

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 XX

## TRIAL OF WARRANT- CASES BY MAGISTRATES

*A.- - Cases instituted on a police report***261. Compliance with section 230**

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 230.

**Corresponding Provision of Previous Statute: Section 238, Code of Criminal Procedure, 1973**

**Section 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.

**262. When accused shall be discharged**

(1) The accused may prefer an application for discharge within a period of sixty days from the date of supply of copies of documents under section 230.

(2) If, upon considering the police report and the documents sent with it under section 193 and making such examination, if any, of the accused, either physically or through audio- video electronic means, 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.

**Corresponding Provision of Previous Statute: Section 239, Code of Criminal Procedure, 1973**

**Section 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.

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### 263. 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 within a period of sixty days from the date of first hearing on charge.

(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.

#### Corresponding Provision of Previous Statute: Section 240, Code of Criminal Procedure, 1973

**Section 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.

### 264. Conviction on plea of guilty

If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

#### Corresponding Provision of Previous Statute: Section 241, Code of Criminal Procedure, 1973

**Section 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

### 265. 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 264, the Magistrate shall fix a date for the examination of witnesses:

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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:

Provided further that the examination of a witness under this subsection may be done by audio- video electronic means at the designated place to be notified by the State Government.

**Corresponding Provision of Previous Statute: Section 242, Code of Criminal Procedure, 1973**

**Section 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:

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.

## 266. 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 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:

Provided further that the examination of a witness under this subsection may be done by audio-video electronic means at the designated place to be notified by the State Government.

(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.

**Corresponding Provision of Previous Statute: Section 243, Code of Criminal Procedure, 1973**

**Section 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 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*

#### **267. 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.

#### **Corresponding Provision of Previous Statute: Section 244, Code of Criminal Procedure, 1973**

**Section 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

#### **268. When accused shall be discharged**

(1) If, upon taking all the evidence referred to in section 267, 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.

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(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.

**Corresponding Provision of Previous Statute: Section 245, Code of Criminal Procedure, 1973**

**Section 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.

## **269. 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.

(7) Where, despite giving opportunity to the prosecution and after taking all reasonable measures under this Sanhita, if the attendance of the prosecution witnesses under sub- sections (5) and (6) cannot be secured for cross- examination, it shall be deemed that such witness has not been examined for not being available, and the Magistrate may close the prosecution evidence for reasons to be recorded in writing and proceed with the case on the basis of the materials on record.

**Corresponding Provision of Previous Statute: Section 246, Code of Criminal Procedure, 1973**

**Section 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.

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**270. Evidence for defence**

The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 266 shall apply to the case.

**Corresponding Provision of Previous Statute: Section 247, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Rasik Tatma vs. Bhagwat Tanti, [MANU/BH/0090/1958](#)

***C.- - Conclusion of trial*****271. 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 364 or section 401, 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 234 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:

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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

**Corresponding Provision of Previous Statute: Section 248, Code of Criminal Procedure, 1973**

**Section 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).

## 272. 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 after giving thirty days' time to the complainant to be present, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

**Corresponding Provision of Previous Statute: Section 249, Code of Criminal Procedure, 1973**

**Section 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.

## 273. 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 sub- section (6) of section 8 of the Bharatiya Nyaya Sanhita, 2023 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 two thousand 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.

**Corresponding Provision of Previous Statute: Section 250, Code of Criminal Procedure, 1973**

**Section 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 XXI

## TRIAL OF SUMMONS- CASES BY MAGISTRATES

**274. 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:

Provided that if the Magistrate considers the accusation as groundless, he shall, after recording reasons in writing, release the accused and such release shall have the effect of discharge.

**Corresponding Provision of Previous Statute: Section 251, Code of Criminal Procedure, 1973**

**Section 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.

**275. 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.

**Corresponding Provision of Previous Statute: Section 252, Code of Criminal Procedure, 1973**

**Section 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.

**276. Conviction on plea of guilty in absence of accused in petty cases**

(1) Where a summons has been issued under section 229 and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or

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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 an advocate 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 advocate and may, in his discretion, convict the accused on such plea and sentence him as aforesaid.

**Corresponding Provision of Previous Statute: Section 253, Code of Criminal Procedure, 1973**

**Section 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.

## **277. Procedure when not convicted**

(1) If the Magistrate does not convict the accused under section 275 or section 276, 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.

**Corresponding Provision of Previous Statute: Section 254, Code of Criminal Procedure, 1973**

**Section 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.

## 278. Acquittal or conviction

(1) If the Magistrate, upon taking the evidence referred to in section 277 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 364 or section 401, he shall, if he finds the accused guilty, pass sentence upon him according to law.

(3) A Magistrate may, under section 275 or section 278, 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.

**Corresponding Provision of Previous Statute: Section 255, Code of Criminal Procedure, 1973**

**Section 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.

## 279. 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, after giving thirty days' time to the complainant to be present, 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 an advocate 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.

### Corresponding Provision of Previous Statute: Section 256, Code of Criminal Procedure, 1973

**Section 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.

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(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.

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**280. 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.

**Corresponding Provision of Previous Statute: Section 257, Code of Criminal Procedure, 1973**

**Section 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.

**281. 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.

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**Corresponding Provision of Previous Statute: Section 258, Code of Criminal Procedure, 1973**

**Section 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.

**282. 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 Sanhita for the trial of warrant- cases and may recall any witness who may have been examined.

**Corresponding Provision of Previous Statute: Section 259, Code of Criminal Procedure, 1973**

**Section 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.

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## CHAPTER XXII

## SUMMARY TRIALS

**283. Power to try summarily**

(1) Notwithstanding anything contained in this Sanhita- -

(a) any Chief Judicial Magistrate;

(b) Magistrate of the first class, shall try in a summary way all or any of the following offences:- -

(i) theft, under sub- section (2) of section 303, section 305 or section 306 of the Bharatiya Nyaya Sanhita, 2023 where the value of the property stolen does not exceed twenty thousand rupees;

(ii) receiving or retaining stolen property, under sub- section (2) of section 317 of the Bharatiya Nyaya Sanhita, 2023, where the value of the property does not exceed twenty thousand rupees;

(iii) assisting in the concealment or disposal of stolen property under sub- section (5) of section 317 of the Bharatiya Nyaya Sanhita, 2023, where the value of such property does not exceed twenty thousand rupees;

(iv) offences under sub- sections (2) and (3) of section 331 of the Bharatiya Nyaya Sanhita, 2023;

(v) insult with intent to provoke a breach of the peace, under section 352, and criminal intimidation, under sub- sections (2) and (3) of section 351 of the Bharatiya Nyaya Sanhita, 2023;

**Linked Provisions**

[Essential Commodities Act, 1955 - Section 12A - Power to try summarily](#)

[Northern India Ferries Act, 1878 - Section 30 - Power to try summarily](#)

[Prevention of Corruption Act, 1988 - Section 6 - Power to try summarily](#)

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- (vi) abetment of any of the foregoing offences;
- (vii) an attempt to commit any of the foregoing offences, when such attempt is an offence;
- (viii) 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) The Magistrate may, after giving the accused a reasonable opportunity of being heard, for reasons to be recorded in writing, try in a summary way all or any of the offences not punishable with death or imprisonment for life or imprisonment for a term exceeding three years:

Provided that no appeal shall lie against the decision of a Magistrate to try a case in a summary way under this sub- section.

(3) 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 Sanhita.

**Corresponding Provision of Previous Statute: Section 260, Code of Criminal Procedure, 1973**

**Section 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 two thousand rupees;
  - (iii) receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where

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the value of the property does not exceed 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 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 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.

## 284. Summary trial by Magistrate of 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.

### Corresponding Provision of Previous Statute: Section 261, Code of Criminal Procedure, 1973

**Section 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.

## 285. Procedure for summary trials

(1) In trials under this Chapter, the procedure specified in this Sanhita 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.

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**Corresponding Provision of Previous Statute: Section 262, Code of Criminal Procedure, 1973**

**Section 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.

**286. 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 (i), clause (ii) or clause (iii) of sub- section (1) of section 283, 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.

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**Corresponding Provision of Previous Statute: Section 263, Code of Criminal Procedure, 1973**

**Section 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.

**287. 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 reasons for the finding.

**Corresponding Provision of Previous Statute: Section 264, Code of Criminal Procedure, 1973**

**Section 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 reasons for the finding.

**288. 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

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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.

**Corresponding Provision of Previous Statute: Section 265, Code of Criminal Procedure, 1973**

**Section 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.

## CHAPTER XXIII

## PLEA BARGAINING

**289. Application of 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 193 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 223, issued the process under section 227, 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.

(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.

**Corresponding Provision of Previous Statute: Section 265A, Code of Criminal Procedure, 1973**

**Section 265A – Application of the Chapter** - (1) This Chapter shall apply in respect of an accused against whom—

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(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.

## 290. Application for plea bargaining

(1) A person accused of an offence may file an application for plea bargaining within a period of thirty days from the date of framing of charge 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 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 and to the accused to appear on the date fixed for the case.

### Linked Provisions

[Bharatiya  
Suraksha Sanhita, 2023 -  
Section 296 - Power of  
the Court in plea  
bargaining](#)

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(4) When the Public Prosecutor or the complainant of the case 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, not exceeding sixty days, to the Public Prosecutor or the complainant of the case 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 accordance with the provisions of this Sanhita from the stage such application has been filed under sub- section (1).

**Corresponding Provision of Previous Statute: Section 265B, Code of Criminal Procedure, 1973**

**Section 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 accordance with the provisions of this Code from the stage such application has been filed under sub-section (1).

## **291. Guidelines for mutually satisfactory disposition**

In working out a mutually satisfactory disposition under clause (a) of sub- section (4) of section 290, the Court shall follow the following procedure, namely:-

(a) in a case instituted on a police report, the Court shall issue notice to the Public Prosecutor, the police officer who has investigated the case, the accused and the victim of the case to participate in the meeting to work out a satisfactory disposition of the case:

Provided that throughout such process of working out a satisfactory disposition of the case, it shall be the duty of the Court to ensure that the entire process is completed voluntarily by the parties participating in the meeting:

Provided further that the accused, if he so desires, may participate in such meeting with his advocate, 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,

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that it is completed voluntarily by the parties participating in the meeting:

Provided further that if the victim of the case or the accused so desires, he may participate in such meeting with his advocate engaged in the case.

**Corresponding Provision of Previous Statute: Section 265C, Code of Criminal Procedure, 1973**

**Section 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.

**292. Report of mutually satisfactory disposition to be submitted before Court**

Where in a meeting under section 291, 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 Sanhita from the stage the application under sub- section (1) of section 290 has been filed in such case.

**Corresponding Provision of Previous Statute: Section 265D, Code of Criminal Procedure, 1973**

**Section 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.

### 293. Disposal of case

Where a satisfactory disposition of the case has been worked out under section 292, 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 292 and hear the parties on the quantum of the punishment, releasing of the accused on probation of good conduct or after admonition under section 401 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 401 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;

(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, and where the accused is a first-time offender and has not been convicted of any offence in the past, it may sentence the accused to one-fourth 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 for such offence and where the accused is a first-time offender and has not been convicted of any offence in the past, it may sentence the accused to one-sixth of the punishment provided or extendable, for such offence.

**Corresponding Provision of Previous Statute: Section 265E, Code of Criminal Procedure, 1973**

**Section 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.

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## 294. Judgment of Court

The Court shall deliver its judgment in terms of section 293 in the open Court and the same shall be signed by the presiding officer of the Court.

**Corresponding Provision of Previous Statute: Section 265F, Code of Criminal Procedure, 1973**

**Section 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.

## 295. Finality of judgment

The judgment delivered by the Court under this section 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.

**Corresponding Provision of Previous Statute: Section 265G, Code of Criminal Procedure, 1973**

**Section 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.

## 296. Power of 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 Sanhita.

### Linked Provisions

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 290 - Application for plea bargaining](#)

**Corresponding Provision of Previous Statute: Section 265H, Code of Criminal Procedure, 1973**

**Section 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.

### LANDMARK JUDGMENT

State of Gujarat vs. Natwar Harchandji Thakor, [MANU/GJ/0186/2005](#)

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## 297. Period of detention undergone by accused to be set off against sentence of imprisonment

The provisions of section 468 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 Sanhita.

### Linked Provisions

[Bharatiya  
Suraksha Sanhita, 2023 -  
Section 468 - Period of  
detention undergone by  
the accused to be set off  
against the sentence of  
imprisonment](#)

### Corresponding Provision of Previous Statute: Section 265I, Code of Criminal Procedure, 1973

**Section 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.

## 298. Savings

The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Sanhita 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 (v) of section 2 and includes an Assistant Public Prosecutor appointed under section 19.

### Corresponding Provision of Previous Statute: Section 265J, Code of Criminal Procedure, 1973

**Section 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.

## 299. 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

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for plea bargaining filed under section 290 shall not be used for any other purpose except for the purpose of this Chapter.

**Corresponding Provision of Previous Statute: Section 265K, Code of Criminal Procedure, 1973**

**Section 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.

### 300. Non- application of Chapter

Nothing in this Chapter shall apply to any juvenile or child as defined in section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016).

**Corresponding Provision of Previous Statute: Section 265L, Code of Criminal Procedure, 1973**

**Section 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 XXIV

## ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

## 301. Definitions

In this Chapter,- -

**Corresponding Provision of Previous Statute: Section 266, Code of Criminal Procedure, 1973**

**Section 266 – Definitions** - In this Chapter, –

(a) "detained" includes detained under any law providing for preventive detention;

**Corresponding Provision of Previous Statute: Section 266(a), Code of Criminal Procedure, 1973**

**Section 266(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 other institution of a like nature.

**Corresponding Provision of Previous Statute: Section 266(b), Code of Criminal Procedure, 1973**

**Section 266(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.

## 302. Power to require attendance of prisoners

(1) Whenever, in the course of an inquiry, trial or proceeding under this Sanhita, 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 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.

**Corresponding Provision of Previous Statute: Section 267, Code of Criminal Procedure, 1973**

**Section 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.

### **303. Power of State Government or Central Government to exclude certain persons from operation of section 302**

(1) The State Government or the Central Government, as the case may be, 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 302, whether before or after the order of the State Government or the Central 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 or the Central Government in the cases instituted by its central agency, as the case may be, 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.

#### **Corresponding Provision of Previous Statute: Section 268, Code of Criminal Procedure, 1973**

**Section 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.

### **304. 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 302- -

- (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 or the Central Government under section 303 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).

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**Corresponding Provision of Previous Statute: Section 269, Code of Criminal Procedure, 1973**

**Section 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).

**305. Prisoner to be brought to Court in custody**

Subject to the provisions of section 304, the officer in charge of the prison shall, upon delivery of an order made under sub- section (1) of section 302 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.

**Linked Provisions**

[Code of Civil Procedure, 1908 - Section 6 - Prisoner to be brought to Court in custody](#)

**Corresponding Provision of Previous Statute: Section 270, Code of Criminal Procedure, 1973**

**Section 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.

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**306. 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 319, 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 XXV 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.

**Linked Provisions**

[Code of Civil Procedure, 1908 - Order XVI-A Rule 7 - Power to issue commission for examination of witness in prison](#)

**Corresponding Provision of Previous Statute: Section 271, Code of Criminal Procedure, 1973**

**Section 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.

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## CHAPTER XXV

## EVIDENCE IN INQUIRIES AND TRIALS

*A.- - Mode of taking and recording evidence***307. Language of Courts**

The State Government may determine what shall be, for purposes of this Sanhita, the language of each Court within the State other than the High Court.

**Corresponding Provision of Previous Statute: Section 272, Code of Criminal Procedure, 1973**

**Section 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.

**308. 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 advocate including through audio- video electronic means at the designated place to be notified by the State Government:

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 IX has been commenced under this Sanhita.

**Corresponding Provision of Previous Statute: Section 273, Code of Criminal Procedure, 1973**

**Section 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:

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.

### 309. Record in summons- cases and inquiries

(1) In all summons- cases tried before a Magistrate, in all inquiries under sections 164 to 167 (both inclusive), and in all proceedings under section 491 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.

**Corresponding Provision of Previous Statute: Section 274, Code of Criminal Procedure, 1973**

**Section 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:

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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.

### 310. 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:

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.

#### **Corresponding Provision of Previous Statute: Section 275, Code of Criminal Procedure, 1973**

**Section 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:

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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.

### 311. 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.

(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.

#### Corresponding Provision of Previous Statute: Section 276, Code of Criminal Procedure, 1973

**Section 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.

(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.

### 312. Language of record of evidence

In every case where evidence is taken down under section 310 or section 311, - -

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(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.

**Corresponding Provision of Previous Statute: Section 277, Code of Criminal Procedure, 1973**

**Section 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.

**313. Procedure in regard to such evidence when completed**

(1) As the evidence of each witness taken under section 310 or section 311 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his advocate, if he appears by an advocate, 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.

