fine.	Ditto	Ditto	Ditto.]
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
366A	Procurator of a minor girl.	Ditto	Ditto	Ditto	Ditto.
366B	Importation of a girl from foreign country.	Ditto	Ditto	Ditto	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Punishment for kidnapping or abduction.	Ditto	Ditto	Court by which the kidnapping or abduction is triable.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
² [370	Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Public servant or a police officer involved in trafficking of minor.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
370A	Exploitation of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Exploitation of a trafficked person.	Imprisonment of not less than 3 years but which may extend to 5 years and with fine.	Cognizable	Non-bailable	Court of Session.]

1. Ins. by Act 42 of 1993, s. 4, (w.e.f. 22-5-1993).

2. Subs. by Act 13 of 2013, s. 24, for entries relating to s. 370 (w.e.f. 3-2-2013).

1	2	3	4	5	6
371	Habitual dealing in slaves.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.
¹ [376	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	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 person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.]
376A	Person committing an offence of rape and inflicting injury which causes death or causes the woman to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.
³ [376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.]

1. Subs. by Act 13 of 2013, s. 24, for entries relating to ss. 376, 376A, 376B, 376C and 376D (w.e.f. 3-2-2013).

2. Subs. by Act 22 of 2018, s. 24, for entry 376 (w.e.f. 21-4-2018).

3. Ins. by s. 24, *ibid.* (w.e.f. 21-4-2018).

1	2	3	4	5	6
376B	Sexual intercourse by husband upon his wife during separation.	Imprisonment for not less than 2 years but which may extend to 7 years and with fine.	Cognizable	Bailable	Court of Session.
376C	Sexual intercourse by a person in authority.	Rigorous imprisonment for not less than 5 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
376D	Gang rape	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session.
¹ [376DA	Gang rape on a woman under sixteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.]
376E	Repeat offenders.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.]
² [377	Unnatural offences	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.]

CHAPTER XVII.—OFFENCES AGAINST PROPERTY

379	Theft	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Any Magistrate.
380	Theft in a building, tent or vessel	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto.
382	Theft, after preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Magistrate of the first class.

1. Ins. by Act 22 of 2018, s. 24 (w.e.f. 21-4-2018).

2. Subs. by Act 30 of 2001, s. 3 and the Second Sch., for the entries relating to s. 377 (w.e.f. 3-9-2001).

1	2	3	4	5	6
384	Extortion	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years.	Imprisonment for 10 years and fine.	Ditto	Bailable	Ditto.
	If the offence threatened be an unnatural offence.	Imprisonment for life	Ditto	Ditto	Ditto.
389	Putting a person in fear of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years in order to commit extortion.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	If the offence be an unnatural offence.	Imprisonment for life.	Ditto	Ditto	Ditto.
392	Robbery	Rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Ditto.
	If committed on the highway between sunset and sunrise.	Rigorous imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.
393	Attempt to commit robbery.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Court of Session.
396	Murder in dacoity	Death, imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Rigorous imprisonment for not less than 7 years.	Ditto	Ditto	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity.	Rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Court of Session.

1	2	3	4	5	6
403	Dishonest misappropriation of movable property, or converting it to one's own use.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class..
	If by clerk or person employed by deceased	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
406	Criminal breach of trust	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Ditto.
407	Criminal breach of trust by a carrier, wharfinger, etc.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
411	Dishonestly receiving stolen property knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
413	Habitually dealing in stolen property.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
417	Cheating	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
419	Cheating by personation .	Ditto	Cognizable	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself or any other person or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto.

1	2	3	4	5	6
426	Mischief	Imprisonment for 3 months or fine, or both.	Ditto	Ditto	Ditto.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	Ditto	Cognizable	Ditto	Ditto.
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 upwards.	Imprisonment for 5 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a lighthouse or seamount, or by exhibiting false lights.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.
434	Mischief by destroying or moving, etc., a landmark fixed by public authority.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
435	Mischief by fire or explosive substance with intent to cause damage to an amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	Imprisonment for 7 years and fine.	Cognizable	Ditto	Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tonnes burden.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
439	Running vessel ashore with intent to commit theft, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Imprisonment for 5 years and fine.	Ditto	Bailable	Magistrate of the first class.
447	Criminal trespass	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Any Magistrate.
448	House-trespass	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.

1	2	3	4	5	6
449	House-trespass in order to the commission of an offence punishable with death.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
450	House-trespass in order to the commission of an offence punishable with imprisonment for life.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment. If the offence is theft	Imprisonment for 2 years and fine. Imprisonment for 7 years and fine.	Ditto Ditto	Bailable Non-bailable	Any Magistrate. Ditto.
452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking.	Imprisonment for 2 years and fine.	Ditto	Ditto	Ditto.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment. If the offence be theft	Imprisonment for 3 years and fine. Imprisonment for 10 years and fine.	Ditto Ditto	Ditto Ditto	Ditto. Magistrate of the first class.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Imprisonment for 3 years and fine.	Ditto	Ditto	Any Magistrate.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment. If the offence is theft	Imprisonment for 5 years and fine. Imprisonment for 14 years and fine.	Ditto Ditto	Ditto Ditto	Magistrate of the first class. Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto	Ditto	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Imprisonment for 2 years or fine, or both.	Ditto	Ditto	Any Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Imprisonment for 3 years or fine, or both.	Ditto	Bailable	Ditto

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

465	Forgery	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Registrar of Births, etc., kept by a public servant.	Imprisonment for 7 years and fine	Ditto	Non-bailable	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	When the valuable security is a promissory note of the Central Government.	Ditto	Cognizable	Ditto	Ditto.

1	2	3	4	5	6
468	Forgery for the purpose of cheating.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person or knowing that it is likely to be used for that purpose.	Imprisonment for 3 years and fine.	Ditto	Bailable	Ditto.
471	Using as genuine a forged document which is known to be forged.	Punishment for forgery of such document.	Ditto	Ditto	Ditto.
	When the forged document is a promissory note of the Central Government.	Ditto	Ditto	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto.	Ditto.	Ditto.	Ditto.
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Imprisonment for life, or imprisonment for 7 years and fine.	Non-cognizable	Ditto	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto.	Ditto.	Ditto.	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto.	Ditto.
477A	Falsification of accounts.	Imprisonment for 7 years or fine, or both.	Ditto	Bailable	Ditto.
482	Using a false property mark with intent to deceive or injure any person.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
483	Counterfeiting a property mark used by another, with intent to cause damage or injury.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
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.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property mark.	Imprisonment for 3 years, or fine, or both.	Ditto.	Ditto.	Ditto.

1	2	3	4	5	6
486	Knowingly selling goods marked with a counterfeit property mark.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods, which it does not contain, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
488	Making use of any such false mark.	Ditto	Ditto	Ditto	Ditto.
489	Removing, destroying or defacing property mark with intent to cause injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.
489A	Counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	Ditto	Ditto.
489C	Possession of forged or counterfeit currency-notes or bank-notes.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Ditto.
489D	Making or possessing machinery, instrument or material for forging or counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Ditto.
489E	Making or using documents resembling currency-notes or bank-notes.	Fine of 100 rupees.	Non-cognizable	Bailable	Any Magistrate.
	On refusal to disclose the name and address of the printer.	Fine of 200 rupees.	Ditto	Ditto	Ditto.
CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE					
491	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.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
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.	Imprisonment for 10 years and fine.	Non-cognizable	Non-bailable	Magistrate of the first class.
494	Marrying again during the life time of a husband or wife.	Imprisonment for 7 years and fine.	Ditto	Bailable	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
497	Adultery	Imprisonment for 5 years, or fine, or both.	Ditto	Ditto	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.

1	2	3	4	5	6
¹ [CHAPTER XXA.—OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND					
498A	Punishment for subjecting a married woman to cruelty.	Imprisonment for three years and fine.	Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf.	Non-bailable	Magistrate of the first class.]
CHAPTER XXI.—DEFAMATION					
500	Defamation against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor. Defamation in any other case	Simple imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Court of Session.
		Ditto	Ditto	Ditto	Magistrate of the first class.
501(a)	Printing or engraving matter knowing it to be defamatory against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto	Ditto	Ditto	Court of Session.
(b)	Printing or engraving matter knowing it to be defamatory, in any other case.	Ditto	Ditto	Ditto	Magistrate of the first class.
502(a)	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto	Ditto	Ditto	Court of Session.
(b)	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter in any other case.	Ditto	Ditto	Ditto	Magistrate of the first class.

1. Ins. by Act 46 of 1983, s. 6 (w.e.f. 25-12-1983).

1	2	3	4	5	6
---	---	---	---	---	---

CHAPTER XXII.—CRIMINAL INTIMIDATIONS, INSULT AND ANNOYANCE

504	Insult intended to provoke breach of the peace.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto.
	False statement, rumour, etc., with intent to create enmity, hatred or ill-will between different classes.	Ditto	Cognizable	Ditto	Ditto.
	False statement, rumour, etc., made in place of worship, etc., with intent to create enmity, hatred or ill-will.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto.
506	Criminal intimidation.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Ditto.
	If threat be to cause death or grievous hurt, etc.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Imprisonment for 2 years, in addition to the punishment under above section.	Ditto	Ditto	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	¹ [Simple imprisonment for 3 years and with fine.]	Cognizable	Ditto	Ditto.
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Non-cognizable	Ditto	Ditto.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES

511	Attempting to commit offences punishable with imprisonment for life, or imprisonment, and in such attempt doing any act towards the commission of the offence.	Imprisonment for life, or imprisonment not exceeding half of the longest term, provided for the offence, or fine, or both	According as the offence is cognizable or non-cognizable.	According as the offence attempted by the offender is bailable or not.	The court by which the offence attempted is triable.
-----	--	---	---	--	--

II.—CLASSIFICATION OF OFFENCES AGAINST OTHER LAWS

Offence	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
If punishable with death, imprisonment for life, or imprisonment for more than 7 years	Cognizable	Non-bailable	Court of Session.
If punishable with imprisonment for 3 years and upwards but not more than 7 years	Ditto	Ditto	Magistrate of the first class.
If punishable with imprisonment for less than 3 years or with fine only.	Non-cognizable	Bailable	Any Magistrate.

1. Subs. by Act 13 of 2013, s. 24, for the word “Simple imprisonment for 1 year, or fine, or both,” occurring made in column 3, relating to s. 509 (w.e.f. 3-2-2013).

STATE AMENDMENTS

Chhattisgarh

In First Schedule to the Code, under the heading “1. —OFFENCES UNDER THE INDIAN PENAL CODE, 1860”

(a) In the entries relating to Section 211, the following entries shall be added, namely: —

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
...	If offence charged be punishable under Ss. 354, 354A, 354B, 354C, 354D, 354E, 376B, 376C, 376F, 509, 509A or 509B.	Imprisonment not less than 3 years but which may extend to 5 years and fine.	Non-Cognizable	Bailable	Magistrate of the first class.

(b) In the entries relating to Section 354, the following entries shall be added, namely: —

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
...	If committed by relative of the woman.	Imprisonment not less than 2 years but which may extend to 7 years and fine.	Cognizable	Non-Bailable	Magistrate of the first class.

(C) After the entries relating to Section 354D, the following shall be inserted, namely: —

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
354E	Liability of person present who fails to prevent the commission of offence under Ss. 354, 354A, 354B, 354C or 354D.	Imprisonment upto 3 years or fine or both.	Cognizable	Bailable	Any Magistrate.

(d) After the entries relating of Section 376E, the following shall be inserted, namely: —

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
376F	Liability of person in-charge of any work	Imprisonment upto 3	Cognizable	Non-	Magistrate of

place and others to give information about offence.	years and fine.	Bailable	first class.
---	-----------------	----------	--------------

(e) After the entries relating to Section 509, the following shall be inserted, namely: —

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
509A	Sexual harassment by relative.	Rigorous imprisonment not less than 1 year but which may extend upto 5 years and fine.	Cognizable	Non-Bailable	Magistrate of first class.
509B	Sexual harassment by electronic modes.	Rigorous imprisonment not less than 6 months but which may extend upto 2 years and fine.	Cognizable	Non-Bailable	Magistrate of first class.]

[Vide Chhattisgarh Act 25 of 2015, s. 13]

Gujarat

In the Code of Criminal Procedure, 1973, in the First Schedule, in the table, under the heading “Chapter XVII-Offences against Property”, after section 379, the following shall be inserted, namely: —

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what court triable
(1)	(2)	(3)	(4)	(5)	(6)
“379A	Attempt to commit snatching	Rigorous imprisonment of not less than five years but which may extend to ten years, and fine of 25,000 rupees.	Cognizable	Non-bailable	Court of Session
	Committing snatching	Rigorous imprisonment of not less than seven years but which may extend to ten years, and fine of 25,000 rupees.	Ditto	Ditto	Ditto.
	Causing hurt or wrongful restraint or fear of hurt, in order to effect escape after attempting to commit or after committing snatching	Rigorous imprisonment which may extend to three years, in addition to punishment under other sub-sections.	Ditto	Ditto	Ditto.

379B	Snatching, after preparation having been made for causing death, or hurt, or restraint, in order to the committing of such snatching, or to retaining property taken by it.	Rigorous imprisonment of not less than seven years but which may extend to ten years, and fine of 25,000 rupees.	Ditto	Ditto	Ditto.”.
------	---	--	-------	-------	----------

[Vide Gujrat Act 6 of 2019, s. 3.]

