

PARLIAMENT OF CEYLON

5th Session 1969-70



Criminal Procedure Code (Amendment) Act, No. 37 of 1969

Date of Assent: December 28, 1969

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Criminal Procedure Code (Amendment)
Act, No. 37 of 1969

L. D.—O. 16/69.

AN ACT TO AMEND THE CRIMINAL PROCEDURE CODE AND TO MAKE PROVISION ENABLING MAGISTRATES' COURTS TO RESUME PROCEEDINGS IN CASES WHERE, BEFORE THE PASSING OF THIS ACT, A MAGISTRATE'S COURT, BEING OF OPINION THAT AN ACCUSED WAS OF UNSOUND MIND, HAS POSTPONED FURTHER PROCEEDINGS IN A TRIAL WITHOUT CONSIDERING WHETHER THE OFFENCE WAS OF A TRIVIAL NATURE BECAUSE IT HAD NO POWER TO DISCHARGE THE ACCUSED IN SUCH CIRCUMSTANCES.

Chapter 20,
Volume 1,
page 434.

[Date of Assent: December 28, 1969]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Criminal Procedure Code (Amendment) Act, No. 37 of 1969.

Short title

2. Section 367 of the Criminal Procedure Code, hereinafter referred to as the "principal enactment", is hereby amended as follows:—

Amendment of
section 367
of Chapter 20.

(1) in sub-section (2) of that section, by the substitution, for the words "If the Magistrate's Court", of the words "If the Magistrate's Court, in the case of an inquiry,"; and

(2) by the insertion of the following sub-section immediately after sub-section (2) of that section:—

"(3) If the Magistrate's Court, in the case of a trial, is of opinion that the accused is of unsound mind and consequently incapable of making his defence, it may—

(a) if the court is of the view that the offence with which the accused is charged is of a trivial nature and that, having regard to the medical evidence, the accused may be discharged without danger of doing injury to himself or to any other person, order the accused to be discharged, or

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(b) postpone further proceedings in the case. ”.

3. Section 369 of the principal enactment is hereby amended, in sub-section (1) of that section, by the substitution, for the words “incapable of making his defence the court, ”, of the words “incapable of making his defence, and has not been discharged under the provisions of sub-section (3) of section 367, the court, ”.

Amendment of
section 369 of
the principal
enactment.

4. (1) Where a Magistrate's Court holding a trial before the date on which this Act came into force, being of opinion that the accused was of unsound mind and consequently incapable of making his defence, has postponed further proceedings in the case under the provisions of sub-section (2) of section 367 of the principal enactment, and the Minister of Justice has, by writing under the hand of the Permanent Secretary, ordered the accused to be confined in a mental hospital, under the provisions of sub-section (2) of section 369 of that enactment, if it appears to the Visitors of the mental hospital, or any two of them, that the offence with which the accused was charged was of a trivial nature, and the Medical Superintendent or doctor in charge of the mental hospital certifies that the accused may be discharged without danger of doing injury to himself or to any other person, such Visitors may make a written application, to which the certificate of such Medical Superintendent or doctor in charge shall be appended, to the Magistrate's Court before which the accused was originally charged, to resume proceedings in the case.

Power to
Magistrate's
Court to
review
certain
cases.

(2) Where an application to resume proceedings in a case is made under the provisions of sub-section (1), it shall be lawful for the Magistrate's Court to resume proceedings in that case and, if the court is satisfied that the offence with which the accused was charged is of a trivial nature and, after hearing the evidence, if necessary, of the Medical Superintendent or doctor who issued the certificate, that the accused may be discharged without danger of doing injury to himself or to any other person, to order the accused to be discharged. If the Court is not so satisfied, the accused shall continue to be confined in the mental hospital in like manner as if proceedings had not been resumed.