**Corresponding Provision of Previous Statute: Section 278, Code of Criminal Procedure, 1973**

**Section 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.

**314. Interpretation of evidence to accused or his advocate**

(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.

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(2) If he appears by an advocate and the evidence is given in a language other than the language of the Court, and not understood by the advocate, it shall be interpreted to such advocate 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.

**Corresponding Provision of Previous Statute: Section 279, Code of Criminal Procedure, 1973**

**Section 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.

### 315. 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.

**Corresponding Provision of Previous Statute: Section 280, Code of Criminal Procedure, 1973**

**Section 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.

### 316. Record of examination of accused

(1) Whenever the accused is examined by any 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

#### Linked Provisions

[Bharatiya](#) [Nagarik](#)  
[Suraksha Sanhita, 2023 -](#)  
[Section 509 - Non-](#)  
[compliance with](#)  
[provisions of Section 183](#)  
[or Section 316](#)

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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) 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.

(3) 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.

(4) 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:

Provided that where the accused is in custody and is examined through electronic communication, his signature shall be taken within seventy- two hours of such examination.

(5) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

**Corresponding Provision of Previous Statute: Section 281, Code of Criminal Procedure, 1973**

**Section 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.

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- (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.

### 317. 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.

#### Corresponding Provision of Previous Statute: Section 282, Code of Criminal Procedure, 1973

**Section 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.

### 318. 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.

#### Corresponding Provision of Previous Statute: Section 283, Code of Criminal Procedure, 1973

**Section 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*

### 319. 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 Sanhita, it appears to a Court or Magistrate that the examination of a

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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 advocate's fees, be paid by the prosecution.

**Corresponding Provision of Previous Statute: Section 284, Code of Criminal Procedure, 1973**

**Section 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.

### 320. Commission to whom to be issued

(1) If the witness is within the territories to which this Sanhita extends, the commission shall be directed to the Chief Judicial Magistrate 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 Sanhita 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.

**Corresponding Provision of Previous Statute: Section 285, Code of Criminal Procedure, 1973**

**Section 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, prescribed in this behalf

### 321. Execution of commissions

Upon receipt of the commission, the Chief Judicial Magistrate or such 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 of warrant- cases under this Sanhita.

**Corresponding Provision of Previous Statute: Section 286, Code of Criminal Procedure, 1973**

**Section 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

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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.

### 322. Parties may examine witnesses

(1) The parties to any proceeding under this Sanhita 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 an advocate, or if not in custody, in person, and may examine, cross- examine and re- examine the said witness.

#### Corresponding Provision of Previous Statute: Section 287, Code of Criminal Procedure, 1973

**Section 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.

### 323. Return of commission

(1) After any commission issued under section 319 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.

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(2) Any deposition so taken, if it satisfies the conditions specified by section 27 of the Bharatiya Sakshya Adhiniyam, 2023, may also be received in evidence at any subsequent stage of the case before another Court.

**Corresponding Provision of Previous Statute: Section 288, Code of Criminal Procedure, 1973**

**Section 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.

### 324. Adjournment of proceeding

In every case in which a commission is issued under section 319, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

**Corresponding Provision of Previous Statute: Section 289, Code of Criminal Procedure, 1973**

**Section 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.

### 325. Execution of foreign commissions

(1) The provisions of section 321 and so much of section 322 and section 323 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 319.

(2) The Courts, Judges and Magistrates referred to in sub- section (1) are- -

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(a) any such Court, Judge or Magistrate exercising jurisdiction within an area in India to which this Sanhita 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.

**Corresponding Provision of Previous Statute: Section 290, Code of Criminal Procedure, 1973**

**Section 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.

### 326. Deposition of medical witness

(1) The deposition of a 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 Sanhita, 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.

**Corresponding Provision of Previous Statute: Section 291, Code of Criminal Procedure, 1973**

**Section 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,

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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.

### 327. 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 Sanhita, 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 19, section 26, section 27, section 158 or section 160 of the Bharatiya Sakshya Adhiniyam, 2023, 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.

#### Corresponding Provision of Previous Statute: Section 291A, Code of Criminal Procedure, 1973

**Section 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.

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**328. Evidence of officers of Mint**

(1) Any document purporting to be a report under the hand of a gazetted 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 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 Sanhita, may be used as evidence in any inquiry, trial or other proceeding under this Sanhita, 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 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023, no such officer shall, 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 be permitted- -

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- (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.

**Corresponding Provision of Previous Statute: Section 292, Code of Criminal Procedure, 1973**

**Section 292 – Evidence of officers of the Mint** - (1) Any document purporting to be a report under the hand of any such 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, 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.

**329. 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 Sanhita, may be used as evidence in any inquiry, trial or other proceeding under this Sanhita.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject- matter of his report.

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(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;

(b) the Chief Controller of Explosives;

(c) the Director of the Finger Print Bureau;

(d) the Director, Haffkine Institute, Bombay;

(e) the Director, Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;

(f) the Serologist to the Government;

(g) any other scientific expert specified or certified, by notification, by the State Government or the Central Government for this purpose.

**Corresponding Provision of Previous Statute: Section 293, Code of Criminal Procedure, 1973**

**Section 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.

(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;

(b) the Chief Controller of Explosives;

(c) the Director of the Finger Print Bureau;

(d) the Director, Haffkeine Institute, Bombay;

(e) the Director, Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;

(f) the Serologist to the Government;

(g) any other Government scientific expert specified, by notification, by the Central Government for this purpose.

### 330. 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 or the advocate for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document soon after supply of such documents and in no case later than thirty days after such supply:

Provided that the Court may, in its discretion, relax the time limit with reasons to be recorded in writing:

Provided further that no expert shall be called to appear before the Court unless the report of such expert is disputed by any of the parties to the trial.

(2) The list of documents shall be in such form as the State Government may, by rules, provide.

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(3) Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Sanhita without proof of the signature of the person by whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.

**Corresponding Provision of Previous Statute: Section 294, Code of Criminal Procedure, 1973**

**Section 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.

### 331. 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 Sanhita, 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.

**Corresponding Provision of Previous Statute: Section 295, Code of Criminal Procedure, 1973**

**Section 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.

### 332. 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

#### Linked Provisions

[Gram Nyayalayas Act, 2008 - Section 32 - Evidence of formal](#)

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exceptions, be read in evidence in any inquiry, trial or other proceeding under this Sanhita.

(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.

[character on affidavit](#)

[Family Courts Act, 1984  
- Section 16 - Evidence of  
formal character on  
affidavit](#)

**Corresponding Provision of Previous Statute: Section 296, Code of Criminal Procedure, 1973**

**Section 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.

### 333. Authorities before whom affidavits may be sworn

(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.

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**Corresponding Provision of Previous Statute: Section 297, Code of Criminal Procedure, 1973**

**Section 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 –

- (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.

**334. Previous conviction or acquittal how proved**

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.

**Corresponding Provision of Previous Statute: Section 298, Code of Criminal Procedure, 1973**

**Section 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.

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**335. Record of evidence in absence of accused**

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

**Corresponding Provision of Previous Statute: Section 299, Code of Criminal Procedure, 1973**

**Section 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, 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.

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

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:

Provided further that the deposition of such successor public servant, expert or officer may be allowed through audio- video electronic means.

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## CHAPTER XXVI

## GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

**337. 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 244, 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 243.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last- mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence

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constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 281 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 208 of this Sanhita.

*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.

**Corresponding Provision of Previous Statute: Section 300, Code of Criminal Procedure, 1973**

**Section 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 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.

### 338. 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 his advocate 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 advocate 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.

#### Corresponding Provision of Previous Statute: Section 301, Code of Criminal Procedure, 1973

**Section 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.

**339. 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 an advocate.

**Corresponding Provision of Previous Statute: Section 302, Code of Criminal Procedure, 1973**

**Section 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.

**340. 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 Sanhita, may of right be defended by an advocate of his choice.

**Corresponding Provision of Previous Statute: Section 303, Code of Criminal Procedure, 1973**

**Section 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.

**341. Legal aid to accused at State expense in certain cases**

(1) Where, in a trial or appeal before a Court, the accused is not represented by an advocate, and where it appears to the Court that the accused has not sufficient means to engage an advocate, the Court shall assign an advocate 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 advocates for defence under sub- section (1);

(b) the facilities to be allowed to such advocates by the Courts;

(c) the fees payable to such advocates 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.

**Corresponding Provision of Previous Statute: Section 304, Code of Criminal Procedure, 1973**

**Section 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).

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(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.

**LANDMARK JUDGMENT**

Khatri and Ors. vs. State of Bihar and Ors., [MANU/SC/0518/1981](#)

Suk Das vs. Union Territory of Arunachal Pradesh, [MANU/SC/0140/1986](#)

**342. 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 Sanhita 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 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 duly

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authorised by him (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.

**Corresponding Provision of Previous Statute: Section 305, Code of Criminal Procedure, 1973**

**Section 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.

### 343. 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

#### Linked Provisions

[Indo-Tibetan Border Police Force Act, 1992 - Section 119 - Tender of pardon to accomplice](#)

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to which this section applies, the Chief Judicial 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.

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(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 any other law for the time being in force;

(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;

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(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 any other law for the time being in force, 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.

**Corresponding Provision of Previous Statute: Section 306, Code of Criminal Procedure, 1973**

**Section 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.

### 344. 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.

#### Corresponding Provision of Previous Statute: Section 307, Code of Criminal Procedure, 1973

**Section 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.

#### LANDMARK JUDGMENT

K.M. Nanavati vs. State of Maharashtra, [MANU/SC/0147/1961](#)

### 345. 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 343 or section 344, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing

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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 215 or section 379 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 183 or by a Court under sub- section (4) of section 343 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;

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(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 Sanhita, pass judgment of acquittal.

**Corresponding Provision of Previous Statute: Section 308, Code of Criminal Procedure, 1973**

**Section 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.

**346. Power to postpone or adjourn proceedings**

(1) In every inquiry or trial the proceedings shall be continued from day- to- day basis 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 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 the inquiry or trial shall be completed within a period of two months from the date of filing of the chargesheet.

(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 Court 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:

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:

Provided also that- -

- (a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;
- (b) where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court after hearing the objections of the other party and for the reasons to be recorded in writing;
- (c) the fact that the advocate of a party is engaged in another Court, shall not be a ground for adjournment;
- (d) where a witness is present in Court but a party or his advocate is not present or the party or his advocate though present in Court, is not ready to examine or cross-examine the witness, the Court may, if 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.

**Corresponding Provision of Previous Statute: Section 309, Code of Criminal Procedure, 1973**

**Section 309 – Power to postpone or adjourn proceedings** - (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, section 376A, section 376AB,

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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:

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.

Provided also that –

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond 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.

### 347. Local inspection

(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case 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.

**Corresponding Provision of Previous Statute: Section 310, Code of Criminal Procedure, 1973**

**Section 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.

**348. Power to summon material witness, or examine person present**

Any Court may, at any stage of any inquiry, trial or other proceeding under this Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re- call and re- examine any person already examined; and the Court shall summon and examine or re- call and re- examine any such person if his evidence appears to it to be essential to the just decision of the case.

**Corresponding Provision of Previous Statute: Section 311, Code of Criminal Procedure, 1973**

**Section 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.

**349. Power of Magistrate to order person to give specimen signatures or handwriting, etc.**

If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Sanhita, it is expedient to direct any person, including an accused person, to give specimen

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signatures or finger impressions or handwriting or voice sample, 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 finger impressions or handwriting or voice sample:

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:

Provided further that the Magistrate may, for the reasons to be recorded in writing, order any person to give such specimen or sample without him being arrested.

**Corresponding Provision of Previous Statute: Section 311A, Code of Criminal Procedure, 1973**

**Section 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.

### **350. 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 Sanhita.

**Corresponding Provision of Previous Statute: Section 312, Code of Criminal Procedure, 1973**

**Section 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.

**351. Power to examine 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.

(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and

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the Court may permit filing of written statement by the accused as sufficient compliance of this section.

**Corresponding Provision of Previous Statute: Section 313, Code of Criminal Procedure, 1973**

**Section 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.

(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.

**LANDMARK JUDGMENT**

Balwant Singh and Ors. vs. State of Punjab, [MANU/SC/0344/1995](#)

### 352. 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.

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(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.

**Corresponding Provision of Previous Statute: Section 314, Code of Criminal Procedure, 1973**

**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.

### 353. 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;

(b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.

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(2) Any person against whom proceedings are instituted in any Criminal Court under section 101, or section 126, or section 127, or section 128, or section 129, or under Chapter X or under Part B, Part C or Part D of Chapter XI, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 127, section 128, or section 129, 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.

**Corresponding Provision of Previous Statute: Section 315, Code of Criminal Procedure, 1973**

**Section 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;

(b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.

(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.

### 354. No influence to be used to induce disclosure

Except as provided in sections 343 and 344, 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.

**Corresponding Provision of Previous Statute: Section 316, Code of Criminal Procedure, 1973**

**Section 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.

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**355. Provision for inquiries and trial being held in absence of accused in certain cases**

(1) At any stage of an inquiry or trial under this Sanhita, 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 an advocate, 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 an advocate, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

*Explanation.-* - For the purpose of this section, personal attendance of the accused includes attendance through audio- video electronic means.

**Corresponding Provision of Previous Statute: Section 317, Code of Criminal Procedure, 1973**

**Section 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.



**356. Inquiry, trial or judgment in absentia of proclaimed offender**

(1) Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present, under this Sanhita and pronounce the judgment:

Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge.

(2) The Court shall ensure that the following procedure has been complied with before proceeding under sub- section (1), namely:- -

(i) issuance of two consecutive warrants of arrest within the interval of at least thirty days;

(ii) publish in a national or local daily newspaper circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;

(iii) inform his relative or friend, if any, about the commencement of the trial; and

(iv) affix information about the commencement of the trial on some conspicuous part of the house or homestead in which such person ordinarily

resides and display in the police station of the district of his last known address of residence.

(3) Where the proclaimed offender is not represented by any advocate, he shall be provided with an advocate for his defence at the expense of the State.

(4) Where the Court, competent to try the case or commit for trial, has examined any witnesses for prosecution and recorded their depositions, such depositions shall be given in evidence against such proclaimed offender on the inquiry into, or in trial for, the offence with which he is charged:

Provided that if the proclaimed offender is arrested and produced or appears before the Court during such trial, the Court may, in the interest of justice, allow him to examine any evidence which may have been taken in his absence.

(5) Where a trial is related to a person under this section, the deposition and examination of the witness, may, as far as practicable, be recorded by audio- video electronic means preferably mobile phone and such recording shall be kept in such manner as the Court may direct.

(6) In prosecution for offences under this Sanhita, voluntary absence of accused after the trial has commenced under sub- section (1) shall not prevent continuing the trial including the pronouncement of the judgment even if he is arrested and produced or appears at the conclusion of such trial.

(7) No appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal:

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Provided that no appeal against conviction shall lie after the expiry of three years from the date of the judgment.

(8) The State may, by notification, extend the provisions of this section to any absconder mentioned in sub- section (1) of section 84.

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

If the accused, though not a person 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.

#### **Corresponding Provision of Previous Statute: Section 318, Code of Criminal Procedure, 1973**

**Section 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.

### **358. 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.

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(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.

**Corresponding Provision of Previous Statute: Section 319, Code of Criminal Procedure, 1973**

**Section 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.

### 359. Compounding of offences

(1) The offences punishable under the sections of the Bharatiya Nyaya Sanhita, 2023 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:- -

#### Linked Provisions

[Child And Adolescent Labour - Prohibition and Regulation Act, 1986](#)  
- Section 14D -  
[Compounding of offences](#)

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**TABLE**

Offence	Section of the Bharatiya Nyaya Sanhita, 2023 applicable	Person by whom offence may be compounded
1	2	3
Enticing or taking away or detaining with criminal intent a married woman.	84	The husband of the woman and the woman.
Voluntarily causing hurt.	115(2)	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	122(1)	The person to whom the hurt is caused.
Voluntarily causing grievous hurt on grave and sudden provocation.	122(2)	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	126(2), 127(2)	The person restrained or confined.
Wrongfully confining a person for three days or more.	127(3)	The person confined.
Wrongfully confining a person for ten days or more.	127(4)	The person confined.
Wrongfully confining a person in secret.	127(6)	The person confined.
Assault or use of criminal force.	131, 133, 136	The person assaulted or to whom criminal force is used.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	302	The person whose religious feelings are intended to be wounded.