Madhya Pradesh

Amendment of First Schedule.- In the First Schedule to the principal Act, under the heading “I-OFFENCES UNDER THE INDIAN PENAL CODE”, after the entries relating to section 354, the following entries shall be inserted, namely:-

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what court triable
(1)	(2)	(3)	(4)	(5)	(6)
“354-A	Assault or use of Criminal force to woman with intent to disrobe her.	Imprisonment of not less than one year but which may extend to ten years and fine.	Cognizable	Non-bailable	Court of Session”

[Vide Madhya Pradesh Act 15 of 2004, s. 5.]

Madhya Pradesh

Amendment of the First Schedule.—In the First Schedule to the principal Act, under the heading “I-Offences under the Indian Penal Code”, in column 6 against section 317, 318, 326, 363, 363A, 365, 377, 392, 393, 394, 409, 435, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477 and 477A, for the words, “Magistrate of the first class”, wherever they occur, the words “Court of Session” shall be substituted.

[Vide Madhya Pradesh Act 2 of 2008, s. 4.]

Maharashtra

In the First Schedule to the Code of Criminal Procedure, under heading “I,- OFFENCES UNDER THE INDIAN PENAL CODE”,-

(i) for the entry relating to section 332, the following entry shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what court triable
---------	---------	------------	------------------------------	--------------------------	-----------------------

(1)	(2)	(3)	(4)	(5)	(6)
“332	Voluntarily causing hurt to deter public servant from his duty.	Imprisonment for 5 years or fine, or both.	Cognizable	Non- bailable	Court of Session.”;

(ii) for the entry relating to section 353, the following entry shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what court triable
(1)	(2)	(3)	(4)	(5)	(6)
“353	Assault or use of criminal force to deter a public servant from discharge of his duty.	Imprisonment for five years, or fine, or both.	Cognizable	Non-bailable	Court of Session.”.

[Vide Maharashtra Act 40 of 2018, s. 5.]

Haryana

1.	This Act may be called the Code of Criminal Procedure (Haryana Amendment) Act, 2014.				Short title
2.	In the Code of Criminal Procedure, 1973 in its application to the State of Haryana, in the First Schedule, in the table, after section 379, the following entries shall be inserted, namely:—				Amendment of First Schedule to Central Act 2 of 1974
1	2	3	4	5	6
“379-A	Snatching	Rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years, and fine of Rs. 25,000/-	Cognizable	Non-bailable	Court of Session
379-B	Snatching with hurt or wrongful restraint or fear of hurt.	Rigorous imprisonment for a term which shall not be less than ten years and which may extend to fourteen years, and	Ditto	Ditto	Ditto”.

fine of Rs.
25,000/-

[Vide Notification No. GSR929(E) dated 16th December, 2019.]

Himachal Pradesh

Amendment of Central Act No. 2 of 1974.—In the First Schedule to the Code of Criminal Procedure, 1973, under the heading “1. OFFENCES UNDER THE INDIAN PENAL CODE” after the entries relating to section 304-A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
“304-AA	Causing death or injury by driving a public service vehicle while in a state of intoxication	Imprisonment for life, or imprisonment for seven years and fine	Ditto	Non-bailable	Court of Session”

[Vide Himachal Pradesh 19 of 1997, s. 3.]

Himachal Pradesh

Amendment of Central Act No. 2 of 1974. — In the First Schedule to the Code of Criminal Procedure, 1973, under the heading “I, OFFENCES UNDER THE INDIAN PENAL CODE”, after the entries relating to section 289, the following entries shall be inserted, namely:—

1	2	3	4	5	6
“289-A	Whoever throws eatables in public place, other than those notified by the State Government in the Official Gazette, and thereby entice monkeys to assemble at such place for taking eatables which result in causing danger to human life or to be likely to cause injury or annoyance to the public or to the people in general or to cause hindrance in smooth running of vehicular traffic.	Imprisonment for one month or fine of Rs. 1000/- or both	Ditto	Ditto	Ditto.

[Vide Himachal Pradesh Act 15 of 2006, s. 3.]

Himachal Pradesh

Amendment of Central Act No. 2 of 1947.—In the First Schedule to the Code of Criminal Procedure, 1973, under the heading “OFFENCES UNDER THE INDIAN PENAL CODE”, in its application to the State of Himachal Pradesh, against the entries relating to section 304-AA, under column 2, for the words “a public service vehicle”, the words “any vehicle” shall be substituted.

[Vide Himachal Pradesh Act 7 of 2012, s. 3.]

STATE AMENDMENTS

Jammu and Kashmir and Ladakh (UTs).—

1	2	3	4	5	
354E	Sextortion	Imprisonment of not less than 3 years but which may extend to five years and with fine.	Cognizable	Non-bailable	Magistrate of the First Class

[vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020).]

Orissa

Amendment of First Schedule.—In the First Schedule to the said Code, in the entry under column 5 relating to section 354 of the Indian Penal Code, 1860 (45 of 1860) for the word “Bailable” the word “non-bailable” shall be substituted.

[Vide Orissa Act 6 of 1995, s. 3]

Amendment of First Schedule.— In the first Schedule to the principal Act, for the existing entries relating to sections 272, 273, 274, 275 and 276, the following entries shall respectively be substituted , namely:—

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable non-bailable or	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
272.	Adulterating food or drink intended For sale, or as to make the same noxious.	Imprisonment for life and fine.	Cognizable	Non-bailable	Court of Session.
273.	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto
274.	Adulterating any drug or medical Preparation intended for sale so as to Lessen its efficacy, or to change its Operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto

275.	Offering for sale or issuing from a dispensary and drug or medical preparation known to have been adulterated.	Imprisonment for life and fine	Cognizable	Non-bailable	Court for session.
276.	knowingly selling or issuing from A dispensary and drug or medical Preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto

[Vide Orissa Act 6 of 2004, s. 3]

THE SECOND SCHEDULE

(See section 476)

FORM No. 1

SUMMONS TO AN ACCUSED PERSON

(See section 61)

To (name of accused) of (address)

WHEREAS your attendance is necessary to answer to a charge of (state shortly the offence charged), you are hereby required to appear in person (or by pleader, as the case may be) before the (Magistrate) of , on the day . Herein fail not.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 2

WARRANT OF ARREST

(See section 70)

To (name and designation of the person or persons who is or are to execute the warrant).

WHEREAS (name of accused) of (address) stands charged with the offence of (state the offence), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

(See section 71)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of rupees with one surety in the sum of rupees (or two sureties each in the sum of rupees) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 3

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT

(See section 81)

I, _____ (name), of _____, being brought before the District Magistrate of _____ (or as the case may be) under a warrant issued to compel my appearance to answer to the charge of _____, do hereby bind myself to attend in the Court of _____ on the _____ day of _____ next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit, to Government, the sum of rupees _____

Dated, this _____ day of _____, 19____.

