

Authorities before whom affidavits may be sworn.

**333.** (1) Affidavits to be used before any Court under this Sanhita may be sworn or affirmed before—

- (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 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.

Previous conviction or acquittal how proved.

**334.** In any inquiry, trial or other proceeding under this Sanhita, 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.

Record of evidence in absence of accused.

**335.** (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try, or commit for trial, such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions 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.

Evidence of public servants, experts, police officers in certain cases.

**336.** Where any document or report prepared by a public servant, scientific expert or medical officer is purported to be used as evidence in any inquiry, trial or other proceeding under this Sanhita, and—

- (i) such public servant, expert or officer is either transferred, retired, or died; or
- (ii) such public servant, expert or officer cannot be found or is incapable of giving deposition; or
- (iii) securing presence of such public servant, expert or officer is likely to cause delay in holding the inquiry, trial or other proceeding,

the Court shall secure presence of successor officer of such public servant, expert, or officer who is holding that post at the time of such deposition to give deposition on such document or report:

Provided that no public servant, scientific expert or medical officer shall be called to appear before the Court unless the report of such public servant, scientific expert or medical officer is disputed by any of the parties of the trial or other proceedings: