

# The Code of Criminal Procedure, 1973 (CrPc) 2nd Page

March 28, 2013

[The Code of Criminal Procedure, 1973 \(CrPc\) 1st Page](#)

[The Code of Criminal Procedure, 1973 \(CrPc\) 2nd Page](#)

## 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 any, such case any private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the court, submit written arguments after the evidence is closed in the case.

### STATE AMENDMENT

#### WEST BENGAL

For section 301 (1), the following shall be substituted.

“(1) (a) The Public Prosecutor in charge of a case may appear and plead without any written authority before any court in which that case is under inquiry, trial or appeal.

(b) The Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any court in which that case is under inquiry or trial.”

[Vide W.B. Act 26 of 1990].

## 302. Permission to conduct prosecution.

(1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of Inspector; but no person, other than the Advocate General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission:

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) Any person conducting the prosecution may do so personally or by a pleader.

## 303. Right of person against whom proceedings are instituted to be defended.

Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.



### 304. Legal aid to accused at State expense in certain cases.

(1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the court that the accused has not sufficient means to engage a pleader, the court shall assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government make rule providing for-

(a) The mode of selecting pleaders for defence under sub-section (2);

(b) The facilities to be allowed to such pleaders by the courts;

(c) The fee payable to such pleaders by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other courts in the State as they apply in relation to trials before the Courts of Session.

### 305. Procedure when corporation or registered society is an accused.

(1) In this section, "corporation" means 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 the inquiry or trial and such appointment need not be under the seal of the corporation.

(3) Where a representative of a corporation appears, any requirement of this Code that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall be examined.

(4) Where a representative of a corporation does not appear, any such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the managing director of the corporation or by any person (by whatever name called) having. or being one of the persons having the management of the affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, is filed, the court shall, unless the contrary is proved, presume that such person has been so appointed.

(6) If a question arises as to whether any person, appearing as the representative of a corporation in an inquiry or trial before a court is or is not such, representative, the question shall be determined by the court.



### 306. Tender of pardon to accomplice.

(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any, stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to-

(a) Any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952).

(b) Any offence punishable with imprisonment, which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record-

(a) His reasons for so doing;

(b) Whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)-

(a) Shall be examined as a witness in the court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) Shall, unless he is already on bail, be detained in custody until the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has, been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case.

(a) Commit it for trial-

(i) To the Court of Session if the offence is triable exclusively by that court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

(ii) To a court of Special Judge appointed under the Criminal Law Amendment Act 1952 (46 of 1952), if the offence is triable exclusively by that court;

(b) In any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

### 307. Power to direct tender of pardon.



At any time after commitment of a case but before Judgment is passed, the court to which the commitment is made may, with a view, to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

### 308. Trial of person not complying with conditions of pardon.

(1) Where, in regard to a person who has accepted a tender of pardon made under section 306 or section 307, the Public Prosecutor certifies that in his opinion such person has, either the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 195 or section 340 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 164 or by a court under sub-section (4) of section 306 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made, in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial the court shall-

(a) If it is a Court of Session, before the charge is read out and explained to the accused;

(b) If it is the court of a Magistrate before the evidence of the witnesses for the prosecution is taken, ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall notwithstanding anything contained in this Code, pass judgment of acquittal.

### 309. Power to postpone or adjourn proceedings.

2["(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 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible 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:

<sup>1</sup>[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.]

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.

**1. Ins. by Act 45 of 1978, Sec. 24 (w.e.f. 18-12-1978).**

2. Inserted by Section 21 of "The Criminal Law (Amendment) Act, 2013"

## 310. Local inspections.

(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.

## 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 its 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.

## <sup>1</sup>[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.]

#### Cr PC (Amendment) Act, 2005 (Notes on Clauses)

Section 311A has been inserted on the suggestions of the Supreme Court in a certain case that a suitable legislation be made on the analogy of section 5 of the Identification of Prisoners Act, 1980, to provide for the investiture of Magistrates with powers to issue directions to any person including an accused person to give specimen signatures and handwriting.