(Signature)

I do hereby declare myself surety for the above-named _____ of _____ that he shall attend before _____ in the Court of on the _____ day of _____ next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit, to Government, the sum of rupees _____

Dated, this _____ day of _____, 19____.

(Signature)

FORM No. 4

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

(See section 82)

WHEREAS a complaint has been made before me that _____ (name, description and address) has committed (or is suspected to have committed) the offence of _____, punishable under section _____ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said _____ (name) cannot be found, and whereas it has been shown to my satisfaction that the said _____ (name) has absconded (or is concealing himself to avoid the service of the said warranty);

Proclamation is hereby made that the said _____ of _____ is required to appear at _____ (place) before this Court (or before me) to answer the said complaint on the _____ day of _____

Dated, this _____ day of _____, 19____.

(Seal of the Court)

(Signature)

FORM No. 5

PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

(See sections 82, 87 and 90)

WHEREAS complaint has been made before me that _____ (*name, description and address*) has committed (*or is suspected to have committed*) the offence of _____ (*mention the offence concisely*) and a warrant has been issued to compel the attendance of _____ (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said _____ (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said _____ (*name*) is required to appear at _____ (*place*) before the Court _____ on the _____ day of _____ next at _____ o'clock to be examined touching _____ the offence complained of.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 6

ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

(See section 83)

To the officer in charge of the police station at

WHEREAS a warrant has been duly issued to compel the attendance of _____ (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*); and thereupon a Proclamation has been or is being duly issued and published requiring the said _____ to appear and give evidence at the time and place mentioned therein;

This is to authorise and require you to attach by seizure the movable property belonging to the said _____ to the value of rupees _____ which you may find within the District _____ of _____ and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 7

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(See section 83)

To

(name and designation of the person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property, other than land paying revenue to Government, in the village (or town), of , in the District of , viz., , and an order has been made for the attachment thereof;

You are hereby required to attach the said property in the manner specified in clause (a), or clause (c), or both*, of sub-section (2) of section 83, and to hold the same under attachment pending further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

* Strike out the one which is not applicable, depending on the nature of the property to be attached.

FORM No. 8

ORDER AUTHORISING AN ATTACHMENT BY THE DISTRICT MAGISTRATE OR COLLECTOR

(See section 83)

To the District Magistrate/Collector of the District of

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said (name) to appear to answer the said charge within days; and whereas the said is possessed of certain land paying revenue to Government in the village (or town) of , in the District of ;

You are hereby authorised and requested to cause the said land to be attached, in the manner specified in clause (a), or clause (c), or both*, of sub-section (4) of section 83, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

* Strike out the one which is not desired.

FORM No. 9

WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(See section 87)

To

(name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name and description of accused) of (address) has (or is suspected to have) committed the offence of (mention the offence concisely), and it appears likely that (name and description of witness) can give evidence concerning the said complaint, and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (name of witness), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 10

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

(See section 93)

To

(name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (mention the offence concisely), and it has been made to appear to me that the production of (specify the thing clearly) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorise and require you to search for the said (the thing specified) in the (describe the house or place or part thereof to which the search is to be confined), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 11

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(See section 94)

To

(name and designation of the 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 coins, or obscene objects, 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 coins *or* counterfeit currency notes *(as the case may be)*, and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of ,19 .

(Seal of the Court)

(Signature)

FORM No. 12

BOND TO KEEP THE PEACE

(See sections 106 and 107)

WHEREAS I, *(name)*, inhabitant of *(place)*,
have been called upon to enter into a bond to keep the peace for the term of or until
the completion of the inquiry in the matter of now pending in the Court
of , I hereby bind myself not to commit a breach of the peace, or do any act
that may probably occasion a breach of the peace, during the said term or until the completion of the said
inquiry and, in case of my making default therein, I hereby bind myself to forfeit, to Government, the sum
of rupees

Dated, this day of ,19 .

(Signature)

FORM No. 13

BOND FOR GOOD BEHAVIOUR

(See sections 108, 109 and 110)

WHEREAS I, _____ (name), inhabitant of _____ (place), have been called upon to enter into a bond to be of good behaviour to Government and all the citizens of India for the term of *(state the period)* or until the completion of the inquiry in the matter of _____ now pending in the Court of _____, I hereby bind myself to be of good behaviour to Government and all the citizens of India during the said term or until the completion of the said inquiry; and, in case of my making default therein, I hereby bind myself to forfeit to Government the sum of rupees _____

Dated, this _____ day of _____, 19____.

(Signature)

(Where a bond with sureties is to be executed, add)

We do hereby declare ourselves sureties for the above-named _____ that he will be of good behaviour to Government and all the citizens of India during the said term or until the completion of the said inquiry; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Government the sum of rupees _____

Dated, this _____ day of _____, 19____.

(Signature)

FORM No. 14

SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(See section 113)

To _____ of _____

WHEREAS it has been made to appear to me by credible information that _____ (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or by which act a breach of the peace will probably be occasioned*), you are hereby required to attend in person (*or by a duly authorised agent*) at the office of the Magistrate of _____ on the _____ day of _____, 19____, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees _____ [*when sureties are required, add, and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of rupees _____ (each if more than one)*], that you will keep the peace for the term of _____

Dated, this _____ day of _____, 19____.

(Seal of the Court)

(Signature)

FORM No. 15

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

(See section 122)

To the Officer in charge of the Jail at

WHEREAS (name and address) appeared before me in person (or by his authorised agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (or a bond with two sureties each in rupees), that he, the said (name) would keep the peace for the period of months; and whereas an order was then made requiring the said (name) to enter into and find such security (state the security ordered when it differs from that mentioned in the summons), and he has failed to comply with the said order;

This is to authorise and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of ,19 .

(Seal of the Court)

(Signature)

FORM No. 16

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR

(See section 122)

To the Officer in charge of the Jail at

WHEREAS it has been made to appear to me that (name and description) has been concealing his presence within the district of and that there is reason to believe that he is doing so with a view to committing a cognizable offence;

or

WHEREAS evidence of the general character of (name and description) has been adduced before me and recorded, from which it appears that he is an habitual robber (or house-breaker, etc., as the case may be);

AND WHEREAS an order has been recorded stating the same and requiring the said (name) to furnish security for his good behaviour for the term of (state the period) by entering into a bond with one surety (or two or more sureties, as the case may be), himself for rupees, and the said surety (or each of the said sureties) 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 receive the said (name) into your custody, together with this warrant and him safely to keep in the Jail, or if he is already in prison, be detained therein, for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of ,19 .

(Seal of the Court)

(Signature)

FORM No. 17

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See sections 122 and 123)

To the Officer in charge of the Jail at (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of the Court, dated the day of 19 ; and has since duly given security under section of the Code of Criminal Procedure, 1973.

or

WHEREAS (name and description of prisoner) was committed to your custody under warrant of the Court, dated the day of 19 ; and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorise and require you forthwith to discharge the said (name) from your custody unless he is liable to be detained for some other cause.