[Consumer Protection Act, 2019 - Section 96 - Compounding of offences](#)

[Electricity Act, 2003 - Section 152 - Compounding of offences](#)

[Information Technology Act, 2000 - Section 77A - Compounding of offences](#)

[Legal Metrology Act, 2009 - Section 48 - Compounding of offences](#)

[Limited Liability Partnership Act, 2008 - Section 39 - Compounding of offences](#)

[Mines and Minerals - Development and Regulation Act, 1957 - Section 23A - Compounding of offences](#)

[Offshore Areas Mineral - Development And Regulation Act, 2002 - Section 30 - Compounding of offences](#)

[Rubber Act, 1947 - Section 26A - Compounding of offences](#)

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Theft.	303(2)	The owner of the property stolen.
Dishonest misappropriation of property.	314	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	316(3)	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.	317(2)	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	317(5)	The owner of the property stolen.
Cheating.	318(2)	The person cheated.
Cheating by personation.	319(2)	The person cheated.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	320	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	321	The creditors who are affected thereby.
Fraudulent execution of deed of transfer containing false statement of consideration.	322	The person affected thereby.

Fraudulent removal or concealment of property.	323	The person affected thereby.
Mischief, when the only loss or damage caused is loss or damage to a private person.	324(2), 324(4)	The person to whom the loss or damage is caused.
Mischief by killing or maiming animal.	325	The owner of the 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.	326(a)	The person to whom the loss or damage is caused.
Criminal trespass.	329(3)	The person in possession of the property trespassed upon.
House- trespass.	329(4)	The person in possession of the property trespassed upon.
House- trespass to commit an offence (other than theft) punishable with imprisonment.	332(c)	The person in possession of the house trespassed upon.
Using a false trade or property mark.	345(3)	The person to whom loss or injury is caused by such use.
Counterfeiting a property mark used by another.	347(1)	The person to whom loss or injury is caused by such use.
Selling goods marked with a counterfeit property mark.	349	The person to whom loss or injury is caused by such use.

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Criminal intimidation.	351(2), 351(3)	The person intimidated.
Insult intended to provoke a breach of peace.	352	The person insulted.
Inducing person to believe himself an object of divine displeasure.	354	The person induced.
Defamation, except such cases as are specified against section 356(2) of the Bharatiya Nyaya Sanhita, 2023, column 1 of the Table under sub- section (2).	356(2)	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	356(3)	The person defamed.
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	356(4)	The person defamed.
Criminal breach of contract of service.	357	The person with whom the offender has contracted.

(2) The offences punishable under the sections of the Bharatiya Nyaya Sanhita, 2023 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:-



TABLE

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person by whom offence may be compounded
1	2	3
Word, gesture or act intended to insult the modesty of a woman.	79	The woman whom it was intended to insult or whose privacy was intruded upon.
Marrying again during the life- time of a husband or wife.	82(1)	The husband or wife of the person so marrying.
Causing miscarriage.	88	The woman to whom miscarriage is caused.
Voluntarily causing grievous hurt.	117(2)	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.	125(a)	The person to whom hurt is caused.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	125(b)	The person to whom hurt is caused.
Assault or criminal force in attempting wrongfully to confine a person.	135	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	306	The owner of the property stolen.
Criminal breach of trust.	316(2)	The owner of the property in respect of which breach of trust has been committed.

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Criminal breach of trust by a clerk or servant.	316(4)	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.	318(3)	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	318(4)	The person cheated.
Defamation against the President or the Vice-President or the Governor of the State or the Administrator of the Union territory or a Minister in respect of his public functions when instituted upon a complaint made by the public prosecutor.	356(2)	The person defamed.

(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 sub- section (5) of section 3 or section 190 of the Bharatiya Nyaya Sanhita, 2023, may be compounded in like manner.

(4) (a) When the person who would otherwise be competent to compound an offence under this section is a child or of unsound

mind, 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 442 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.

**Corresponding Provision of Previous Statute: Section 320, Code of Criminal Procedure, 1973**

**Section 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: –

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.
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.

1	2	3
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.
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: —

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 attempting 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.
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.

(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.

#### LANDMARK JUDGMENT

State of M.P. vs. Madanlal, [MANU/SC/0689/2015](#)

### 360. 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 Sanhita no charge is required, he shall be acquitted in respect of such offence or offences: Provided that where such offence- -

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(i) was against any law relating to a matter to which the executive power of the Union extends; or

(ii) was investigated under any Central Act; 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:

Provided further that no Court shall allow such withdrawal without giving an opportunity of being heard to the victim in the case.

**Corresponding Provision of Previous Statute: Section 321, Code of Criminal Procedure, 1973**

**Section 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

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(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.

**LANDMARK JUDGMENT**

Bansi Lal vs. Chandan Lal And Ors., [MANU/SC/0089/1975](#)

### **361. 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.

**Corresponding Provision of Previous Statute: Section 322, Code of Criminal Procedure, 1973**

**Section 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

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(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.

### **362. 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 and thereupon the provisions of Chapter XIX shall apply to the commitment so made.

#### **Corresponding Provision of Previous Statute: Section 323, Code of Criminal Procedure, 1973**

**Section 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 and thereupon the provisions of Chapter XVIII shall apply to the commitment so made

### **363. 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 X or Chapter XVII of the Bharatiya Nyaya Sanhita, 2023, 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

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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 262 or section 268, as the case may be.

**Corresponding Provision of Previous Statute: Section 324, Code of Criminal Procedure, 1973**

**Section 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.

**364. 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 or bail bond under section

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125, 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 persons 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.

(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.

**Corresponding Provision of Previous Statute: Section 325, Code of Criminal Procedure, 1973**

**Section 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.

(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.

**LANDMARK JUDGMENT**

Ratilal Bhanji Mithani vs. State of Maharashtra and Ors., [MANU/SC/0398/1978](#)

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

(1) Whenever any Judge or Magistrate, after having heard and recorded the whole or any part of the evidence in any inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Judge or Magistrate who has and who exercises such jurisdiction, the 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 Judge or Magistrate is of the 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 Sanhita 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 361 or in which proceedings have been submitted to a superior Magistrate under section 364.

#### Corresponding Provision of Previous Statute: Section 326, Code of Criminal Procedure, 1973

**Section 326 - Conviction or commitment on evidence partly recorded by one Magistrate and partly by Another -** (1) Whenever any 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 Judge or Magistrate who has and who exercises such jurisdiction, the 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 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 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.

### **366. Court to be open**

(1) The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed 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.

(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 (32 of 2012) 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:

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:

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.

**Corresponding Provision of Previous Statute: Section 327, Code of Criminal Procedure, 1973**

**Section 327 - Court to be open** - (1) The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed 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.

(2) Notwithstanding anything contained in sub- section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 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:

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:

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.

## CHAPTER XXVII

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND  
MIND**367. Procedure in case of accused being person of unsound mind**

(1) When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is a person 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 medical officer as a witness, and shall reduce the examination to writing.

(2) If the civil surgeon finds the accused to be a person of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist of Government hospital or Government medical college 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 intellectual disability:

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

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(b) a faculty member in psychiatry in the nearest Government medical college.

(3) Pending such examination and inquiry, the Magistrate may deal with such person in accordance with the provisions of section 369.

(4) If the Magistrate is informed that the person referred to in sub-section (2) 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 369:

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 369.

(5) If the Magistrate is informed that the person referred to in sub-section (2) is a person with intellectual disability, the Magistrate shall further determine whether the intellectual disability 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 369.

**Corresponding Provision of Previous Statute: Section 328, Code of Criminal Procedure, 1973**

**Section 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.

(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.

(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 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.

### 368. 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 of mind 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.

(2) If during trial, the Magistrate or Court of Session 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 psychiatrist 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 Government medical college.

#### Linked Provisions

[Bharatiya](#) [Nagarik](#)  
[Suraksha Sanhita, 2023 -](#)  
[Section 369 - Release of](#)  
[person with unsound](#)  
[mind](#) [pending](#)  
[investigation or trial](#)

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(3) If the Magistrate or Court is informed that the person referred to in sub- section (2) is a person of unsound mind, the Magistrate or Court 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 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 369:

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.

(4) 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 intellectual disability, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 369.

**Corresponding Provision of Previous Statute: Section 329, Code of Criminal Procedure, 1973**

**Section 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.

(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:

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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) 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.

### 369. Release of person of unsound mind pending investigation or trial

(1) Whenever a person is found under section 367 or section 368 to be incapable of entering defence by reason of unsoundness of mind or intellectual disability, 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 intellectual disability 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.

#### Linked Provisions

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 368 - Procedure in case of person with unsound mind tried before Court](#)

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(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 public mental health establishment shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017 (10 of 2017).

(3) Whenever a person is found under section 367 or section 368 to be incapable of entering defence by reason of unsoundness of mind or intellectual disability, 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 intellectual disability, further determine if the release of the accused can be ordered:

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 367 or section 368, 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 the opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons with unsoundness of

mind or intellectual disability may be ordered wherein the accused may be provided care and appropriate education and training.

**Corresponding Provision of Previous Statute: Section 330, Code of Criminal Procedure, 1973**

**Section 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, 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:

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.

### 370. Resumption of inquiry or trial

(1) Whenever an inquiry or a trial is postponed under section 367 or section 368, 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 369, 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.

**Corresponding Provision of Previous Statute: Section 331, Code of Criminal Procedure, 1973**

**Section 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.

**371. 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 367 or section 368, as the case may be, and if the accused is found to be of unsound mind and consequently incapable of making his defence, shall deal with such accused in accordance with the provisions of section 369.

**Corresponding Provision of Previous Statute: Section 332, Code of Criminal Procedure, 1973**

**Section 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.

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(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.

### **372. 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.

**Corresponding Provision of Previous Statute: Section 333, Code of Criminal Procedure, 1973**

**Section 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.

### **373. 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.

**Corresponding Provision of Previous Statute: Section 334, Code of Criminal Procedure, 1973**

**Section 334 - Judgment of acquittal on ground of unsoundness of mind** - Whenever any person is

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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.

### **374. Person acquitted on ground of unsoundness of mind 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 public mental health establishment 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 Mental Healthcare Act, 2017 (10 of 2017).

(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;

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(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).

**Corresponding Provision of Previous Statute: Section 335, Code of Criminal Procedure, 1973**

**Section 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).

**LANDMARK JUDGMENT**

Balu Ganpat Koshire vs. State of Maharashtra, [MANU/MH/0015/1983](#)

### **375. 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 369 or

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section 374 to discharge all or any of the functions of the Inspector-General of Prisons under section 376 or section 377.

**Corresponding Provision of Previous Statute: Section 336, Code of Criminal Procedure, 1973**

**Section 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.

**376. Procedure where prisoner of unsound mind is reported capable of making his defence**

If a person is detained under the provisions of sub- section (2) of section 369, 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 public mental health establishment, the Mental Health Review Board constituted under the Mental Healthcare Act, 2017 (10 of 2017), 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 371; and the certificate of such Inspector- General or visitors as aforesaid shall be receivable as evidence.

**Corresponding Provision of Previous Statute: Section 337, Code of Criminal Procedure, 1973**

**Section 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 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.

**377. Procedure where person of unsound mind detained is declared fit to be released**

(1) If a person is detained under the provisions of sub- section (2) of section

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369, or section 374, 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 mental health establishment if he has not been already sent to such establishment; and, in case it orders him to be transferred to a public mental health establishment, 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.

**Corresponding Provision of Previous Statute: Section 338, Code of Criminal Procedure, 1973**

**Section 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.

**378. Delivery of person of unsound mind to care of relative or friend**

(1) Whenever any relative or friend of any person detained under the provisions of section 369 or section 374 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;

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(c) in the case of a person detained under sub- section (2) of section 369, 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 371, and the certificate of the inspecting officer shall be receivable as evidence.

**Corresponding Provision of Previous Statute: Section 339, Code of Criminal Procedure, 1973**

**Section 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 office shall be receivable as evidence.

## CHAPTER XXVIII

PROVISIONS AS TO OFFENCES AFFECTING THE  
ADMINISTRATION OF JUSTICE**379. Procedure in cases mentioned in section 215**

(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 215, 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 215.

(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;

(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 215.

**Corresponding Provision of Previous Statute: Section 340, Code of Criminal Procedure, 1973**

**Section 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, —

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(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(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.

### 380. 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 379, 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 215, 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 379, 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 379, shall be final, and shall not be subject to revision.

#### Corresponding Provision of Previous Statute: Section 341, Code of Criminal Procedure, 1973

**Section 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.

**381. Power to order costs**

Any Court dealing with an application made to it for filing a complaint under section 379 or an appeal under section 380, shall have power to make such order as to costs as may be just.

**Linked Provisions**

[Companies Act, 2013 - Section 298 - Power to order costs](#)

**Corresponding Provision of Previous Statute: Section 342, Code of Criminal Procedure, 1973**

**Section 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.

**382. Procedure of Magistrate taking cognizance**

(1) A Magistrate to whom a complaint is made under section 379 or section 380 shall, notwithstanding anything contained in Chapter XVI, 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.

**Corresponding Provision of Previous Statute: Section 343, Code of Criminal Procedure, 1973**

**Section 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.

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### 383. 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 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 one thousand 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 379 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.

**Corresponding Provision of Previous Statute: Section 344, Code of Criminal Procedure, 1973**

**Section 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 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.

**LANDMARK JUDGMENT**

K. Karunakaran vs. T.V. Eachara Warriar and Ors., [MANU/SC/0098/1977](#)

### 384. Procedure in certain cases of contempt

(1) When any such offence as is described in section 210, section 213, section 214, section 215 or section 267 of the Bharatiya Nyaya Sanhita, 2023 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 on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why

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he should not be punished under this section, sentence the offender to fine not exceeding one thousand 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 267 of the Bharatiya Nyaya Sanhita, 2023, 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.

**Corresponding Provision of Previous Statute: Section 345, Code of Criminal Procedure, 1973**

**Section 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.

**385. Procedure where Court considers that case should not be dealt with under section 384**

(1) If the Court in any case considers that a person accused of any of the offences referred to in section 384 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

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imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 384, 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.

**Corresponding Provision of Previous Statute: Section 346, Code of Criminal Procedure, 1973**

**Section 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.

**386. 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 Registration Act, 1908 (16 of 1908), shall be deemed to be a Civil Court within the meaning of sections 384 and 385.

**Corresponding Provision of Previous Statute: Section 347, Code of Criminal Procedure, 1973**

**Section 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 Registration Act, 1908 (16 of 1908), shall be deemed to be a Civil Court within the meaning of sections 345 and 346.

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**387. Discharge of offender on submission of apology**

When any Court has under section 384 adjudged an offender to punishment, or has under section 385 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.

**Corresponding Provision of Previous Statute: Section 348, Code of Criminal Procedure, 1973**

**Section 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.

**388. Imprisonment or committal of person refusing to answer or produce document**

If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not, 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 384 or section 385.

**Linked Provisions**

[Presidency Small Cause Courts Act, 1882 - Section 87 - Imprisonment or committal of person refusing to answer or produce document](#)

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**Corresponding Provision of Previous Statute: Section 349, Code of Criminal Procedure, 1973**

**Section 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 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.

**389. 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 interests 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 five hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

**Corresponding Provision of Previous Statute: Section 350, Code of Criminal Procedure, 1973**

**Section 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

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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.

### 390. Appeals from convictions under sections 383, 384, 388 and 389

(1) Any person sentenced by any Court other than a High Court under section 383, section 384, section 388, or section 389 may, notwithstanding anything contained in this Sanhita appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any Registrar or Sub-Registrar deemed to be a Civil Court by virtue of a direction issued under section 386 shall lie to the Court of Session for the sessions division within which the office of such Registrar or Sub- Registrar is situate.

#### Linked Provisions

[Bharatiya](#) [Nagarik](#)  
[Suraksha Sanhita, 2023 -](#)  
[Section 415 - Appeals](#)  
[from convictions](#)

#### Corresponding Provision of Previous Statute: Section 351, Code of Criminal Procedure, 1973

**Section 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.

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(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.

### **391. Certain Judges and Magistrates not to try certain offences when committed before themselves**

Except as provided in sections 383, 384, 388 and 389, 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 215, 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.

#### **Corresponding Provision of Previous Statute: Section 352, Code of Criminal Procedure, 1973**

**Section 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 XXIX

## THE JUDGMENT

**392. Judgment**

(1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time not later than forty- five days of which notice shall be given to the parties or their advocates,- -

(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 advocate.

(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.

**Linked Provisions**

[Patent Act, 1859 - Section 29 - Judgment](#)

[Patent Act, 1856 - Section 28 - Judgment](#)

[Family Courts Act, 1984 - Section 17 - Judgment](#)

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(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 advocates free of cost:

Provided that the Court shall, as far as practicable, upload the copy of the judgment on its portal within a period of seven days from the date of judgment.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced either in person or through audio- video electronic means.

(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 persons 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 advocate 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 advocates, 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 511.

**Corresponding Provision of Previous Statute: Section 353, Code of Criminal Procedure, 1973**

**Section 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.

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**393. Language and contents of judgment**

(1) Except as otherwise expressly provided by this Sanhita, every judgment referred to in section 392,- -

(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 Bharatiya Nyaya Sanhita, 2023 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 Bharatiya Nyaya Sanhita, 2023 and it is doubtful under which of two sections, or under which of two parts of the same section, of that Sanhita 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

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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 Sanhita.