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1. Ins. by Act 25 of 2005, sec. 27.

### 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 Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such court under this Code.

### 313. Power to examine the accused.

(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the court-

(a) May at any stage, without previously warning the accused put such questions to him as the court considers necessary;

(b) Shall after the witnesses for the prosecution have been examined and before he is called on for his defence question him generally on the case:

Provided that in a summons-case where the court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render him self-labile to punishment by refusing to answer such question, 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 had committed.

### 314. Oral arguments and memorandum of arguments.

(1) Any party to a proceeding may, as soon as may be after the close of his evidence, address concise oral arguments, and may, before he concludes the oral arguments, if any, submit a memorandum to the court setting forth concisely and under distinct headings, the arguments in support of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party.



(3) No adjournment of the proceedings shall be granted for the purpose of filing the written arguments unless the court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments.

### 315. Accused person to be competent witness.

(1) Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that-

(a) He shall not be called as a witness except on his own request in writing;

(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 proceeding are instituted in any Criminal Court under section 98, or section 107, or section 108, or section 109, or section 110, or under Chapter IX or under Part B, Part C or Part D of Chapter X, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 108, section 109 or section 110, the failure of such person to give evidence shall not be made the subject of any comment by any of the parties or the court or give rise to any presumption against him or any other person proceeded against together with him at the same inquiry.



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

Except as provided in section 306 and 307 no influence by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

### 317. Provision for inquiries and trial being held in the absence of accused in certain cases.

(1) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in court, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any Such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn Such inquiry or trial, or order that the case of such accused be taken up or tried separately.

## 318. Procedure where accused does not understand proceedings.

If the accused, though not of unsound mind, cannot be made to understand the proceedings, the court may proceed with the inquiry or trial; and in the case of a Court other than a High Court if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

## 319. Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which Such person could be tried together with the accused, the court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the court he may be arrested or Summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the court although not trader arrest or upon a summon, 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 subsection (1) then-

(a) The proceedings in respect of such person shall be commenced afresh, and witnesses re-heard.

(b) Subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the court took cognizance of the offence upon which the inquiry or trial was commenced.

## 320. Compounding of offences.

(1) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table.

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 feeling of any person	298	The person whose religious feelings are intended to be wounded
Causing Hurt.	323, 334	The person to whom the hurt is caused. .
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.





Assault or use of Criminal force	352, 355, 358	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The Person to whom loss or damage is caused.
Criminal trespass.	447	The Person in possession of property trespassed upon.
House trespass	448	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	Ditto.
<sup>1</sup> [Defamation, except such case as are specified against section 500 of the Indian Penal Code 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 except when the offence is punishable with imprisonment for seven years.	506	The person intimidated
Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.

### 1. Subs. by Act 45 of 1978, sec. 25, for "Defamation (w.e.f. 18-12-1978)"

(2) The offences punishable under the section 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**

<b>Offence</b>	<b>Section of the Indian Penal Code applicable</b>	<b>Person by whom offence may be compounded</b>
<b>1</b>	<b>2</b>	<b>3</b>
<sup>2</sup> [*****]		
Voluntarily causing grievous hurt.	325	<sup>3</sup> [The person to whom hurt is caused]
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to	337	Ditto.

endanger human life or the personal safety of others.		
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days.	344	Ditto.
Assault or criminal force to woman with intent to outrage her modesty.	354	The woman assaulted to whom the criminal force was used.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted to whom the force was used.
Theft, where the value of property stolen does not exceed <sup>4</sup> [two thousand rupees].	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed <sup>4</sup> [two thousand rupees].	381	Ditto
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed <sup>4</sup> [two thousand rupees].	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc. value of property does not exceed <sup>4</sup> [two thousand rupees].	407	Ditto
Criminal breach of trust by a clerk or servant, where the value of the property does not exceed <sup>4</sup> [two thousand rupees].	408	Ditto.
Dishonestly receiving stolen property, knowing it to be stolen, when the value of the stolen property does not exceed <sup>4</sup> [two thousand rupees].	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen, where the value of the stolen property does not exceed <sup>4</sup> [two thousand rupees].	414	The owner of the property stolen.
Cheating.	417	The person cheated.
Cheating a person whose interest the offender was bound. Either by law or by legal contract, to protect.	418	Ditto.
Cheating by personation:	419	Ditto.
Cheating and dishonestly including delivery of property or the making, alteration or destruction of a valuable security.	420	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 debit or demand due to the offender.	422	Ditto.



Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or up wards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc. of any value or of any other animal of the value of fifty rupees or up wards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house-trespassed upon.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling or exposing or possessing for sale or for manufacturing purpose. Good marked with a counterfeited property mark.	486	Ditto.
Marrying again during the lifetime 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 conduct in the discharge 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.

2. The entry "Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused."
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**omitted by Act 25 of 2005, sec. 28.**

**3. Subs. by Act 25 of 2005, sec. 28, for "Ditto".**

**4. Subs. by Act 25 of 2005, sec. 28, for "two hundred and fifty rupees".**

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (When such attempt is itself an offence) 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 power 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 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.

Cr PC (Amendment) Act, 2005 (Notes on Clauses)

The Table appended to sub-section (2) has been amended so as to make the offence under section 324 of the Indian Penal Code, a non-compoundable offence and to enhance the value of the property mentioned in respect of sections 379, 381, 406, 407, 408, 411 and 414 of the Indian Penal Code to two thousand rupees instead of two hundred and fifty rupees since the value of money has gone down considerably.



## State Amendment

### Madhya Pradesh.

In section, in the table below sub-section (2),- (i) in column first, second and third before section 324 and entries relating thereto, the following sections and entries relating thereto shall be inserted, namely:-

"(1)	(2)	(3)
Rioting	147	The person against whom the force or violence is used at the time of committing an offence: Provided that the accused is not charged with other offence which is not compoundable.
Rioting armed with deadly weapon	148	The person against whom the force or violence is used at the time of committing an offence: Provided that the accused is not charged with other offence which is not compoundable.
Obscene acts or use of obscene words	294	The person against whom obscene acts were done or obscene words were used."
(ii) in column first, second and third, after section 500 and entries relating thereto, the		

following section and entries relating thereto shall be inserted, namely:-

Criminal intimidation if threat to be cause death or grievous hurt, etc.	Part II of section 506	The person against whom the offence of Criminal Intimidation was committed."
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[Vide Madhya Pradesh Act 17 of 1999, sec. 3 (w.e.f. 21-5-1999)]

## 321. Withdrawal from prosecution.

The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and upon such withdrawal, —

(a) If it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) If it is made after a charge has been framed, or when under this Code no charge is required he shall be acquitted in respect of such offence or offences:

Provided that where such offence-

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

(ii) Was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or

(iii) Involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(iv) Was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

And the Prosecutor in charge of the case has not been appointed by the Central Government he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution.

### STATE AMENDMENT

#### UTTAR PRADESH:

In section 321, after the words "in charge of a case may" the words "on the written permission of the State Government to that effect (which shall be filed in court)" shall be inserted.

[Vide U.P. Act 18 of 1991, sec. 3 (w.e.f. 16-2-1991)].

## 322. Procedure in cases, which Magistrate cannot dispose of.

(1) If, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption-



- (a) That he has no jurisdiction to try the case or commit it for trial, or
- (b) That the case is one which should be tried or committed for trial by some other Magistrate in the district, or
- (c) That the case should be tried by the Chief Judicial Magistrate, he shall stay the proceedings and submit the case, with a brief report explaining its nature to the Chief Judicial Magistrate or to Such other Magistrate, having Jurisdiction, as the Chief Judicial Magistrate directs.
- (2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

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

If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing 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 <sup>1</sup>[and thereupon the provision of Chapter XVIII shall apply to the commitment so made].