Dated, this day of ,19 .

(Seal of the Court)

(Signature)

FORM No. 18

WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(See section 125)

To the Officer in charge of the Jail at

WHEREAS (name, description and address) has been proved before me to be possessed of sufficient means to maintain his wife (name) [or his child (name) or his father or mother (name), who is by reason of (state the reason) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

And thereupon an order was made adjudging him to undergo imprisonment in the said Jail for the period of ;

This is to authorise and require you receive the said (name) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of ,19 .

(Seal of the Court)

(Signature)

FORM No. 19

WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY ATTACHMENT AND SALE

(See section 125)

To

(name and designation of the police officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees , and whereas the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of

This is to authorise and require you to attach any movable property belonging to the said (name) which may be found within the district of , and if within (state the number of days or hours allowed) next after such attachment the said sum shall not be paid (or forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of ,19 .

(Seal of the Court)

(Signature)

FORM No. 20

ORDER FOR THE REMOVAL OF NUISANCES

(See section 133)

To (name, description and address).

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway (or other public place) which, etc., (describe the road or public place) by, etc., (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on, as owner, or manager, the trade or occupation of (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to different place;

or

WHEREAS it has been made to appear to me that you are the owner (or are in possession of or have the control over) a certain tank (or well or excavation) adjacent to the 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);

or

WHEREAS, etc., etc., (as the case may be);

I do hereby direct and require you within _____ (state the time allowed) (state what is required to be done to abate the nuisance) or to appear at _____ in the _____ Court of _____ on the _____ day of _____ next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within _____ (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within _____ (state the time allowed) to put up a sufficient fence (state the kind of fence and the part to be fenced); or to appear, etc.;

or

I do hereby direct and require you, etc., etc. (as the case may be).

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 21

MAGISTRATE'S NOTICE AND PEREMPTORY ORDER

(See section 141)

To _____ (name, description and address).

I HEREBY give you notice that it has been found that the order issued on the _____ day of _____ requiring you (state substantially the requisition in the order) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (state the time allowed), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 22

INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY

(See section 142)

To _____ (name, description and address).

WHEREAS the inquiry into the conditional order issued by me on the _____ day of _____, 19 ____, is pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with such imminent danger or injury of a serious kind to the public as to render necessary immediate measures to prevent such danger or injury, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, 1973, direct and enjoin you forthwith to (state plainly what is required to be done as a temporary safeguard), pending the result of the inquiry.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 23

MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE

(See section 143)

To (name, description and address).

WHEREAS it has been made to appear to me that, etc. (*state the proper recital, guided by Form No. 20 or Form No. 24, as the case may be*);

I do hereby strictly order and enjoin you not to repeat or continue, the said nuisance.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 24

MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(See section 144)

To (name, description and address).

WHEREAS it has been made to appear to me that you are in possession (*or have the management*) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug-up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a procession along the public street, etc., (*as the case may be*) and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., etc., (*as the case may be*);

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 25

MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE

(See section 145)

It appears to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between _____ (*describe the parties by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain _____ (*state concisely the subject of dispute*), situate within my local jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said _____ (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said _____ (*name or names or description*) is true; I do decide and declare that he is (*or they are*) in possession of the said _____ (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 26

WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(See section 146)

To the officer in charge of the police station at

(*or*, To the Collector of _____).

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace, existed between _____ (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain _____ (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said _____ (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said _____ (*the subject of dispute*) (*or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid*);

This is to authorise and require you to attach the said _____ (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 27

MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER

(See section 147)

A dispute having arisen concerning the right of use of _____ (*state concisely the subject of dispute*) situate within my local jurisdiction, the possession of which land (*or water*) is claimed exclusively by _____ (*describe the person or persons*), and it appears to me, on due inquiry into the same, that the said land (*or water*) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*) and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or if the use is enjoyable only at a particular season, say, "during the last of the seasons at which the same is capable of being enjoyed"*);

I do order that the said _____ (*the claimant or claimants of possession*) or any one in their interest, shall not take (*or retain*) possession of the said land (*or water*) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or they*) shall obtain the decree or order of a competent Court adjudging him (*or them*) to be entitled to exclusive possession.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 28

BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE OFFICER

(See section 169)

I, (*name*), of _____, being charged with the offence of _____, and after inquiry required to appear before the Magistrate of _____

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at _____, in the Court of _____, on the _____ day of _____ next (*or on such day as I may hereafter be required to attend*) to answer further to the said charge, and in case of my making default herein. I bind myself to forfeit to Government, the sum of rupees _____

Dated, this _____ day of _____, 19 ____.

(Signature)

I hereby declare myself (*or we jointly and severally declare ourselves and each of us*) surety (*or sureties*) for the above said (*name*) that he shall attend at _____ in the Court of _____, on the _____ day of _____ next (*or on such day as he may hereafter be required to attend*), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or we hereby bind ourselves*) to forfeit to Government the sum of rupees _____.

Dated, this _____ day of _____, 19 ____.

(Signature)

FORM No. 29

BOND TO PROSECUTE OR GIVE EVIDENCE

(See section 170)

I, _____ (*name*) of _____ (*place*), do hereby bind myself to attend
at _____ in the Court of _____ at _____ o'clock on the _____ day
of _____ next and then and there to prosecute (*or to prosecute and give evidence*) (*or to give*
evidence) in the matter of a charge of _____ against one A.B., and, in case of making default
herein, I bind myself to forfeit to Government the sum of rupees _____

Dated, this _____ day of _____, 19 ____.

(*Signature*)

FORM No. 30

SPECIAL SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

(See section 206)

To,

(*Name of the accused*)

of _____ (*address*)

WHEREAS your attendance is necessary to answer a charge of a petty offence (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader*) before _____ (Magistrate)
of _____ on the _____ day of _____ 19 ____, or if you desire to plead guilty to
the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty
in writing and the sum of _____ rupees as fine, or if you desire to appear by pleader and to plead
guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your
behalf and to pay the fine through such pleader. Herein fail not.

Dated, this _____ day of _____, 19 ____.

(*Seal of the Court*)

(*Signature*)

(*Note.*-The amount of fine specified in this summons shall not exceed on hundred rupees.)

FORM No. 31

NOTICE OF COMMITMENT BY MAGISTRATE TO PUBLIC PROSECUTOR

(See section 209)

The Magistrate of _____ hereby gives notice that he has committed one _____ for
trial at the next Sessions; and the Magistrate hereby instructs the Public Prosecutor to conduct the
prosecution of the said case.

The charge against the accused is that, _____ etc. (*state the offence as in the charge*)

Dated, this _____ day of _____, 19 ____.

(*Seal of the Court*)

(*Signature*)

FORM No. 32

CHARGES

(See sections 211, 212 and 213)

I. CHARGES WITH ONE-HEAD

(1) (a) I, _____, (name and office of Magistrate, etc.),
hereby charge you _____ (name of accused person) as follows:—

(b) **On section 121**—That you, on or about the _____ day of _____, at _____, waged war against the Government of India and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of this Court.