(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 136 or sub- section (2) of section 157 and every final order made under section 144, section 164 or section 166 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

**Corresponding Provision of Previous Statute: Section 354, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Mukesh and Ors. vs. State for NCT of Delhi and Ors., [MANU/SC/0575/2017](#)

**394. Order for notifying address of previously convicted offender**

(1) When any person, having been convicted by a Court in India of an offence punishable with imprisonment for a term of three years, or upwards, is again convicted of any offence punishable 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) shall also apply to criminal conspiracies to commit such offences and to the abetment 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

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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.

**Corresponding Provision of Previous Statute: Section 356, Code of Criminal Procedure, 1973**

**Section 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 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 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.

### 395. 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 properly incurred in the prosecution;

(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.

**Corresponding Provision of Previous Statute: Section 357, Code of Criminal Procedure, 1973**

**Section 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;
  - (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.

### **396. 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 395 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

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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.

(7) The compensation payable by the State Government under this section shall be in addition to the payment of fine to the victim under section 65, section 70 and sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023.

**Corresponding Provision of Previous Statute: Section 357A, Code of Criminal Procedure, 1973**

**Section 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.

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### 397. 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 64, section 65, section 66, section 67, section 68, section 70, section 71 or sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 (32 of 2012), and shall immediately inform the police of such incident.

**Corresponding Provision of Previous Statute: Section 357C, Code of Criminal Procedure, 1973**

**Section 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, 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

### 398. Witness protection scheme

Every State Government shall prepare and notify a Witness Protection Scheme for the State with a view to ensure protection of the witnesses.

### 399. 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 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.

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(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 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.

**Corresponding Provision of Previous Statute: Section 358, Code of Criminal Procedure, 1973**

**Section 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 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 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.

#### **400. 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 advocate'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.

**Corresponding Provision of Previous Statute: Section 359, Code of Criminal Procedure, 1973**

**Section 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.

**401. Order to release on probation of good conduct or after admonition**

(1) When any person not under 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 or bail bond 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 behavior:

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 Bharatiya Nyaya Sanhita, 2023, 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 140, 143 and 414 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 Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

**Corresponding Provision of Previous Statute: Section 360, Code of Criminal Procedure, 1973**

**Section 360 – Order to release on probation of good conduct or after admonition -** (1) When any person not under 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

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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.

#### LANDMARK JUDGMENT

Joginder Singh vs. The State of Punjab, [MANU/PH/0338/1980](#)

## 402. Special reasons to be recorded in certain cases

Where in any case the Court could have dealt with,-

(a) an accused person under section 401 or under the provisions of the Probation of Offenders Act, 1958 (20 of 1958); or

#### Linked Provisions

[Bharatiya](#) [Nagarik](#)  
[Suraksha Sanhita, 2023 -](#)  
[Section 452 - Reasons to](#)  
[be recorded](#)

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(b) a youthful offender under the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) 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.

**Corresponding Provision of Previous Statute: Section 361, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Joginder Singh vs. The State of Punjab, [MANU/PH/0338/1980](#)

#### 403. Court not to alter judgment

Save as otherwise provided by this Sanhita 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.

**Corresponding Provision of Previous Statute: Section 362, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Naresh and Ors. vs. State of Uttar Pradesh, [MANU/SC/0192/1981](#)

#### 404. Copy of judgment to be given to 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.

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(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 136 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:

Provided further that the Court may, on an application made in this behalf by the Prosecuting Officer, provide to the Government, free

of cost, a certified copy of such judgment, order, deposition or record.

(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.

**Corresponding Provision of Previous Statute: Section 363, Code of Criminal Procedure, 1973**

**Section 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.

#### 405. 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 if either party so requires, a translation thereof into the language of the Court shall be added to such record.

**Corresponding Provision of Previous Statute: Section 364, Code of Criminal Procedure, 1973**

**Section 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.

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#### 406. 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.

##### Linked Provisions

[Bharatiya](#) [Nagarik](#)  
[Suraksha Sanhita, 2023 -](#)  
[Section 8 - Court of](#)  
[Session](#)

##### Corresponding Provision of Previous Statute: Section 365, Code of Criminal Procedure, 1973

**Section 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.

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## CHAPTER XXX

## SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

**407. 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 forthwith 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.

**Corresponding Provision of Previous Statute: Section 366, Code of Criminal Procedure, 1973**

**Section 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.

**408. 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.

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(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.

**Corresponding Provision of Previous Statute: Section 367, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Balwant Singh vs. State of Punjab, [MANU/SC/0331/1975](#)

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

In any case submitted under section 407, 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.

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**Corresponding Provision of Previous Statute: Section 368, Code of Criminal Procedure, 1973**

**Section 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.

**410. 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.

**Corresponding Provision of Previous Statute: Section 369, Code of Criminal Procedure, 1973**

**Section 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.

**411. 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 433.

**Linked Provisions**

[Presidency Small Cause Courts Act, 1882 - Section 11 - Procedure in case of difference of opinion](#)

**Corresponding Provision of Previous Statute: Section 370, Code of Criminal Procedure, 1973**

**Section 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.

**412. 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

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Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send either physically, or through electronic means, a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

**Corresponding Provision of Previous Statute: Section 371, Code of Criminal Procedure, 1973**

**Section 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 XXXI

## APPEALS

**413. 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 Sanhita or by any other law for the time being in force:

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.

**Corresponding Provision of Previous Statute: Section 372, Code of Criminal Procedure, 1973**

**Section 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:.

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.

**LANDMARK JUDGMENT**

Satya Pal Singh vs. State of M.P. and Ors., [MANU/SC/1119/2015](#)

**414. 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 136 to give security for keeping the peace or for good behaviour; or

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(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 140, 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 141.

**Corresponding Provision of Previous Statute: Section 373, Code of Criminal Procedure, 1973**

**Section 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.

#### 415. 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 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,- -

#### Linked Provisions

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 390 - Appeals from convictions under Sections 383, 384, 388, 389](#)

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(a) convicted on a trial held by Magistrate of the first class, or of the second class; or

(b) sentenced under section 364; or

(c) in respect of whom an order has been made or a sentence has been passed under section 401 by any Magistrate, may appeal to the Court of Session.

(4) When an appeal has been filed against a sentence passed under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

**Corresponding Provision of Previous Statute: Section 374, Code of Criminal Procedure, 1973**

**Section 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 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.

(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.

**416. No appeal in certain cases when accused pleads guilty**

Notwithstanding anything in section 415, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,- -

- (i) if the conviction is by a High Court; or
- (ii) if the conviction is by a Court of Session or Magistrate of the first or second class, except as to the extent or legality of the sentence.

**Corresponding Provision of Previous Statute: Section 375, Code of Criminal Procedure, 1973**

**Section 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.

**417. No appeal in petty cases**

Notwithstanding anything in section 415, 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 three months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;
- (b) where a Court of Session 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

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(d) where, in a case tried summarily, a Magistrate empowered to act under section 283 passes only a sentence of fine not exceeding two hundred rupees:

Provided that an appeal may be brought against any 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.

**Corresponding Provision of Previous Statute: Section 376, Code of Criminal Procedure, 1973**

**Section 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.

#### **418. Appeal by 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 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 any agency empowered to make investigation into an offence under any Central Act other than this Sanhita, the Central Government may also direct the Public Prosecutor to present 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, 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) When an appeal has been filed against a sentence passed under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

**Corresponding Provision of Previous Statute: Section 377, Code of Criminal Procedure, 1973**

**Section 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 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, the Central Government may also direct the Public Prosecutor to present 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, 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) 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.

#### **419. Appeal in case of acquittal**

(1) Save as otherwise provided in sub- section (2), and subject to the provisions of sub- sections (3) and (5),- -

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(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of 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 a case in which the offence has been investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita, 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) 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).

**Corresponding Provision of Previous Statute: Section 378, Code of Criminal Procedure, 1973**

**Section 378 – Appeal in case of acquittal** - (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 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, 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) 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).

#### LANDMARK JUDGMENT

Dinanath Singh and Ors. vs. State of Bihar, [MANU/SC/0120/1980](#)

### 420. 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.

#### Corresponding Provision of Previous Statute: Section 379, Code of Criminal Procedure, 1973

**Section 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.

### 421. Special right of appeal in certain cases

Notwithstanding anything 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.

#### Corresponding Provision of Previous Statute: Section 380, Code of Criminal Procedure, 1973

**Section 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.

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#### 422. 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 the Chief Judicial Magistrate.

(2) An Additional 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.

**Corresponding Provision of Previous Statute: Section 381, Code of Criminal Procedure, 1973**

**Section 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.

#### 423. Petition of appeal

Every appeal shall be made in the form of a petition in writing presented by the appellant or his advocate, 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.

**Corresponding Provision of Previous Statute: Section 382, Code of Criminal Procedure, 1973**

**Section 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.

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**424. 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.

**Corresponding Provision of Previous Statute: Section 383, Code of Criminal Procedure, 1973**

**Section 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.

**425. Summary dismissal of appeal**

(1) If upon examining the petition of appeal and copy of the judgment received under section 423 or section 424, 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 423 shall be dismissed unless the appellant or his advocate has had a reasonable opportunity of being heard in support of the same;

(b) no appeal presented under section 424 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;

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(c) no appeal presented under section 424 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 424 has been dismissed summarily under this section and the Appellate Court finds that another petition of appeal duly presented under section 423 on behalf of the same appellant has not been considered by it, that Court may, notwithstanding anything contained in section 434, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

**Corresponding Provision of Previous Statute: Section 384, Code of Criminal Procedure, 1973**

**Section 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.

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(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.

#### **426. 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 advocate;

(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 418 or section 419, 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.

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**Corresponding Provision of Previous Statute: Section 385, Code of Criminal Procedure, 1973**

**Section 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.

**427. Powers of Appellate Court**

After perusing such record and hearing the appellant or his advocate, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 418 or section 419, 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 of 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

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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.

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**Corresponding Provision of Previous Statute: Section 386, Code of Criminal Procedure, 1973**

**Section 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.

**428. Judgments of subordinate Appellate Court**

The rules contained in Chapter XXIX 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.

**Corresponding Provision of Previous Statute: Section 387, Code of Criminal Procedure, 1973**

**Section 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.

#### **429. 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.

**Corresponding Provision of Previous Statute: Section 388, Code of Criminal Procedure, 1973**

**Section 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.

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(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.

### **430. Suspension of sentence pending appeal; release of appellant on bail**

(1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond or bail bond:

Provided that the Appellate Court shall, before releasing on his own bond or bail 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 an 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, -

(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.

**Corresponding Provision of Previous Statute: Section 389, Code of Criminal Procedure, 1973**

**Section 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:

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, —

(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.

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**431. Arrest of accused in appeal from acquittal**

When an appeal is presented under section 419, 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.

**Corresponding Provision of Previous Statute: Section 390, Code of Criminal Procedure, 1973**

**Section 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.

**432. 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 advocate 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 XXV, as if it were an inquiry.

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**Corresponding Provision of Previous Statute: Section 391, Code of Criminal Procedure, 1973**

**Section 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.

**433. 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.

**Corresponding Provision of Previous Statute: Section 392, Code of Criminal Procedure, 1973**

**Section 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.

#### 434. 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 418, section 419, sub-section (4) of section 425 or Chapter XXXII:

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 419, arising out of the same case; or
- (b) an appeal for the enhancement of sentence under section 418, arising out of the same case.

#### Corresponding Provision of Previous Statute: Section 393, Code of Criminal Procedure, 1973

**Section 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.

#### 435. Abatement of appeals

- (1) Every appeal under section 418 or section 419 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.

**Corresponding Provision of Previous Statute: Section 394, Code of Criminal Procedure, 1973**

**Section 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 XXXII

## REFERENCE AND REVISION

## 436. 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 may, if it thinks fit in any case pending before it 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.

## Linked Provisions

[Divorce Act, 1869 - Section 9 - Reference to High Court](#)

[Employees' State Insurance Act, 1948 - Section 81 - Reference to High Court](#)

[Expenditure-Tax Act, 1957 - Section 25 - Reference to High Court](#)

[Code of Civil Procedure, 1908 - Section 113 - Reference to High Court](#)

[Income-Tax Act, 1961 - Section 256 - Reference to High Court](#)

[Income-Tax Act, 1961 - Section 257 - Reference to High Court](#)

[Income-Tax Act, 1961 - Section 258 - Reference to High Court](#)

[Income-Tax Act, 1961 - Section 259 - Reference to High Court](#)

[Income-Tax Act, 1961 - Section 260 - Reference to High Court](#)

## Corresponding Provision of Previous Statute: Section 395, Code of Criminal Procedure, 1973

**Section 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,

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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

#### **437. 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.

##### **Corresponding Provision of Previous Statute: Section 396, Code of Criminal Procedure, 1973**

**Section 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.

#### **438. 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 as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the

regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail 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 439.

(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.

**Corresponding Provision of Previous Statute: Section 397, Code of Criminal Procedure, 1973**

**Section 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.

## LANDMARK JUDGMENT

Amar Nath and Ors. vs. State of Haryana and Ors., [MANU/SC/0068/1977](#)**439. Power to order inquiry**

On examining any record under section 438 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 226 or sub- section (4) of section 227, 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.

**Linked Provisions**

[Dock Workers - Regulation of Employment Act, 1948 - Section 6A - Power to order inquiry](#)

**Corresponding Provision of Previous Statute: Section 398, Code of Criminal Procedure, 1973**

**Section 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.

**440. 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

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powers which may be exercised by the High Court under sub-section (1) of section 442.

(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 442 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.

**Corresponding Provision of Previous Statute: Section 399, Code of Criminal Procedure, 1973**

**Section 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.

#### **441. 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.

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**Corresponding Provision of Previous Statute: Section 400, Code of Criminal Procedure, 1973**

**Section 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.

**442. 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 427, 430, 431 and 432 or on a Court of Session by section 344, 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 433.

(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 advocate 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 of conviction.

(4) Where under this Sanhita 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 Sanhita 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

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application for revision as a petition of appeal and deal with the same accordingly.

**Corresponding Provision of Previous Statute: Section 401, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Logendra Nath Jha and Ors. vs. Polailal Biswas, [MANU/SC/0029/1951](#)

**443. 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

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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.

**Corresponding Provision of Previous Statute: Section 402, Code of Criminal Procedure, 1973**

**Section 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.

#### 444. Option of Court to hear parties

Save as otherwise expressly provided by this Sanhita, no party has any right to be heard either personally or by an advocate 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 an advocate.

**Corresponding Provision of Previous Statute: Section 403, Code of Criminal Procedure, 1973**

**Section 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

#### 445. 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 429, 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.

##### Linked Provisions

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 429 - Order of High Court on appeal to be certified to lower Court](#)

**Corresponding Provision of Previous Statute: Section 405, Code of Criminal Procedure, 1973**

**Section 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.

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## CHAPTER XXXIII

## TRANSFER OF CRIMINAL CASES

**446. 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 as it may consider appropriate in the circumstances of the case.

**Corresponding Provision of Previous Statute: Section 406, Code of Criminal Procedure, 1973**

**Section 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

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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.

#### **447. 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 Sanhita, 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 197 to 205 (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.

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(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 or bail bond 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 application 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:

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Provided that such stay shall not affect the subordinate Court's power of remand under section 346.

(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 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 the Government under section 218.

**Corresponding Provision of Previous Statute: Section 407, Code of Criminal Procedure, 1973**

**Section 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:

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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.

#### **448. 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 447 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 447, except that sub- section (7) of that section shall so apply as if for the word "sum" occurring therein, the words "sum not exceeding ten thousand rupees" were substituted.

**Corresponding Provision of Previous Statute: Section 408, Code of Criminal Procedure, 1973**

**Section 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.

#### **449. Withdrawal of cases and appeals by Sessions Judges**

(1) A Sessions Judge may withdraw any case or appeal from, or recall any case or appeal which he has made over to a 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 Sanhita to another Court for trial or hearing, as the case may be.

**Corresponding Provision of Previous Statute: Section 409, Code of Criminal Procedure, 1973**

**Section 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.

#### 450. Withdrawal of cases by Judicial Magistrates

(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 212 to any other Magistrate and may inquire into or try such cases himself.

**Corresponding Provision of Previous Statute: Section 410, Code of Criminal Procedure, 1973**

**Section 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.

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**451. 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.

**Corresponding Provision of Previous Statute: Section 411, Code of Criminal Procedure, 1973**

**Section 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.

**452. Reasons to be recorded**

A Sessions Judge or Magistrate making an order under section 448, section 449, section 450 or section 451 shall record his reasons for making it.

**Linked Provisions**

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 402 - Special reasons to be recorded in certain cases](#)

**Corresponding Provision of Previous Statute: Section 412, Code of Criminal Procedure, 1973**

**Section 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.

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## CHAPTER XXXIV

## EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

*A.- - Death sentences***453. Execution of order passed under section 409**

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.

**Corresponding Provision of Previous Statute: Section 413, Code of Criminal Procedure, 1973**

**Section 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.

**454. 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.

**Corresponding Provision of Previous Statute: Section 414, Code of Criminal Procedure, 1973**

**Section 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.

**455. 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-

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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.

**Corresponding Provision of Previous Statute: Section 415, Code of Criminal Procedure, 1973**

**Section 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.

#### **456. Commutation of sentence of death on pregnant woman**

If a woman sentenced to death is found to be pregnant, the High Court shall commute the sentence to imprisonment for life.

**Corresponding Provision of Previous Statute: Section 416, Code of Criminal Procedure, 1973**

**Section 416 - Postponement of capital sentence on pregnant woman** - If a woman sentenced to death is found to be pregnant, the High Court shall, commute the sentence to imprisonment for life.

### ***B.- - Imprisonment***

#### **457. 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 Sanhita shall be confined.

(2) If any person liable to be imprisoned or committed to custody under this Sanhita 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- -

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(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

(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).

**Corresponding Provision of Previous Statute: Section 417, Code of Criminal Procedure, 1973**

**Section 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.

## 458. 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 453, 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:

### Linked Provisions

[Air Force Act, 1950 - Section 166 - Execution of sentence of imprisonment](#)

[Army Act, 1950 - Section 169 - Execution of sentence of imprisonment](#)

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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 place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

[Assam Rifles Act, 2006 - Section 143 - Execution of sentence of imprisonment](#)

[Border Security Force Act, 1968 - Section 121 - Execution of sentence of imprisonment](#)

[Coast Guard Act, 1978 - Section 100 - Execution of sentence of imprisonment](#)

[Indian Air Force Act, 1932 - Section 113 - Execution of sentence of imprisonment](#)

[Indo-Tibetan Border Police Force Act, 1992 - Section 135 - Execution of sentence of imprisonment](#)

[National Security Guard Act, 1986 - Section 117 - Execution of sentence of imprisonment](#)

[Sashastra Seema Bal Act, 2007 - Section 135 - Execution of sentence of imprisonment](#)

#### Corresponding Provision of Previous Statute: Section 418, Code of Criminal Procedure, 1973

**Section 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

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in sub-section (1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

#### 459. 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.

**Corresponding Provision of Previous Statute: Section 419, Code of Criminal Procedure, 1973**

**Section 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.

#### 460. Warrant with whom to be lodged

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

**Corresponding Provision of Previous Statute: Section 420, Code of Criminal Procedure, 1973**

**Section 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*

#### 461. Warrant for levy of fine

(1) When an offender has been sentenced to pay a fine, but no such payment has been made, 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;

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(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 395.

(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.

**Corresponding Provision of Previous Statute: Section 421, Code of Criminal Procedure, 1973**

**Section 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.

#### 462. Effect of such warrant

A warrant issued under clause (a) of sub-section (1) of section 461 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.

#### Corresponding Provision of Previous Statute: Section 422, Code of Criminal Procedure, 1973

**Section 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.

#### 463. Warrant for levy of fine issued by a Court in any territory to which this Sanhita does not extend

Notwithstanding anything in this Sanhita 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 Sanhita does

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not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Sanhita 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 461 by a Court in the territories to which this Sanhita extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

**Corresponding Provision of Previous Statute: Section 423, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Logendra Nath Jha and Ors. vs. Polailal Biswas, [MANU/SC/0029/1951](#)

#### 464. 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 installments, 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;

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(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond or bail bond, 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 installments thereof, as the case may be, is to be made; and if the amount of the fine or of any installment, 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.

**Corresponding Provision of Previous Statute: Section 424, Code of Criminal Procedure, 1973**

**Section 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.

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*D.- - General provisions regarding execution***465. 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.

**Corresponding Provision of Previous Statute: Section 425, Code of Criminal Procedure, 1973**

**Section 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.

**466. Sentence on escaped convict when to take effect**

(1) When a sentence of death, imprisonment for life or fine is passed under this Sanhita 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 Sanhita 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.

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**Corresponding Provision of Previous Statute: Section 426, Code of Criminal Procedure, 1973**

**Section 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.

**467. 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 141 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

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a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

**Corresponding Provision of Previous Statute: Section 427, Code of Criminal Procedure, 1973**

**Section 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.

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

Where an accused person has, on conviction, been sentenced to imprisonment for a term, 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:

Provided that in cases referred to in section 475, such period of detention shall be set off against the period of fourteen years referred to in that section.

**Corresponding Provision of Previous Statute: Section 428, Code of Criminal Procedure, 1973**

**Section 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, 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,

#### **Linked Provisions**

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 297 - Period of detention undergone by the accused to be set off against the sentence of imprisonment](#)

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shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him:

Provided that 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.

**LANDMARK JUDGMENT**

Suraj Bhan vs. Om Prakash and Ors., [MANU/SC/0194/1976](#)

#### 469. Saving

(1) Nothing in section 466 or section 467 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.

**Corresponding Provision of Previous Statute: Section 429, Code of Criminal Procedure, 1973**

**Section 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.

#### 470. 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

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endorsement under his hand certifying the manner in which the sentence has been executed.

**Corresponding Provision of Previous Statute: Section 430, Code of Criminal Procedure, 1973**

**Section 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.

**471. Money ordered to be paid recoverable as a fine**

Any money (other than a fine) payable by virtue of any order made under this Sanhita, 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 461 shall, in its application to an order under section 400, by virtue of this section, be construed as if in the proviso to sub- section (1) of section 461, after the words and figures "under section 395", the words and figures "or an order for payment of costs under section 400" had been inserted.

**Corresponding Provision of Previous Statute: Section 431, Code of Criminal Procedure, 1973**

**Section 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.

## LANDMARK JUDGMENT

K.M. Nanavati vs. State of Maharashtra, [MANU/SC/0147/1961](#)

### *E.- - Suspension, remission and commutation of sentences*

### 472. Mercy petition in death sentence cases

(1) A convict under the sentence of death or his legal heir or any other

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relative may, if he has not already submitted a petition for mercy, file a mercy petition before the President of India under article 72 or the Governor of the State under article 161 of the Constitution within a period of thirty days from the date on which the Superintendent of the jail,- -

(i) informs him about the dismissal of the appeal, review or special leave to appeal by the Supreme Court; or

(ii) informs him about the date of confirmation of the sentence of death by the High Court and the time allowed to file an appeal or special leave in the Supreme Court has expired.

(2) The petition under sub- section (1) may, initially be made to the Governor and on its rejection or disposal by the Governor, the petition shall be made to the President within a period of sixty days from the date of rejection or disposal of such petition.

(3) The Superintendent of the jail or officer in charge of the jail shall ensure, that every convict, in case there are more than one convict in a case, also files the mercy petition within a period of sixty days and on non- receipt of such petition from the other convicts, Superintendent of the jail shall send the names, addresses, copy of the record of the case and all other details of the case to the Central Government or the State Government for consideration along with the said mercy petition.

(4) The Central Government shall, on receipt of the mercy petition seek the comments of the State Government and consider the petition along with the records of the case and make recommendations to the President in this behalf, as expeditiously as possible, within a period of sixty days from the date of receipt of

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comments of the State Government and records from Superintendent of the Jail.

(5) The President may, consider, decide and dispose of the mercy petition and, in case there are more than one convict in a case, the petitions shall be decided by the President together in the interests of justice.

(6) Upon receipt of the order of the President on the mercy petition, the Central Government shall within forty- eight hours, communicate the same to the Home Department of the State Government and the Superintendent of the jail or officer in charge of the jail.

(7) No appeal shall lie in any Court against the order of the President or of the Governor made under article 72 or article 161 of the Constitution and it shall be final, and any question as to the arriving of the decision by the President or the Governor shall not be inquired into in any Court.

#### **473. 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 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 Sanhita 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 474, 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.

**Corresponding Provision of Previous Statute: Section 432, Code of Criminal Procedure, 1973**

**Section 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.

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(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.

#### 474. Power to commute sentence

The appropriate Government may, without the consent of the person sentenced, commute- -

(a) a sentence of death, for imprisonment for life;

(b) a sentence of imprisonment for life, for imprisonment for a term not less than seven years;

(c) a sentence of imprisonment for seven years or more, for imprisonment for a term not less than three years;

(d) a sentence of imprisonment for less than seven years, for fine;

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(e) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced.

**Corresponding Provision of Previous Statute: Section 433, Code of Criminal Procedure, 1973**

**Section 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

**475. Restriction on powers of remission or commutation in certain cases**

Notwithstanding anything contained in section 473, 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 474 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.

**Corresponding Provision of Previous Statute: Section 433A, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Ashok Kumar vs. Union of India (UOI) and Ors, [MANU/SC/0406/1991](#)

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#### **476. Concurrent power of Central Government in case of death sentences**

The powers conferred by sections 473 and 474 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

**Corresponding Provision of Previous Statute: Section 434, Code of Criminal Procedure, 1973**

**Section 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.

#### **477. State Government to act after concurrence with Central Government in certain cases**

(1) The powers conferred by sections 473 and 474 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 any agency empowered to make investigation into an offence under any Central Act other than this Sanhita; 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 concurrence 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

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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.

**Corresponding Provision of Previous Statute: Section 435, Code of Criminal Procedure, 1973**

**Section 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.

## CHAPTER XXXV

## PROVISIONS AS TO BAIL AND BONDS

**478. 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, may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail bond from such person, discharge him on his executing a bond for his appearance as hereinafter provided.

*Explanation.-* - Where a person is unable to give bail bond 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 135 or section 492.

(2) Notwithstanding anything in sub- section (1), where a person has failed to comply with the conditions of the bond or 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 or bail bond to pay the penalty thereof under section 491.

**Corresponding Provision of Previous Statute: Section 436, Code of Criminal Procedure, 1973**

**Section 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, 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.

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 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.

**LANDMARK JUDGMENT**

Rasiklal vs. Kisore, [MANU/SC/0255/2009](#)

Satender Kumar Antil vs. Central Bureau of Investigation and Ors.,  
[MANU/SC/0851/2022](#)

**479. Maximum period for which undertrial prisoner can be detained**

(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment 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 bail:

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Provided that where such person is a first- time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one- third of the maximum period of imprisonment specified for such offence under that law:

Provided further 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 bond instead of his bond:

Provided also 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.

(2) Notwithstanding anything in sub- section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

(3) The Superintendent of jail, where the accused person is detained, on completion of one- half or one- third of the period mentioned in sub- section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub- section (1) for the release of such person on bail.

**Corresponding Provision of Previous Statute: Section 436A, Code of Criminal Procedure, 1973**

**Section 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

**480. When bail may be taken in case of non- bailable offence**

(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, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but 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 a child 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 or for police custody beyond the first fifteen days 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:

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, the accused shall, subject to the provisions of section 494 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 for his appearance as hereinafter provided.

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(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 VII or Chapter XVII of the Bharatiya Nyaya Sanhita, 2023 or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub- section (1), 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 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.

(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 for his appearance to hear judgment delivered.

**Corresponding Provision of Previous Statute: Section 437, Code of Criminal Procedure, 1973**

**Section 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 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:

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, 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), 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 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.

(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.

#### LANDMARK JUDGMENT

Gurbaksh Singh Sibbia and Ors. vs. State of Punjab, [MANU/SC/0215/1980](#)

### 481. 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 a bond or bail bond, to appear before the higher Court as and when such Court issues notice in

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respect of any appeal or petition filed against the judgment of the respective Court and such bond shall be in force for six months.

(2) If such accused fails to appear, the bond stand forfeited and the procedure under section 491 shall apply.

**Corresponding Provision of Previous Statute: Section 437A, Code of Criminal Procedure, 1973**

**Section 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.

#### **482. 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 480, 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).

(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under section 65 and sub- section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

**Corresponding Provision of Previous Statute: Section 438, Code of Criminal Procedure, 1973**

**Section 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

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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).

(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).

**LANDMARK JUDGMENT**

Gurbaksh Singh Sibbia and Ors. vs. State of Punjab, [MANU/SC/0215/1980](#)

### **483. 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 480, 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

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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:

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 section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023, 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.

(2) 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 section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) 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.

**Corresponding Provision of Previous Statute: Section 439, Code of Criminal Procedure, 1973**

**Section 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.

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

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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.

(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.

#### LANDMARK JUDGMENT

Gurbaksh Singh Sibbia and Ors. vs. State of Punjab, [MANU/SC/0215/1980](#)

Logendra Nath Jha and Ors. vs. Polailal Biswas, [MANU/SC/0029/1951](#)

### 484. 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.

(2) The High Court or the Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

#### Corresponding Provision of Previous Statute: Section 440, Code of Criminal Procedure, 1973

**Section 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.

(2) The High Court or the Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

### 485. Bond of accused and sureties

(1) Before any person is released on bond or bail 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 bond or bail bond, by one or more sufficient sureties conditioned that such person shall attend at the time and place

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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 or bail bond shall also contain that condition.

(3) If the case so requires, the bond or bail 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.

**Corresponding Provision of Previous Statute: Section 441, Code of Criminal Procedure, 1973**

**Section 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.

#### **486. 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

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persons to whom he has stood surety including the accused, giving therein all the relevant particulars.

**Corresponding Provision of Previous Statute: Section 441A, Code of Criminal Procedure, 1973**

**Section 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.

#### **487. Discharge from custody**

(1) As soon as the bond or bail 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 478 or section 480, 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 or bail bond was executed.

**Corresponding Provision of Previous Statute: Section 442, Code of Criminal Procedure, 1973**

**Section 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.

#### **488. 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.

**Corresponding Provision of Previous Statute: Section 443, Code of Criminal Procedure, 1973**

**Section 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.

#### **489. Discharge of sureties**

(1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

**Corresponding Provision of Previous Statute: Section 444, Code of Criminal Procedure, 1973**

**Section 444 – Discharge of sureties** - (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

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#### 490. Deposit instead of recognizance

When any person is required by any Court or officer to execute a bond or bail bond, 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.

**Corresponding Provision of Previous Statute: Section 445, Code of Criminal Procedure, 1973**

**Section 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.

#### 491. Procedure when bond has been forfeited

(1) Where,- -

(a) a bond under this Sanhita 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

(b) in respect of any other bond under this Sanhita, 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

##### Linked Provisions

[Bharatiya](#) [Nagarik](#)  
[Suraksha Sanhita, 2023 -](#)  
[Section 495 - Appeal](#)  
[from orders under](#)  
[Section 491](#)

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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 Sanhita:

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, 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 125 or section 136 or section 401 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 494, 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.

**Corresponding Provision of Previous Statute: Section 446, Code of Criminal Procedure, 1973**

**Section 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

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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:

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, 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.

## 492. Cancellation of bond and bail bond

Without prejudice to the provisions of section 491, where a bond or bail bond under this Sanhita 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

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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 Sanhita 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.

**Corresponding Provision of Previous Statute: Section 446A, Code of Criminal Procedure, 1973**

**Section 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

### **493. Procedure in case of insolvency or death of surety or when a bond is forfeited**

When any surety to a bail bond under this Sanhita becomes insolvent or dies, or when any bond is forfeited under the provisions of section 491, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

**Corresponding Provision of Previous Statute: Section 447, Code of Criminal Procedure, 1973**

**Section 447 - Procedure in case of insolvency or death of surety or when a bond is forfeited** - When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under



the provisions of section 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.

#### 494. Bond required from child

When the person required by any Court, or officer to execute a bond is a child, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.

**Corresponding Provision of Previous Statute: Section 448, Code of Criminal Procedure, 1973**

**Section 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.

#### 495. Appeal from orders under section 491

All orders passed under section 491 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.

##### Linked Provisions

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 491 - Procedure when bond has been forfeited](#)

**Corresponding Provision of Previous Statute: Section 449, Code of Criminal Procedure, 1973**

**Section 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.

#### 496. Power to direct levy of amount due on certain recognizances

The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session.

**Corresponding Provision of Previous Statute: Section 450, Code of Criminal Procedure, 1973**

**Section 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 Court of Session.

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## CHAPTER XXXVI

## DISPOSAL OF PROPERTY

**497. Order for custody and disposal of property pending trial in certain cases**

(1) When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, 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 or the Magistrate 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.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub- section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

**Linked Provisions**

[Indian Army Act, 1911 - Section 126A - Order for custody and disposal of property pending trial in certain Cases](#)

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(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub- section (1).

(4) The statement prepared under sub- section (2) and the photograph or the videography taken under sub- section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub- section (2) and the photograph or the videography has been taken under sub- section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.

**Corresponding Provision of Previous Statute: Section 451, Code of Criminal Procedure, 1973**

**Section 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.

**498. Order for disposal of property at conclusion of trial**

(1) When an investigation, inquiry or trial in any criminal case is concluded, the Court or the Magistrate 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

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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 or the Magistrate, 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 503, 504 and 505.