(c) And I hereby direct that you be tried by this Court on the said charge.

(Signature and seal of the Magistrate)

[To be substituted for (b)]:—

(2) **On section 124**—That you, on or about the _____ day of _____, at _____, with the intention of inducing the President of India [or, as the case may be, the Governor of _____ (name of State)] to refrain from exercising a lawful power as such President (or, as the case may be, the Government) assaulted President (or, as the case may be, the Governor), and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of this Court.

(3) **On section 161**—That you, being a public servant in the _____ Department, directly accepted from _____ (state the name) for another party _____ (state the name) gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of this 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 Indian Penal Code, and within the cognizance of this Court.

(5) **On section 193**—That you, on or about the _____ day of _____, at _____, in the course of the trial of _____ before _____, stated in evidence that “_____” which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of this Court.

(6) **On section 304**—That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, causing the death of _____, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of this 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 Indian Penal Code, and within the cognizance of this 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 Indian Penal Code, and within the cognizance of this 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 Indian Penal Code, and within the cognizance of this Court.

(10) **On section 395**—That you, on or about the _____ day of _____, at _____, committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of this Court.

II. CHARGES WITH TWO OR MORE HEADS

(1) (a) I, _____ (*name and office of Magistrate, etc.*), hereby charge you _____ (*name of accused person*) as follows:—

(b) **On section 241**—*First*—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, delivered the same to another person, by name, A.B., as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit attempted to induce another person, by name, A.B., to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

(c) And I hereby direct that you be tried by the said Court on the said charge.

(*Signature and seal of the Magistrate*)

[*To be substituted for (b)*]:—

(2) **On 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 Indian Penal Code, and within the cognizance of the Court of Session.

Secondly—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3) **On sections 379 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 Indian Penal Code, and within the cognizance of the Court of Session.

Secondly—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing death to a _____ person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing fear of hurt to a person in order to the restraining of property taken by such theft and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4) **Alternative charge on section 193**—That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____, before _____, stated in evidence that “_____, and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in the evidence that “_____, one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

(*In cases tried by Magistrates substitute “within my cognizance” for “within the cognizance of the Court of Session”.*)

III. CHARGES 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 Indian Penal Code, and within the cognizance of the Court of Session (or Magistrate, as the case may be). And you, the said (name of accused), stand further charged that you, before the committing of the said offence, that is to say, on the day of _____, had been convicted by the _____ (state Court by which conviction was had) at _____ of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night _____ (describe the offence in the words used in the section under which the accused was convicted), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

FORM No. 33

SUMMONS TO WITNESS

(See sections 61 and 244)

To _____ of _____
WHEREAS complaint has been made before me that _____ (name of the accused) of _____ (address) has (or is suspected to have) committed the offence of _____ (state the offence concisely with time and place), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this Court on the _____ day of _____ next at ten o'clock in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Dated, this _____ day of _____, 19 ____ .
(Seal of the Court) _____ (Signature)

FORM No. 34

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A ¹[COURT]
²[(See sections 235, 248 and 255)]

To the Officer in charge of Jail at _____

WHEREAS on the _____ day of _____, _____ (name of the prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. _____ of the Calendar for 19____, was convicted before me _____ (name and official designation) of the offence of _____ (mention the offence or offences concisely) under section (or sections) _____ of the Indian Penal Code (or of _____ Act _____), and was sentenced to _____ (state the punishment fully and distinctly);

This is to authorise and require you to receive the said _____ (prisoner's name) into your custody in the said Jail, together with this warrant, and thereby carry the aforesaid sentence into execution according to law.

Dated, this _____ day of _____, 19 ____ .
(Seal of the Court) _____ (Signature)

1. Subs. by Act 45 of 1978, s. 35, for "MAGISTRATE".

2. Subs. by s. 35, *ibid*, for "(See sections 248 and 355)" (w.e.f. 18-12-1978).

FORM No. 35

WARRANT OF IMPRISONMENT ON FAILURE TO PAY COMPENSATION

(See section 250)

To the Officer in charge of Jail at

WHEREAS (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 on the ground that there was no reasonable ground for making the accusation against the said (name) and the order of dismissal awards payment by the said (name of complainant) of the sum of rupees as compensation; and whereas the said sum has not been paid and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorise and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 36

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR ANSWERING TO CHARGE OF OFFENCE

(See section 267)

To the Officer in charge of Jail at

WHEREAS the attendance of (name of prisoner) at present confined/detained in the above-mentioned prison, is required in this Court to answer to a charge of (state shortly the offence charged) or for the purpose of a proceeding (state shortly the particulars of the proceeding);

You are hereby required to produce the said under safe and sure conduct before this Court at on the day of , 19 , by A.M. there to answer to the said charge, or for the purpose of the said proceeding, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of this order and deliver to him the attached copy thereof.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

Countersigned.

(Seal)

(Signature)

FORM No. 37

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR GIVING EVIDENCE

(See section 267)

To the Officer in charge of the Jail at

WHEREAS complaint has been made before this Court that _____ (*name of the accused*) of has committed the offence of _____ (*state offence concisely with time and place*) and it appears that _____ (*name of prisoner*) at present confined/detained in the above-mentioned prison, is likely to give material evidence for the prosecution/defence;

You are hereby required to produce the said _____ under safe and sure conduct before this Court at _____ on the _____ day of _____, 19____, by _____ A.M. there to give evidence in the matter now pending before this Court, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison;

And you are further required to inform the said _____ of the contents of this order and deliver to him the attached copy thereof.

Dated, this _____ day of _____, 19____.

(*Seal of the Court*)

(*Signature*)

Countersigned.

(*Seal*)

(*Signature*)

FORM No. 38

WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED

(See section 345)

To the Officer in charge of the Jail at

WHEREAS at a Court held before me on this day _____ (*name and description of the offender*) in the presence (or view) of the Court committed wilful contempt;

And whereas for such contempt the said _____ (*name of the offender*) has been adjudged by the Court to pay a fine of rupees _____, or in default to suffer simple imprisonment for the period of _____ (*state the number of months or days*);

This is to authorise and require you to receive the said _____ (*name of the offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of _____ (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19____.

(*Seal of the Court*)

(*Signature*)

FORM No. 39

MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER OR TO
PRODUCE DOCUMENT

(See section 349)

To

(name and designation of officer of Court)

WHEREAS

(name and description),

being summoned (or brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, or having been called upon to produce any document has refused to produce such document, without alleging any just excuse for such refusal, and for his refusal has been ordered to be detained in custody for (term of detention adjudged);

This is to authorise and require you to take the said (name) into custody, and him safely to keep in your custody for the period of days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, or to produce the document called for from him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 40

WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

(See section 366)

To the Officer in charge of the Jail at

WHEREAS at the Session held before me on the day of , 19 , (name of prisoner), the (1st, 2nd, 3rd, as the case may be), prisoner in case No. of the Calendar for 19 at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to death, subject to the confirmation of the said sentence by the Court of ;

This is to authorise and require you to receive the said (prisoner's name) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 41

WARRANT AFTER A COMMUTATION OF A SENTENCE

¹[(See sections 386, 413 and 416)]

To the Officer in charge of the Jail at

WHEREAS at a Session held on the day of , 19 , (*name of the prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 19 at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of imprisonment for life;

This is to authorise and require you safely to keep the said (*prisoner's name*) in your custody in the said Jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of imprisonment for life under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said Jail", "and there to carry into execution the punishment of imprisonment under the said order according to law".

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*)

FORM No. 42

WARRANT OF EXECUTION OF A SENTENCE OF DEATH

²[(See sections 413 and 414)]

To the Officer in charge of the Jail at

WHEREAS (*name of the prisoner*), the (1st, 2nd, 3rd, *as the case may be*) Prisoner in case No. of the Calendar for 19 at the Session held before me on the day of , 19 , has been by a warrant of the Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the High Court at confirming the said sentence has been received by this Court;

This is to authorise and require you to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*)

1. Subs. by Act 45 of 1978, s. 35 for "(See section 386)" (w.e.f. 18-12-1978).

2. Subs. by s. 35, *ibid.*, for "(See section 414)" (w.e.f. 18-12-1978).

FORM No. 43

WARRANT TO LEVY A FINE BY ATTACHMENT AND SALE

(See section 421)

To

(name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS (name and description of the offender) was on the day of , 19 , convicted before me of the offence of (mention the 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 authorize and require you to attach any movable property belonging to the said (name), which may be found within the district of ; and, if within (state the number of days or hours allowed) next after such attachment the said sum shall not be paid (or forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 44

WARRANT FOR RECOVERY OF FINE

(See section 421)

To the Collector of the district of

WHEREAS (name, address and description of the offender) was on the day of , 19 , convicted before me of the offence of (mention the offence concisely), and sentenced to pay a fine of rupees ; and

WHEREAS the said (name), although require to pay the said fine, has not paid the same or any part of thereof;

You are hereby authorised and requested to realise the amount of the said fine as arrears of land revenue from the movable or immovable property, or both, of the said (name) and to certify without delay what you have done in pursuance of this order.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

¹[FORM No. 44A

BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE

[See section 424 (1) (b)]

WHEREAS I, _____ (name) inhabitant of _____ (place), have been sentenced to pay a fine of rupees _____ and in default of payment thereof to undergo 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 Government the sum of rupees.

Dated, this _____ day of _____, 19 ____.

(Signature)

WHERE A BOND WITH SURETIES IS 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 Government the sum of rupees.

(Signature).]

FORM No. 45

BOND AND BAIL-BOND FOR ATTENDANCE BEFORE OFFICER IN CHARGE OF POLICE STATION OR COURT

[See sections 436, ²[436A,] 437, ³[437A,] 438 (3) and 441]

I, _____ (name), of _____ (place), having been arrested or detained without warrant by the Officer in charge of _____ police station (or having been brought before the Court of _____), charged with the offence of _____, and required to give security for my attendance before such Officer of Court on condition that I shall attend such Officer or Court on every day on which any investigation or trial is held with regard to such charge, and in case of my making default herein, I bind myself to forfeit to Government the sum of rupees.

Dated, this _____ day of _____, 19 ____.

(Signature)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the above said _____ (name) that he shall attend the Officer in charge of _____ police station or the Court of _____ on every day on which any investigation into the charge is made or any trial on such charge is held, that he shall be, and appear, before such Officer or Court for the purpose of such investigation or to answer the charge against him (as the case may be), and, in case of his making default herein, I hereby bind myself (or we, hereby bind ourselves) to forfeit to Government the sum of _____ rupees.

Dated, this _____ day of _____, 19 ____.

(Signature)

1. Ins. by Act 45 of 1978, s. 35 (w.e.f. 18-12-1978).

2. Ins. by Act 25 of 2005, s. 43 (w.e.f. 23-6-2006).

3. Ins. by Act 5 of 2009, s. 32 (w.e.f. 31-12-2009).

FORM No. 46

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See section 442)

To the Officer in charge of the Jail at
(or other officer in whose custody the person is)

WHEREAS (name and description of prisoner) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (or sureties) duly executed a bond under section 441 of the Code of Criminal Procedure;

This is to authorise and require you forthwith to discharge the said (name) from your custody, unless he is liable to be detained for some other matter.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

¹[FORM No. 47

WARRANT OF ATTACHMENT TO ENFORCE A BOND

(See section 446)

To the Police Officer in charge of the police station at

WHEREAS (name, description and address of person) has failed to appear on (mention the occasion) pursuant to his recognizance, and has by default forfeited to Government the sum of rupees (the penalty in the bond); and whereas the said (name of person) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorise and require you to attach any movable property of the said (name) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within , days to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)]

¹ Ins. by Act 45 of 1978, s. 35 (w.e.f. 18-12-1978).

FORM No. 48
NOTICE TO SURETY ON BREACH OF A BOND
(See section 446)

To _____ of _____

WHEREAS on the _____ day of _____, 19____, you became surety for _____ (name) of _____ (place) that he should appear before this Court on the _____ day of _____ and bound yourself in default thereof to forfeit the sum of rupees _____ to Government; and whereas the said _____ (name) has failed to appear before this Court and by reason of such default you have forfeited the aforesaid sum of rupees.

You are hereby required to pay the said penalty or show cause, within _____ days from this date, why payment of the said sum should not be enforced against you.

Dated, this _____ day of _____, 19____.

(Seal of the Court)

(Signature)

FORM No. 49
NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR
(See section 446)

To _____ of _____

WHEREAS on the _____ day of _____, 19____, you became 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 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 security bond has become forfeited;

You are hereby required to pay the said penalty of rupees _____ or to show cause within _____ days why it should not be paid.

Dated, this _____ day of _____, 19____.

(Seal of the Court)

(Signature)

FORM No. 50

WARRANT OF ATTACHMENT AGAINST A SURETY

(See section 446)

To _____ of _____

WHEREAS _____ (*name, description and address*) has bound himself
as surety for the appearance of _____ (*mention the condition of the bond*) and
the said _____ (*name*) has made default, and thereby forfeited to Government
the sum of rupees _____ (*the penalty in the bond*);

This is to authorise and require you to attach any movable property of the said _____ (*name*)
which you may find within the district of _____, by seizure and detention; and, if the
said amount be not paid within _____ days, to sell the property so attached, or so much of it
as may be sufficient to realise the amount aforesaid, and make return of what you have done under this
warrant immediately upon its execution.