(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.

**Corresponding Provision of Previous Statute: Section 452, Code of Criminal Procedure, 1973**

**Section 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

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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.

#### **499. 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 within six months from the date of such order.

#### **Corresponding Provision of Previous Statute: Section 453, Code of Criminal Procedure, 1973**

**Section 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

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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.

### 500. Appeal against orders under section 498 or section 499

(1) Any person aggrieved by an order made by a Court or Magistrate under section 498 or section 499, 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.

#### Linked Provisions

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 498 - Order for disposal of property at conclusion of trial](#)

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 499 - Payment to innocent purchaser of money found on accused](#)

#### Corresponding Provision of Previous Statute: Section 454, Code of Criminal Procedure, 1973

**Section 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.

### 501. Destruction of libellous and other matter

(1) On a conviction under section 294, section 295, or sub- sections (3) and (4) of section 356 of the Bharatiya Nyaya Sanhita, 2023, 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.

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(2) The Court may, in like manner, on a conviction under section 274, section 275, section 276 or section 277 of the Bharatiya Nyaya Sanhita, 2023, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

**Corresponding Provision of Previous Statute: Section 455, Code of Criminal Procedure, 1973**

**Section 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.

## **502. Power to restore possession of immovable property**

(1) When a person is convicted of an offence by use of criminal force or show of force or by criminal intimidation, and it appears to the Court that, by such use of 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 500 shall apply in relation thereto as they apply in relation to an order under section 499.

(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.

**Corresponding Provision of Previous Statute: Section 456, Code of Criminal Procedure, 1973**

**Section 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.

### **503. 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 Sanhita, 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.

**Corresponding Provision of Previous Statute: Section 457, Code of Criminal Procedure, 1973**

**Section 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.

#### **504. 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 the State Government may, by rules, provide.

(2) An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

**Corresponding Provision of Previous Statute: Section 458, Code of Criminal Procedure, 1973**

**Section 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

**505. 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 less than ten thousand rupees, the Magistrate may at any time direct it to be sold; and the provisions of sections 503 and 504 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

**Corresponding Provision of Previous Statute: Section 459, Code of Criminal Procedure, 1973**

**Section 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 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.

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## CHAPTER XXXVII

## IRREGULAR PROCEEDINGS

**506. Irregularities which do not vitiate proceedings**

If any Magistrate not empowered by law to do any of the following things, namely:-

- (a) to issue a search- warrant under section 97;
- (b) to order, under section 174, the police to investigate an offence;
- (c) to hold an inquest under section 196;
- (d) to issue process under section 207, 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 210;
- (f) to make over a case under sub- section (2) of section 212;
- (g) to tender a pardon under section 343;
- (h) to recall a case and try it himself under section 450; or
- (i) to sell property under section 504 or section 505, erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

**Corresponding Provision of Previous Statute: Section 460, Code of Criminal Procedure, 1973**

**Section 460 – Irregularities which do not vitiate proceedings** - If any Magistrate not empowered by law to do any of the following things, namely:—

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- (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.

### 507. 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 85;
- (b) issues a search- warrant for a document, parcel or other things in the custody of a postal 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;

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- (h) makes an order under section 152 as to a local nuisance;
- (i) prohibits, under section 162, the repetition or continuance of a public nuisance;
- (j) makes an order under Part C or Part D of Chapter XI;
- (k) takes cognizance of an offence under clause (c) of sub- section (1) of section 210;
- (l) tries an offender;
- (m) tries an offender summarily;
- (n) passes a sentence, under section 364, on proceedings recorded by another Magistrate;
- (o) decides an appeal;
- (p) calls, under section 438, for proceedings; or
- (q) revises an order passed under section 491, his proceedings shall be void.

**Corresponding Provision of Previous Statute: Section 461, Code of Criminal Procedure, 1973**

**Section 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.

### 508. 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.

#### Corresponding Provision of Previous Statute: Section 462, Code of Criminal Procedure, 1973

**Section 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.

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**509. Non- compliance with provisions of section 183 or section 316**

(1) If any Court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 183 or section 316, 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 94 of the Bharatiya Sakshya Adhiniyam, 2023, 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.

**Linked Provisions**

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 316 - Record of examination of accused](#)

[Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 183 - Recording of confessions and statements](#)

**Corresponding Provision of Previous Statute: Section 463, Code of Criminal Procedure, 1973**

**Section 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.

**510. 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,

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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 recommenced 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.

**Corresponding Provision of Previous Statute: Section 464, Code of Criminal Procedure, 1973**

**Section 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 recommenced 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.

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**511. 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 of 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 Sanhita, 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 Sanhita, 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.

**Corresponding Provision of Previous Statute: Section 465, Code of Criminal Procedure, 1973**

**Section 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 of 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.

**512. Defect or error not to make attachment unlawful**

No attachment made under this Sanhita 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.

**Corresponding Provision of Previous Statute: Section 466, Code of Criminal Procedure, 1973**

**Section 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 XXXVIII

## LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

**513. Definitions**

For the purposes of this Chapter, unless the context otherwise requires, "period of limitation" means the period specified in section 514 for taking cognizance of an offence.

**Corresponding Provision of Previous Statute: Section 467, Code of Criminal Procedure, 1973**

**Section 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.

**514. Bar to taking cognizance after lapse of period of limitation**

(1) Except as otherwise provided in this Sanhita, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be -

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(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

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severe punishment or, as the case may be, the most severe punishment.

*Explanation.-* - For the purpose of computing the period of limitation, the relevant date shall be the date of filing complaint under section 223 or the date of recording of information under section 173.

**Corresponding Provision of Previous Statute: Section 468, Code of Criminal Procedure, 1973**

**Section 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;
- (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.

(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.

## 515. Commencement of 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

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(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.

**Corresponding Provision of Previous Statute: Section 469, Code of Criminal Procedure, 1973**

**Section 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.

## 516. 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.

**Corresponding Provision of Previous Statute: Section 470, Code of Criminal Procedure, 1973**

**Section 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

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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.

## 517. Exclusion of date on which Court is closed

Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens.

*Explanation.*— A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

### Corresponding Provision of Previous Statute: Section 471, Code of Criminal Procedure, 1973

**Section 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

*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.

## 518. 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.

**Corresponding Provision of Previous Statute: Section 472, Code of Criminal Procedure, 1973**

**Section 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.

## 519. 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.

**Corresponding Provision of Previous Statute: Section 473, Code of Criminal Procedure, 1973**

**Section 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.

### Linked Provisions

[Delhi sales tax Act, 1975](#)  
[- Section 62 - Extension of period of limitation in certain cases](#)

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## CHAPTER XXXIX

## MISCELLANEOUS

**520. Trials before High Courts**

When an offence is tried by the High Court otherwise than under section 447, 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.

**Corresponding Provision of Previous Statute: Section 474, Code of Criminal Procedure, 1973**

**Section 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.

**521. Delivery to commanding officers of persons liable to be tried by Court- martial**

(1) The Central Government may make rules consistent with this Sanhita and the Air Force Act, 1950 (45 of 1950), the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), 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 army, naval or air- force law, or such other law, shall be tried by a Court to which this Sanhita 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 Sanhita 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

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army, 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.

**Corresponding Provision of Previous Statute: Section 475, Code of Criminal Procedure, 1973**

**Section 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 –

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- (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.

## 522. 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.

### Corresponding Provision of Previous Statute: Section 476, Code of Criminal Procedure, 1973

**Section 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.

#### LANDMARK JUDGMENT

K. Karunakaran vs. T.V. Eachara Warriar and Ors., [MANU/SC/0098/1977](#)

## 523. 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;

### Linked Provisions

[Arbitration and Conciliation Act, 1996 - Section 82 - Power of High Court to make rules](#)

[Banking Regulation Act, 1949 - Section 45U - Power of High Court to make rules](#)

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(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, provided by rules made by the State Government.

(2) All rules made under this section shall be published in the Official Gazette.

[Family Courts Act, 1984 - Section 21 - Power of High Court to make rules](#)

[Guardians and Wards Act, 1890 - Section 50 - Power of High Court to make rules](#)

[Pondicherry - Administration Act, 1962 - Section 12 - Power of High Court to make rules](#)

[Special Marriage Act, 1954 - Section 41 - Power of High Court to make rules](#)

#### Corresponding Provision of Previous Statute: Section 477, Code of Criminal Procedure, 1973

**Section 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.

## 524. 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 127, 128, 129, 164 and

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166 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.

**Corresponding Provision of Previous Statute: Section 478, Code of Criminal Procedure, 1973**

**Section 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.

**525. Cases 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.

**Corresponding Provision of Previous Statute: Section 479, Code of Criminal Procedure, 1973**

**Section 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.

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**526. Practising advocate not to sit as Magistrate in certain Courts**

No advocate who practices 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.

**Corresponding Provision of Previous Statute: Section 480, Code of Criminal Procedure, 1973**

**Section 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.

**527. 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 Sanhita shall not purchase or bid for the property.

**Corresponding Provision of Previous Statute: Section 481, Code of Criminal Procedure, 1973**

**Section 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.

**528. Saving of inherent powers of High Court**

Nothing in this Sanhita 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 Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

**Corresponding Provision of Previous Statute: Section 482, Code of Criminal Procedure, 1973**

**Section 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.

**LANDMARK JUDGMENT**

Amar Nath and Ors. vs. State of Haryana and Ors., [MANU/SC/0068/1977](#)

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Rajinder Singh Chadha vs. Union of India and Ors., [MANU/DE/7847/2023](#)

Jagdish Ram vs. State of Rajasthan and Ors., [MANU/SC/0196/2004](#)

Arnab Ranjan Goswami vs. Union of India (UOI) and Ors., [MANU/SC/0448/2020](#)

## 529. Duty of High Court to exercise continuous superintendence over Courts

Every High Court shall so exercise its superintendence over the Courts of Session and Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by the Judges and Magistrates.

**Corresponding Provision of Previous Statute: Section 483, Code of Criminal Procedure, 1973**

**Section 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.

## 530. Trial and proceedings to be held in electronic mode

All trials, inquiries and proceedings under this Sanhita, including- -

- (i) issuance, service and execution of summons and warrant;
- (ii) examination of complainant and witnesses;
- (iii) recording of evidence in inquiries and trials; and
- (iv) all appellate proceedings or any other proceeding, may be held in electronic mode, by use of electronic communication or use of audio- video electronic means.

## 531. Repeal and savings

- (1) The Code of Criminal Procedure, 1973 (2 of 1974) is hereby repealed.

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(2) Notwithstanding such repeal- -

(a) if, immediately before the date on which this Sanhita 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, 1973 (2 of 1974), as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force;

(b) all notifications published, proclamations issued, powers conferred, forms provided by rules, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the said Code and which are in force immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published, issued, conferred, specified, defined, passed or made under the corresponding provisions of this Sanhita;

(c) any sanction accorded or consent given under the said 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 Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction or consent.

(3) Where the period specified for an application or other proceeding under the said Code had expired on or before the commencement of this Sanhita, nothing in this Sanhita shall be construed as enabling

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any such application to be made or proceeding to be commenced under this Sanhita by reason only of the fact that a longer period therefor is specified by this Sanhita or provisions are made in this Sanhita for the extension of time.

**Corresponding Provision of Previous Statute: Section 484, Code of Criminal Procedure, 1973**

**Section 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 Bharatiya Nyaya Sanhita, 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 Bharatiya Nyaya Sanhita, 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" does not include 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 BHARATIYA NYAYA SANHITA

Section	Offence	Punishment	Cognizable or Non- cognizable	Bailable or Non- bailable	By what Court triable
1	2	3	4	5	6
49	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.
50	Abetment of any offence, if the person abetted does act with different intention from that of abettor.	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.
51	Abetment of any offence, when one act is abetted and	Same as for offence	According as offence abetted is	According as offence abetted	Court by which offence abetted is triable.

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	a different act is done; subject to the proviso.	intended to be abetted.	cognizable or non- cognizable.	is bailable or non- bailable.	
52	Abettor when liable to cumulative punishment for act abetted and for act done.	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.
53	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.	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.
54	Abetment of any offence, if abettor present when offence is committed.	Same as for offence committed.	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.
55	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.	According as offence abetted is cognizable or non- cognizable.	Non- bailable.	Court by which offence abetted is triable.
	If an act which causes harm to be done in consequence of the abetment.	Imprisonment for 14 years and fine.	According as offence abetted is cognizable or non- cognizable.	Non- bailable.	Court by which offence abetted is triable.

56	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Imprisonment extending to one- fourth of the longest term provided for the offence, 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.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Imprisonment extending to one- half of the longest term provided for the offence, 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.
57	Abetting commission of an offence by the public or by more than ten persons.	Imprisonment which may extend to 7 years and fine.	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.
58 (a)	Concealing design to commit offence punishable with death or imprisonment for life, if the offence be committed.	Imprisonment for 7 years and fine.	According as offence abetted is cognizable or non- cognizable.	Non- bailable.	Court by which offence abetted is triable.
58(b)	If offence be not committed.	Imprisonment for 3 years and fine.	According as offence abetted is cognizable or non- cognizable.	Bailable.	Court by which offence abetted is triable.
59(a)	A public servant concealing a design to commit an offence which it is his duty to	Imprisonment extending to one- half of the longest term provided	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.

	prevent, if the offence be committed.	for the offence, or fine, or both.			
59(b)	If the offence be punishable with death or imprisonment for life.	Imprisonment for 10 years.	According as offence abetted is cognizable or non- cognizable.	Non- bailable.	Court by which offence abetted is triable.
59(c)	If the offence be not committed.	Imprisonment extending to one- fourth of the longest term provided for the offence, or fine, or both.	According as offence abetted is cognizable or non- cognizable.	Bailable.	Court by which offence abetted is triable.
60(a)	Concealing a design to commit an offence punishable with imprisonment, if offence be committed.	Imprisonment extending to one- fourth of the longest term provided for the offence, 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.
60(b)	If the offence be not committed.	Imprisonment extending to one- eighth part of the longest term provided for the offence, or fine, or both.	According as offence abetted is cognizable or non- cognizable.	Bailable.	Court by which offence abetted is triable.
61(2)(a)	Criminal conspiracy to commit an offence punishable with death,	Same as for abetment of the offence which is the	According as the offence which is the object of conspiracy is	According as offence which is object of conspiracy is	Court by which abetment of the offence which is the object of

	imprisonment for life or rigorous imprisonment for a term of 2 years or upwards.	object of the conspiracy.	cognizable or non- cognizable.	bailable or non- bailable.	conspiracy is triable.
61(2)(b)	Any other criminal conspiracy.	Imprisonment for 6 months, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
62	Attempting to commit offence punishable with imprisonment for life, or imprisonment, and in such attempt doing any act towards the commission of the offence.	One half of the imprisonment for life, or imprisonment not exceeding one- half of the longest term, provided for the offence, or fine, or both.	According as the men offence is cognizable or non- cognizable.	According as the offence attempted by the offender is bailable or non- bailable.	The court by which the offence attempted is triable.
64(1)	Rape.	Rigorous imprisonment for not less than 10 years but which may extend to imprisonment for life, and fine.	Cognizable.	Non- bailable.	Court of Session.
64(2)	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on	Rigorous imprisonment for not less than 10 years but which may extend to imprisonment	Cognizable.	Non- bailable.	Court of Session.

	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.	for life which shall mean the remainder of that person's natural life and fine.			
65(1)	Persons committing offence of rape on a woman under sixteen years of age.	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 fine.	Cognizable.	Non- bailable.	Court of Session.
65(2)	Persons committing offence of rape on	Rigorous imprisonment for not less	Cognizable.	Non- bailable.	Court of Session.

	a woman under twelve years of age.	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 or death.			
66	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 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 or death.	Cognizable.	Non- bailable.	Court of Session.
67	Sexual intercourse by husband upon his wife during separation.	Imprisonment for not less than 2 years but which may extend to 7 years and fine.	Cognizable (only on the complaint of the victim).	Bailable.	Court of Session.

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68	Sexual intercourse by a person in authority, etc.	Rigorous imprisonment for not less than 5 years, but which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
69	Sexual intercourse by employing deceitful means, etc.	Imprisonment which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
70(1)	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 fine.	Cognizable.	Non- bailable.	Court of Session.
70(2)	Gang rape on a woman under eighteen 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.

71	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.
72(7)	Disclosure of identity of the victim of certain offences, etc.	Imprisonment for 2 years and fine.	Cognizable.	Bailable.	Any Magistrate.
73	Printing or publication of a proceeding without prior permission of court.	Imprisonment for 2 years and fine.	Cognizable.	Bailable.	Any Magistrate.
74	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment for 1 year which may extend to 5 years and fine.	Cognizable.	Non- bailable.	Any Magistrate.
75(2)	Sexual harassment and punishment for sexual harassment specified in clause (i) or clause (ii) or clause (Hi) of sub-section (7).	Rigorous imprisonment with 3 years, or fine, or both.	Cognizable.	Non- bailable.	Court of Session.
75(3)	Sexual harassment and punishment for sexual harassment specified in clause	Imprisonment for 1 year, or fine, or both.	Cognizable.	Non- bailable.	Court of Session.

	(iv) of sub- section (7).				
76	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment for not less than 3 years but which may extend to 7 years and fine.	Cognizable.	Non- bailable.	Court of Session.
77	Voyeurism.	Imprisonment for not less than 1 year but which may extend to 3 years and fine.	Cognizable.	Bailable.	Court of Session.
	Second or subsequent conviction.	Imprisonment for not less than 3 years but which may extend to 7 years and fine.	Cognizable.	Non- bailable.	Court of Session.
78(2)	Stalking.	Imprisonment up to 3 years and fine.	Cognizable.	Bailable.	Any Magistrate.
	Second or subsequent conviction.	Imprisonment up to 5 years and fine.	Cognizable.	Non- bailable.	Any Magistrate.
19	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Simple imprisonment for 3 years and fine.	Cognizable.	Bailable.	Any Magistrate.

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80(2)	Dowry death.	Imprisonment for not less than 7 years but which may extend to imprisonment for life.	Cognizable.	Non- bailable.	Court of Session.
81	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.
82(1)	Marrying again during the life time of a husband or wife.	Imprisonment for 7 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
82(2)	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Imprisonment for 10 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
83	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Imprisonment up to 7 years and fine.	Non- cognizable.	Non- bailable.	Magistrate of the first class.

84	Enticing or taking away or detaining with a criminal intent a married woman.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
85	Punishment for subjecting a married woman to cruelty.	Imprisonment for 3 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.
87	Kidnapping, abducting or inducing woman to compel her marriage, etc.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.

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88	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.	Non- cognizable.	Bailable.	Magistrate of the first class.
89	Causing miscarriage without women's consent.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
90(1)	Death caused by an act done with intent to cause miscarriage.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
90(2)	If act done without women's consent.	Imprisonment for life, or as above.	Cognizable.	Non- bailable.	Court of Session.
91	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.	Cognizable.	Non- bailable.	Court of Session.
92	Causing death of a quick unborn child by an act amounting to culpable	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
93	Exposure of a child under 12 years of age by parent or person having care of it with intention of	Imprisonment for 7 years, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.

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	wholly abandoning it.				
94	Concealment of birth by secret disposal of dead body.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
95	Hiring, employing or engaging a child to commit an offence.	Imprisonment for not less than 3 years but which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
	If offence be committed.	Same as for the offence committed.	Cognizable.	Non- bailable.	Court by which offence committed is triable.
96	Procuration of child.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
97	Kidnapping or abducting a child under ten years with intent to steal from its person.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
98	Selling child for purposes of prostitution, etc.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
99	Buying child for purposes of prostitution, etc.	Imprisonment for not less than 7 years but which may extend to 14 years and fine.	Cognizable.	Non- bailable.	Court of Session.

103(1)	Murder.	Death or imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
103(2)	Murder by group of five or more persons.	Death or with imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
104	Murder by life-convict.	Death or imprisonment for life, which shall mean the remainder of that person's natural life.	Cognizable.	Non- bailable.	Court of Session.
105	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death,	Imprisonment for life, or Imprisonment for not less than 5 years but which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
	If act be done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Imprisonment for 10 years and with fine.	Cognizable.	Non- bailable.	Court of Session.
106(1)	Causing death by negligence.	Imprisonment for 5 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
	Causing death by negligenc by registered medical practitioner.	e Imprisonment for 2 years and fine	Cognizable.	Bailable.	Magistrate of the first class.

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106(2)	Causing death by rash and negligent driving of vehicle and escaping.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
107	Abetment of suicide of child or person of unsound mind, etc.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
108	Abetment of suicide.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
109(1)	Attempt to murder.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
	If such act causes hurt to any person.	Imprisonment for life, or as above.	Cognizable.	Non- bailable.	Court of Session.
109(2)	Attempt by life-convict to murder, if hurt is caused.	Death, or imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable.	Non- bailable.	Court of Session.
110	Attempt to commit culpable homicide.	Imprisonment for 3 years, or fine or both.	Cognizable.	Non- bailable.	Court of Session.
	If such act causes hurt to any person.	Imprisonment for 7 years, or fine, or both.	Cognizable.	Non- bailable.	Court of Session.
111(2)(a)	Organised crime resulting in death of any person.	Death or imprisonment for life and	Cognizable.	Non- bailable.	Court of Session.

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		fine of not less than 10 lakh rupees.			
111(2)(b)	In any other case.	Imprisonment for not less than 5 years but which may extend to imprisonment for life and fine of not less than 5 lakh rupees.	Cognizable.	Non- bailable.	Court of Session.
111(3)	Abetting, attempting, conspiring or knowingly facilitating the commission of organised crime.	Imprisonment for not less than 5 years but which may extend to imprisonment for life and fine of not less than 5 lakh rupees.	Cognizable.	Non- bailable.	Court of Session.
111(4)	Being a member of an organised crime syndicate.	Imprisonment for not less than 5 years but which may extend to imprisonment for life and fine of not less than 5 lakh rupees.	Cognizable.	Non- bailable.	Court of Session.
111(5)	Intentionally harbouring or concealing any person who	Imprisonment for not less than 3 years but which	Cognizable.	Non- bailable.	Court of Session.

	committed offence of organised crime.	may extend to imprisonment for life and fine of not less than 5 lakh rupees.			
111(6)	Possessing property derived or obtained from the commission of organised crime.	Imprisonment for not less than 3 years but which may extend to imprisonment for life and fine of not less than 2 lakh rupees.	Cognizable.	Non- bailable.	Court of Session.
111(7)	Possessing property on behalf of a member of an organised crime syndicate.	Imprisonment for not less than 3 years but which may extend to imprisonment for 10 years and fine of not less than 1 lakh rupees.	Cognizable.	Non- bailable.	Court of Session.
112	Petty Organised crime.	Imprisonment for not less than 1 year but which may extend to 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
113(2)(a)	Terrorist act resulting in the	Death or imprisonment	Cognizable.	Non- bailable.	Court of Session.

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	death of any person.	for life and fine.			
113(2)(b)	In any other case.	Imprisonment for not less than 5 years but which may extend to imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
113(3)	Conspiring, attempting, abetting, etc., or knowingly facilitating the commission of terrorist act.	Imprisonment for not less than 5 years but which may extend to imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
113(4)	Organising camps, training, etc., for commission of terrorist act.	Imprisonment for not less than 5 years but which may extend to imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
113(5)	Being a member of an organisation involved in terrorist act.	Imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
113(6)	Harbouring, concealing, etc., of any person who committed a terrorist act.	Imprisonment for not less than 3 years but which may extend to imprisonment	Cognizable.	Non- bailable.	Court of Session.

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		for life and fine.			
113(7)	Possessing property derived or obtained from commission of terrorist act.	Imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
115(2)	Voluntarily causing hurt.	Imprisonment for 1 year or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
117(2)	Voluntarily causing grievous hurt.	Imprisonment for 7 years and fine.	Cognizable.	Bailable.	Any Magistrate.
117(3)	If hurt to results in permanent disability or persistent vegetative state.	Rigorous imprisonment for not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable.	Non- bailable.	Court of Session.
117(4)	Grievous hurt caused by a group of 5 or more persons.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Court of Session.
118(1)	Voluntarily causing hurt by dangerous weapons or means.	Imprisonment for 3 years, or fine of 20,000 rupees, or both.	Cognizable.	Non- bailable.	Any Magistrate.

118(2)	Voluntarily causing grievous hurt by dangerous weapons or means [except as provided in section 122(2)].	Imprisonment for life or imprisonment of not less than 1 year but which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
119(1)	Voluntarily causing hurt to extort property, or to constrain to an illegal act.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
119(2)	Voluntarily causing grievous hurt for any purpose referred to in sub- section (1).	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
120(1)	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 7 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
120(2)	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
121(1)	Voluntarily causing hurt to deter public	Imprisonment for 5 years, or fine, or both.	Cognizable.	Non- bailable.	Magistrate of the first class.

	servant from his duty.				
121(2)	Voluntarily causing grievous hurt to deter public servant from his duty.	Imprisonment not less than 1 year, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
122(1)	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 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
122(2)	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 5 years, or fine of 10,000 rupees, or both.	Cognizable.	Bailable.	Magistrate of the first class.
123	Causing hurt by means of poison, etc., with intent to commit an offence.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
124(1)	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.	Cognizable.	Non- bailable.	Court of Session.

124(2)	Voluntarily throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and fine.	Cognizable.	Non- bailable.	Court of Session.
125	Doing any act endangering human life or personal safety of others.	Imprisonment for 3 months, or fine of 2,500 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
125(a)	Where hurt is caused.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
125(b)	Where grievous hurt is caused.	Imprisonment for 3 years, or fine of 10,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
126(2)	Wrongfully restraining any person.	Simple imprisonment for 1 month, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
127(2)	Wrongfully confining any person.	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
127(3)	Wrongfully confining for three or more days.	Imprisonment for 3 years, or fine of 10,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.

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127(4)	Wrongfully confining for 10 or more days.	Imprisonment for 5 years and fine of 10,000 rupees.	Cognizable.	Non- bailable.	Magistrate of the first class.
127(5)	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Imprisonment for 2 years in addition to any term of imprisonment to under any other section and fine.	Cognizable.	Bailable.	Magistrate of the first class.
127(6)	Wrongful confinement in secret.	Imprisonment for 3 years in addition to other punishment which he is liable to and fine.	Cognizable.	Bailable.	Magistrate of the first class.
127(7)	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Imprisonment for 3 years and fine.	Cognizable.	Bailable.	Any Magistrate.
127(8)	Wrongful confinement for the purpose of extorting confession or information, or for compelling restoration of property, etc.	Imprisonment for 3 years and fine.	Cognizable.	Bailable.	Any Magistrate.

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131	Assault or criminal force otherwise than on grave provocation.	Imprisonment for 3 months, or fine of 1,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
132	Assault or use of criminal force to deter public servant from discharge of his duty.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Non- bailable.	Any Magistrate.
133	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
134	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
135	Assault or use of criminal force in attempt wrongfully to confine a person.	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
136	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for one month, or fine of 1,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.

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137(2)	Kidnapping.	Imprisonment for 7 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
139(1)	Kidnapping a child for purposes of begging.	Rigorous imprisonment not be less than 10 years but which may extend to imprisonment for life, and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
139(2)	Maiming a child for purposes of begging.	Imprisonment not be less than 20 years which may extend to remainder of that person's natural life, and fine.	Cognizable.	Non- bailable.	Court of Session.
140(1)	Kidnapping or abducting in order to murder.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
140(2)	Kidnapping for ransom, etc.	Death, or imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
140(3)	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.

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140(4)	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
141	Importation of a girl or boy from foreign country.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
142	Wrongfully concealing or keeping in confinement, kidnapped or abducted person.	Punishment for kidnapping or abduction.	Cognizable.	Non- bailable.	Court by which the kidnapping or abduction is triable.
143(2)	Trafficking of person.	Rigorous imprisonment for not less than 7 years but which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
143(3)	Trafficking of more than one person.	Rigorous imprisonment for not less than 10 years but which may extend to imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
143(4)	Trafficking of a child.	Rigorous imprisonment for not less than 10 years but which may extend to	Cognizable.	Non- bailable.	Court of Session.

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		imprisonment for life and fine.			
143(5)	Trafficking of more than one child.	Rigorous imprisonment for not less than 14 years but which may extend to imprisonment for life and fine.	Cognizable.	Non- bailable.	Court of Session.
143(6)	Person convicted of offence of trafficking of child on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life and fine.	Cognizable.	Non- bailable.	Court of Session.
143(7)	Public servant or a police officer involved in trafficking of child.	Imprisonment for life which shall mean the remainder of that person's natural life and fine.	Cognizable.	Non- bailable.	Court of Session.
144(1)	Exploitation of a trafficked child.	Rigorous imprisonment for not less than 5 years but which may extend to 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
144(2)	Exploitation of a trafficked person.	Rigorous imprisonment for not less	Cognizable.	Non- bailable.	Court of Session.

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		than 3 years but which may extend to 7 years and fine.			
145	Habitual dealing in slaves.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
146	Unlawful compulsory labour.	Imprisonment for 1 year, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
147	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.
148	Conspiring to commit certain offences against the State.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
149	Collecting arms, etc., with the intention of waging war against the Government of India.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
150	Concealing with intent to facilitate a design to wage	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.

151	Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Court of Session.
152	Act endangering sovereignty, unity and integrity of India.	Imprisonment for life, or imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Court of Session.
153	Waging war against Government of any foreign State at peace with the Government of India.	Imprisonment for life and fine, or imprisonment for 7 years and fine, or fine.	Cognizable.	Non- bailable.	Court of Session.
154	Committing depredation on the territories of any foreign state at peace with the Government of India.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Cognizable.	Non- bailable.	Court of Session.
155	Receiving property taken by war or depredation mentioned in sections 153 and 154.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Cognizable.	Non- bailable.	Court of Session.
156	Public servant voluntarily allowing prisoner of state or war in	Imprisonment for life, or imprisonment	Cognizable.	Non- bailable.	Court of Session.

	his custody to escape.	for 10 years and fine.			
157	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
158	Aiding escape of, rescuing or harbouring such prisoner.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
159	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.
160	Abetment of mutiny, if mutiny is committed in consequence thereof.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
161	Abetment of assault by an officer, soldier, sailor or airman on his superior officer, when in execution of his office.	Imprisonment for 3 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
162	Abetment of such assault, if the assault committed.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.



163	Abetment of the desertion of an officer, soldier, sailor or airman.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
164	Harbouring deserter.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable.	Any Magistrate.
165	Deserter concealed on board merchant vessel through negligence of master or person in charge thereof.	Fine of 3,000 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
166	Abetment of act of insubordination by an officer, soldier, sailor or airman if the offence be committed in consequence.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
168	Wearing garb or carrying token used by soldier, sailor or airman.	Imprisonment for 3 months, or fine of 2,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
173	Bribery.	Imprisonment for 1 year or fine, or both, or if treating only, fine only.	Non- cognizable.	Bailable.	Magistrate of the first class.
174	Undue influence or personation at an election.	Imprisonment for 1 year, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.

175	False statement in connection with an election.	Fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
176	Illegal payments in connection with elections.	Fine of 10,000 rupees.	Non- cognizable.	Bailable.	Magistrate of the first class.
177	Failure to keep election accounts.	Fine of 5,000 rupees.	Non- cognizable.	Bailable.	Magistrate of the first class.
178	Counterfeiting coins, government stamps, currency- notes or bank- notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
179	Using as genuine forged or counterfeit coin, Government stamp currency- notes or bank- notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
180	Possession of forged or counterfeit coin, Government stamp, currency- notes or bank- notes.	Imprisonment for 7 years, or fine, or both.	Cognizable.	Non- bailable.	Court of Session.
181	Making, buying, selling or possessing machinery, instrument or material for forging or counterfeiting coins, Government	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.

	stamp, currency- notes or bank- notes.				
182(1)	Making or using documents resembling currency- notes or bank- notes.	Fine of 300 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
182(2)	On refusal to disclose the name and address of the printer.	Fine of 600 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
183	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.	Cognizable.	Bailable.	Magistrate of the first class.
184	Using a Government stamp known to have been before used.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
185	Erasure of mark denoting that stamps have been used.	Imprisonment for 3 years, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
186	Fictitious stamps.	Fine of 200 rupees.	Cognizable.	Bailable.	Any Magistrate.
187	Person employed in a Mint causing coin to be of a	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.

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	different weight or composition from that fixed by law.				
188	Unlawfully taking from a Mint any coining instrument.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
189(2)	Being member of an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
189(3)	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
189(4)	Joining an unlawful assembly armed with any deadly weapon.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
189(5)	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.	Cognizable.	Bailable.	Any Magistrate.
189(6)	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	Cognizable.	According as offence is bailable or non- bailable.	The Court by which the offence is triable.

		committed by any member of such assembly.			
189(7)	Harbouring persons hired for an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
189(8)	Being hired to take part in an unlawful assembly or riot.	Imprisonment for 6 months, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
189(9)	Or to go armed.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
190	Every member of unlawful assembly guilty of offence committed in prosecution of common object.	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.
191(2)	Rioting.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
191(3)	Rioting, armed with a deadly weapon.	Imprisonment for 5 years, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
192	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Imprisonment for 1 year, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
	If not committed.	Imprisonment for 6 months, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.