Dated, this _____ day of _____, 19 _____.

(*Seal of the Court*)

(*Signature*)

FORM No. 51

WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL

(See section 446)

To the Superintendent (or Keeper) of the Civil Jail at _____

WHEREAS _____ (*name and description of surety*) has bound
himself as a surety for the appearance of _____ (*state the condition of the bond*)
and the said _____ (*name*) has therein made default whereby the penalty mentioned in the
said bond has been forfeited to Government; and whereas the said _____ (*name of surety*) has,
on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be
enforced against him, and the same cannot be recovered by attachment and sale of his movable property,
and an order has been made for his imprisonment in the Civil Jail for _____ (*Specify the period*);

This is to authorise and require you, the said Superintendent _____ (or Keeper) to
receive the said _____ (*name*) into your custody with the warrant and to keep him safely
in the said Jail for the said _____ (*term of imprisonment*), and to return this warrant with an
endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19 _____.

(*Seal of the Court*)

(*Signature*)

FORM No. 52

NOTICE TO THE PRINCIPAL OF FORFEITURE OF BOND TO KEEP THE PEACE

(See section 446)

To (name, description and address)

WHEREAS on the day of , 19 , you entered into a bond not to commit, etc., (as in the bond), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees or to show cause before me within days why payment of the same should not be enforced against you.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 53

WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE

(See section 446)

To

(name and designation of police officer), at the police station of

WHEREAS (name and description) did, on the day of , 19 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc., (as in the bond), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said (name) to the value of rupees , which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 54

WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE

(See section 446)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS proof has been given before me and duly recorded that (name and description) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Government the sum of rupees ; and whereas the said (name) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said (name) in the Civil Jail of the period of (term of imprisonment);

This is to authorise and require you, the said Superintendent (or Keeper) of the said Civil Jail to receive the said (name) into your custody, together with this warrant, and to keep him safely in the said Jail for the said period of (term of imprisonment), and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 55

WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 446)

To the Police Officer in charge of the police station at

WHEREAS (name, description and address) did, on the day of , 19 , give security by bond in the sum of rupees for the good behaviour of (name, etc., of the principal), and proof has been given before me and duly recorded of the commission by the said (name) of the offence of whereby the said bond has been forfeited; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said (name) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 56

WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 446)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS (name, description and address) did, on the day of , 19 , give security by bond in the sum of rupees for the good behaviour of (name, etc., of the principal), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (name) has forfeited to Government the sum of rupees , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said (name) in the Civil Jail for the period of (term of imprisonment);

This is to authorise and require you, the Superintendent (or Keeper), to receive the said (name) into your custody, together with this warrant, and to keep him safely in the said Jail for the said period of (term of imprisonment), returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

STATE AMENDMENT

Andhra Pradesh

Amendment of Form No. 45 in the Second Schedule. — In the Principal Act, in the Second Schedule, in Form No. 45, in paragraph 2, after the words, “to forfeit to Government the sum of rupees” the following words shall be added namely:—

“and I shall pay the fine imposed by the court in case I fail to produce the accused on the date fixed by the court.”

[Vide Andhra Pradesh Act 17 of 2019 s. 3]

APPENDIX

EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2005

No. 25 OF 2005

[23rd June, 2005.]

An Act further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2005.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint ¹[; and different dates* may be appointed for different provisions of this Act.]

* * * * *

16. Insertion of new section 144A.—In Chapter X of the principal Act, under sub-heading “C.—*Urgent cases of nuisance or apprehended danger*”, after section 144, the following section shall be inserted, namely:—

‘144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.—(1) The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.

(2) A public notice issued or an order made under this section may be directed to a particular person or to persons belonging to any community, party or organisation.

(3) No public notice issued or an order made under this section shall remain in force for more than three months from the date on which it is issued or made.

(4) The State Government may, if it considers necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by notification, direct that a public notice issued or order made by the District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such public notice or order was issued or made by the District Magistrate would have, but for such direction, expired, as it may specify in the said notification.

(5) The State Government may, subject to such control and directions as it may deem fit to impose, by general or special order, delegate its powers under sub-section (4) to the District Magistrate.

1. Ins. by Act 25 of 2006, s. 2 (w.e.f. 2-6-2006).

* 23-6-2006, *vide* Notification No.S.O. 923(E) dated 21-6-2006 [Except the Provisions of Section 16, 25, 28(a), 28(b), 38, 42(a), 42(b), 42(f)(iii) and (iv) and 44(a)].

Explanation.—The word “arms” shall have the meaning assigned to it in section 153AA of the Indian Penal Code (45 of 1860).’.

*	*	*	*	*
¹ *	*	*	*	*
*	*	*	*	*

28. Amendment of section 320.—In section 320 of the principal Act, in the Table under sub-section (2),—

(a) the words “Voluntarily causing hurt by dangerous weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 shall be omitted;

(b) in column 3, for the word “Ditto”, against the entry relating to section 325, the words “The person to whom the hurt is caused” shall be substituted.

*	*	*	*	*
---	---	---	---	---

38. Amendment of section 438.—In section 438 of the principal Act, for sub-section (I), the following sub-sections shall be substituted, namely:—

“(I) Where any person has reason to believe that he may be arrested on 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 that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, *inter alia*, the following factors, namely:—

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(IA) Where the Court grants an interim order under sub-section (I), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

1. S. 25 omitted by Act 2 of 2006, s. 8 (w.e.f. 16-4-2006).

(1B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice.”.

* * * * *

42. Amendment of the First Schedule.—In the First Schedule to the principal Act, under the heading “I.—OFFENCES UNDER THE INDIAN PENAL CODE”,—

(a) after the entries relating to section 153A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
“153AA	Knowingly carrying arms in any procession or organising or holding or taking part in any mass drill or mass training with arms	Imprisonment for 6 months and fine of 2,000 rupees	Ditto	Ditto	Any Magistrate.”;

(b) in the 6th column, in the entries relating to section 153B, for the word “Ditto”, the words “Magistrate of the first class” shall be substituted;

* * * * *

(f) in the 5th column, in the entries relating to—

* * * * *

(iii) section 324, for the word “Ditto”, the word “Non-bailable” shall be substituted;

(iv) section 325, for the word “Ditto”, the word “Bailable” shall be substituted.

* * * * *

44. Amendment of Act 45 of 1860.—In the Indian Penal Code,—

(a) after section 153A, the following section shall be inserted, namely:—

‘153AA. Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.—Whoever knowingly carries arms in any procession or organizes or holds or takes part in any mass drill or mass training with arms in any public place in contravention of any public notice or order issued or made under section 144A of the Code of Criminal Procedure, 1973 (2 of 1974) shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to two thousand rupees.

Explanation.—”Arms” means articles of any description designed or adapted as weapons for offence or defence and includes fire arms, sharp edged weapons, lathis, *dandas* and sticks.’.

* * * * *