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193(1)	Owner or occupier of land not giving information of riot, etc.	Fine of 1,000 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
193(2)	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Fine.	Non- cognizable.	Bailable.	Any Magistrate.
193(3)	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Fine.	Non- cognizable.	Bailable.	Any Magistrate.
194(2)	Committing affray.	Imprisonment for one month, or fine of 1,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
195(1)	Assaulting or obstructing public servant when suppressing riot, etc.	Imprisonment for 3 years, or fine not less than 25,000 rupees, or both.	Cognizable.	Bailable.	Magistrate of the first class.
195(2)	Threatening to assault or attempting to obstruct public servant when suppressing riot, etc.	Imprisonment for 1 year, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.

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196(1)	Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.	Imprisonment for 3 years, or fine, or both.	Cognizable.	Non- bailable.	Magistrate of the first class.
196(2)	Promoting enmity between classes in place of worship, etc.	Imprisonment for 5 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
197(1)	Imputations, assertions prejudicial to national integration.	Imprisonment for 3 years, or fine, or both.	Cognizable.	Non- bailable.	Magistrate of the first class.
197(2)	If committed in a place of public worship, etc.	Imprisonment for 5 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
198	Public servant disobeying direction of the law with intent to cause injury to any person.	Simple imprisonment for 1 year, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
199	Public servant disobeying direction under law.	Rigorous imprisonment for not less than 6 months which may extend to 2 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.

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200	Non- treatment of victim by hospital.	Imprisonment for 1 year, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
201	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for 3 years, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
202	Public servant unlawfully engaging in trade.	Simple imprisonment for 1 year, or fine, or both, or community service.	Non- cognizable.	Bailable.	Magistrate of the first class.
203	Public servant unlawfully buying or bidding for property.	Simple imprisonment for 2 years, or fine, or both and confiscation of property, if purchased.	Non- cognizable.	Bailable.	Magistrate of the first class.
204	Personating a public servant.	Imprisonment for not less than 6 months but which may extend to 3 years and fine.	Cognizable.	Non- bailable.	Any Magistrate.
205	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for 3 months, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
206(a)	Absconding to avoid service of	Simple imprisonment	Non- cognizable.	Bailable.	Any Magistrate.



	summons or other proceeding from a public servant.	for 1 month, or fine of 5,000 rupees, or both.			
206(b)	If summons or notice require attendance in person, etc., in a Court.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
207(a)	Preventing service of summons or other proceeding, or preventing publication thereof.	Simple imprisonment for 1 month, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
207(b)	If summons, etc., require attendance in person, etc., in a Court.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
208(a)	Non- attendance in obedience to an order from public servant.	Simple imprisonment for 1 month, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
208(b)	If the order requires personal attendance, etc., in a Court	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
209	Non- appearance in response to a proclamation	Imprisonment for 3 years, or fine, or both,	Cognizable.	Non- bailable.	Magistrate of the first class.

	under section 84 of this Sanhita.	or community service.			
	In a case where declaration has been made under sub- section (4) of section 84 of this Sanhita pronouncing a person as proclaimed offender.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
210(a)	Omission to produce document to public servant by person legally bound to produce or deliver it.	Simple imprisonment for 1 month, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed, in a Court, any Magistrate.
210(b)	If the document is required to be produced in or delivered to a Court.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed, in a Court, any Magistrate.
211(a)	Intentional omission to give notice or	Simple imprisonment for 1 month,	Non- cognizable.	Bailable.	Any Magistrate.

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	information to public servant by person legally bound to give it.	or fine of 5,000 rupees, or both.			
211(b)	If the notice or information required respects the commission of an offence, etc.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
211(c)	If the notice or information is required by an order passed under sub- section (1) of section 394 of this Sanhita.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
212(a)	Knowingly furnishing false information to public servant.	Simple imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
212(b)	If the information required respects the commission of an offence, etc.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
213	Refusing oath when duly required to take oath by a public servant.	Simple imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed,

					in a Court, any Magistrate.
214	Being legally bound to state truth, and refusing to answer public servant authorised to question.	Simple imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed, in a Court, any Magistrate.
215	Refusing to sign a statement made to a public servant when legally required to do so.	Simple imprisonment for 3 months, or fine of 3,000 rupees, or both.	Non- cognizable.	Bailable.	The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed, in a Court, any Magistrate.
216	Knowingly stating to a public servant on oath as true that which is false.	Imprisonment for 3 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
217	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 1 year, or with fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.

218	Resistance to the taking of property by the lawful authority of a public servant.	Imprisonment for 6 months, or fine of 10,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
219	Obstructing sale of property offered for sale by authority of a public servant.	Imprisonment for 1 month, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
220	Illegal purchase or bid for property offered for sale by authority of public servant.	Imprisonment for 1 month, or fine of 200 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
221	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months, or fine of 2,500 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
222(a)	Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month, or fine of 2,500 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
222(b)	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 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
223(a)	Disobedience to an order lawfully promulgated by a	Simple imprisonment for 6 months,	Cognizable.	Bailable.	Any Magistrate.

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	public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	or fine of 2,500 rupees, or both.			
223(b)	If such disobedience causes danger to human life, health or safety, or causes or tends to cause a riot or affray.	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
224	Threat of injury to public servant, etc.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
225	Threat of injury to induce person to refrain from applying for protection to public servant.	Imprisonment for 1 year, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
226	Attempt to commit suicide to compel or restraint exercise of lawful power.	Imprisonment for 1 year, or fine, or both, or community service.	Non- cognizable.	Bailable.	Any Magistrate.
229(1)	Intentionally giving or fabricating false evidence in a judicial proceeding.	Imprisonment for 7 years and 10,000 rupees.	Non- cognizable.	Bailable.	Magistrate of the first class.
229(2)	Giving or fabricating false	Imprisonment for 3 years	Non- cognizable.	Bailable.	Any Magistrate.

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	evidence in any other case.	and 5,000 rupees.			
230(1)	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 50,000 rupees.	Non- cognizable.	Non- bailable.	Court of Session.
230(2)	If innocent person be thereby convicted and executed.	Death, or as above.	Non- cognizable.	Non- bailable.	Court of Session.
231	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.	Non- cognizable.	Non- bailable.	Court of Session.
232(1)	Threatening any person to give false evidence.	Imprisonment for 7 years, or fine, or both.	Cognizable.	Non- bailable.	Court by which offence of giving false evidence is triable.
232(2)	If innocent person is convicted and sentenced in consequence of false evidence with death, or	The same as for the offence.	Cognizable.	Non- bailable.	Court by which offence of giving false evidence is triable.

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	imprisonment for more than 7 years.				
233	Using in a judicial proceeding evidence known to be false or fabricated.	The same as for giving or fabricating false evidence.	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.
234	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	The same as for giving false evidence.	Non- cognizable.	Bailable.	Court by which offence of giving false evidence is triable.
235	Using as a true certificate one known to be false in a material point.	The same as for giving false evidence.	Non- cognizable.	Bailable.	Court by which offence of giving false evidence is triable.
236	False statement made in any declaration which is by law receivable as evidence.	The same as for giving false evidence.	Non- cognizable.	Bailable.	Court by which offence of giving false evidence is triable.
237	Using as true any such declaration known to be false.	The same as for giving false evidence.	Non- cognizable.	Bailable.	Court by which offence of giving false evidence is triable.
238(a)	Causing disappearance of evidence of an offence committed, or	Imprisonment for 7 years and fine.	According as the offence in relation to which disappearance of evidence is	Bailable.	Court of Session.

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	giving false information touching it to screen the offender, if a capital offence.		caused is cognizable or non- cognizable.		
238(b)	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
238(c)	If punishable with less than 10 years' imprisonment.	Imprisonment for one-fourth of the longest term provided for the offence, or fine, or both.	Non- cognizable.	Bailable.	Court by which the offence is triable.
239	Intentional omission to give information of an offence by a person legally bound to inform.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
240	Giving false information respecting an offence committed.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
241	Secreting or destroying any document to prevent its production as evidence.	Imprisonment for 3 years, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.

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242	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.	Non- cognizable.	Bailable.	Magistrate of the first class.
243	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 3 years, or fine, of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
244	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
245	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.

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	be executed after it has been satisfied.				
246	False claim in a Court.	Imprisonment for 2 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
247	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.	Non- cognizable.	Bailable.	Magistrate of the first class.
248(a)	False charge of offence made with intent to injure.	Imprisonment for 5 years, or fine of 2 lakh rupees, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
248(b)	Criminal proceeding instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for ten years or upwards.	Imprisonment for 10 years and fine.	Non- cognizable.	Bailable.	Court of Session.
249(a)	Harbouring an offender, if the offence is punishable with death.	Imprisonment for 5 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
249(b)	If punishable with imprisonment for life or with	Imprisonment for 3 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.

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	imprisonment for 10 years.				
249(c)	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for one-fourth of the longest term, and of the descriptions, provided for the offence, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
250(a)	Taking gift, etc., to screen an offender from punishment if the offence is punishable with death.	Imprisonment for 7 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
250(b)	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
250(c)	If punishable with imprisonment for less than 10 years.	Imprisonment for one-fourth of the longest term provided for the offence, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
251(a)	Offering gift or restoration of property in consideration of screening offender if the offence is punishable with death.	Imprisonment for 7 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.

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251(b)	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Non- cognizable.	Bailable.	Magistrate of the first class.
251(c)	If punishable with imprisonment for less than 10 years.	Imprisonment for one-fourth of the longest term, provided for the offence, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
252	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.	Bailable.	Magistrate of the first class.
253(a)	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence is punishable with death.	Imprisonment for 7 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
253(b)	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Cognizable.	Bailable.	Magistrate of the first class.
253(c)	If punishable with imprisonment for	Imprisonment for one-	Cognizable.	Bailable.	Magistrate of the first class.

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	1 year and not for 10 years.	fourth of the longest term provided for the offence, or fine, or both.			
254	Harbouring robbers or dacoits.	Rigorous imprisonment for 7 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.
255	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.	Bailable.	Any Magistrate.
256	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.	Bailable.	Magistrate of the first class.
257	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, etc. contrary to law.	Imprisonment for 7 years, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
258	Commitment for trial or confinement by a	Imprisonment for 7 years, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.

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	person having authority, who knows that he is acting contrary to law.				
259(a)	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence is punishable with death.	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.	Bailable.	Magistrate of the first class.
259(b)	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Cognizable.	Bailable.	Magistrate of the first class.
259(c)	If punishable with imprisonment for less than 10 years.	Imprisonment for 2 years, with or without fine.	Cognizable.	Bailable.	Magistrate of the first class.
260(a)	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court if under sentence of death.	Imprisonment for life, or imprisonment for 14 years, with or without fine.	Cognizable.	Non- bailable.	Court of Session.
260(b)	If under sentence of imprisonment for life or	Imprisonment for 7 years,	Cognizable.	Non- bailable.	Magistrate of the first class.

	imprisonment for 10 years, or upwards.	with or without fine.			
260(c)	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Imprisonment for 3 years, or fine, or both.	Cognizable.	Bailable.	Magistrate of the first class.
261	Escape from confinement negligently suffered by a public servant.	Simple imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
262	Resistance or obstruction by a person to his lawful apprehension.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
263(a)	Resistance or obstruction to the lawful apprehension of any person, or rescuing him from lawful custody.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
263(b)	If charged with an offence punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
263(c)	If charged with offence punishable with death.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.

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263(d)	If the person is sentenced to imprisonment for life, or imprisonment for 10 years, or upwards.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
263(e)	If under sentence of death.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Court of Session.
264	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;	Imprisonment for 3 years, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
	(b) in case of negligent omission or sufferance.	Simple imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
265	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.	Bailable.	Any Magistrate.

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266	Violation of condition of remission of punishment.	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	Cognizable.	Non- bailable.	The Court by which the original offence was triable.
267	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed, in a Court, any Magistrate.
268	Personation of an assessor.	Imprisonment for 2 years, or fine, or both.	Non- cognizable.	Bailable.	Magistrate of the first class.
269	Failure by person released on bond or bail bond to appear in Court.	Imprisonment for 1 year, or fine, or both.	Cognizable.	Non- bailable.	Any Magistrate.
271	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.
272	Malignantly doing any act known to be likely to spread infection of any	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.

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	disease dangerous to life.				
273	Knowingly disobeying any quarantine rule.	Imprisonment for 6 months, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
274	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
275	Selling any food or drink as food and drink, knowing the same to be noxious.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
276	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.	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Non- cognizable.	Non- bailable.	Any Magistrate.
277	Sale of adulterated drugs.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
278	Knowingly selling of drug as a different drug or preparation.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.

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279	Fouling water of public spring or reservoir.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
280	Making atmosphere noxious to health.	Fine of 1,000 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
281	Rash driving or riding on a public way.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
282	Rash navigation of vessel.	Imprisonment for 6 months, or fine of 10,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
283	Exhibition of a false light, mark or buoy.	Imprisonment for 7 years, and fine which shall not be less than 10,000 rupees.	Cognizable.	Bailable.	Magistrate of the first class.
284	Conveying person by water for hire in unsafe or overloaded vessel.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
285	Causing danger or obstruction in public way or line of navigation.	Fine of 5,000 rupees.	Cognizable.	Bailable.	Any Magistrate.
286	Negligent conduct with respect to	Imprisonment for 6 months,	Cognizable.	Bailable.	Any Magistrate.

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	poisonous substance.	or fine of 5,000 rupees, or both.			
287	Negligent conduct with respect to fire or combustible matter.	Imprisonment for 6 months, or fine of 2,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
288	Negligent conduct with respect to explosive substance.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
289	Negligent conduct with respect to machinery.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
290	Negligent conduct with respect to pulling down, repairing or constructing buildings, etc.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non- cognizable.	Bailable.	Any Magistrate.
291	Negligent conduct with respect to animal.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
292	Committing public nuisance in cases not otherwise provided for.	Fine of 1,000 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
293	Continuance of nuisance after	Simple imprisonment	Cognizable.	Bailable.	Any Magistrate.

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	injunction to discontinue.	for 6 months, or fine of 5,000 rupees, or both.			
294(2)	Sale, etc., of obscene books, etc.	On first conviction, with imprisonment for 2 years, and with fine of 5,000 rupees, and, in the event of second or subsequent conviction, with imprisonment for 5 years, and with fine of 10,000 rupees.	Cognizable.	Bailable.	Any Magistrate.
295	Sale, etc., of obscene objects to child.	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,	Cognizable.	Bailable.	Any Magistrate.

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		and with fine of 5,000 rupees.			
296	Obscene acts and songs.	Imprisonment for 3 months, or fine of 1,000 rupees, or both.	Cognizable.	Bailable.	Any Magistrate.
297(1)	Keeping a lottery office.	Imprisonment for 6 months, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
297(2)	Publishing proposals relating to lotteries.	Fine of 5,000 rupees.	Non- cognizable.	Bailable.	Any Magistrate.
298	Defiling, etc., place of worship, with intent to insult the religion of any class.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Non- bailable.	Any Magistrate.
299	Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.	Imprisonment for 3 years, or fine, or both.	Cognizable.	Non- bailable.	Magistrate of the first class.
300	Disturbing religious assembly.	Imprisonment for 1 year, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
301	Trespassing on burial places, etc.	Imprisonment for 1 year, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.

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302	Uttering words, etc., with deliberate intent to wound religious feelings.	Imprisonment for 1 year, or fine, or both.	Non- cognizable.	Bailable.	Any Magistrate.
303(2)	Theft.	Rigorous imprisonment for not be less than 1 year but which may extend to 5 years, and fine.	Cognizable.	Non- bailable.	Any Magistrate.
	Where value of property is less than 5,000 rupees.	Upon return of the value of property or restoration of the stolen property, shall be punished with community service.	Non- cognizable.	Bailable.	Any Magistrate.
304(2)	Snatching.	Imprisonment for 3 years and fine.	Cognizable.	Non- bailable.	Any Magistrate.
305	Theft in a dwelling house, or means of transportation or place of worship, etc.	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Any Magistrate.
306	Theft by clerk or servant of property in possession of	Imprisonment for 7 years and fine.	Cognizable.	Non- bailable.	Any Magistrate.

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	master or employer.				
307	Theft after preparation made for causing death, hurt or restraint in order to the committing of theft.	Rigorous imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
308(2)	Extortion.	Imprisonment for 7 years, or fine, or both.	Cognizable.	Non- bailable.	Magistrate of the first class.
308(3)	Putting or attempting to put in fear of injury, in order to commit extortion.	Imprisonment for 2 years, or fine, or both.	Cognizable.	Bailable.	Any Magistrate.
308(4)	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.	Cognizable.	Non- bailable.	Magistrate of the first class.
308(5)	Extortion by putting a person in fear of death or grievous hurt.	Imprisonment for 10 years and fine.	Cognizable.	Non- bailable.	Magistrate of the first class.
308(6)	Putting a person in fear of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years in order	Imprisonment for 10 years and fine.	Cognizable.	Bailable.	Magistrate of the first class.

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