**1. Ins. by Act 45 of 1978, Sec. 26 (w.e.f. 18-12-1978).**

### 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 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 and adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial Magistrate or committed to file Court of Session under sub-section (I) any other person accused jointly with him in the same inquiry or trial shall be similarly sent or committed, unless the Magistrate discharge such other person under section 239 or section 245, as the case may be.

### 325. Procedure when Magistrate cannot pass sentence sufficiently severe.

(1) Whenever a Magistrate is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or, being a Magistrate of the second class, is of opinion that the accused ought to be required to execute a bond under section 106, he may record the opinion and submit his proceeding, 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 (I) 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 as is according to law.

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

(1) Whenever any <sup>1</sup>[Judge or Magistrate] after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another <sup>1</sup>[Judge or Magistrate] who has and who exercises such jurisdiction, the <sup>1</sup>[Judge or Magistrate] so succeeding may act on the evidence so recorded by his predecessor and partly recorded by himself.

Provided that if the succeeding <sup>1</sup>[Judge or Magistrate] is of opinion that further examination of any of the witness 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 <sup>2</sup>[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.

**1. Subs. by Act 45 of 1978, Sec. 27 for "Magistrate " (w.e.f. 18-12-1978).**

**2. Subs. by Act 45 of 1978, Sec. 27 for "from Magistrate to another Magistrate" (w.e.f. 18-12-1978).**

### STATE AMENDMENTS

#### RAJASTHAN:

In section 326, –

(a) In sub-section (1), for the word "Magistrate" wherever it occurs, the words "Judge or Magistrate" shall be substituted;

(b) In sub-section (2), before the words "from one Magistrate to another Magistrate" the words "from one Judge to another Judge or" shall be inserted.

[Vide Rajasthan Act 10 of 1977, sec. 3 (w.e.f. 3-3-1977)].

#### UTTAR PRADESH:

In section 326, –

(a) In subsection (1), for the words "Magistrate," wherever occurring the words "Judge or Magistrate" shall be substituted.



(b) In subsection (2), before the words "from one Magistrate to another Magistrate", the words "from one Judge to another Judge or shall be inserted.

[Vide U.P. Act No. 16 of 1976, sec. 8 (w.e.f. 28-11-1976)]

## 327. Court to be open.

<sup>1</sup>(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 building used by the court.

<sup>2</sup>[(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376B, section 376C 3["section 376D or 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.

(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.]

**1. Section 327 renumbered as sub-section (1) thereof by Act 43 of 1983. sec. 4.**

**2. Ins. by Act 43 of 1983, sec. 4.**

**3. Inserted by Section 22 of "The Criminal Law (Amendment) Act, 2013"**

## 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.

(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 of opinion that the person referred to in sub-section (1) is of unsound mind and consequently incapable of making his defence, he shall record a finding to that effect and shall postpone further proceedings in the case.

## 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.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Magistrate or court.

### 330. Release of lunatic pending investigation or trial.

(1) Whenever a person is found, under section 328 or section 329, to be of unsound mind and incapable of making his defence, the Magistrate or court, as the case may be, whether the case is one in which bail may be taken or not, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or court or such officer as the Magistrate or court appoints in this behalf.

(2) If the case is one which, in the opinion of the Magistrate or court, bail should not be taken, or if sufficient security is not given, the Magistrate or court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the 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 Indian Lunacy Act, 1912 (4 of 1912).



### 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 sureties for his appearance produce him to the officer whom the Magistrate or court appoints, in his behalf, the certificate of such officer that the accused is capable of making, his defence, the inquiry or trial shall be receivable in evidence.

### 332. Procedure on accused appearing before Magistrate or court..

(1) If when, the accused appears or is again brought before the Magistrate or court, as the case may be, the Magistrate or court considers him capable of making his defence the inquiry or trial shall proceed.

(2) If the Magistrate or court considers the accused to be still incapable of making his defence, the Magistrate or court shall act according to the provisions or section 329, 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 330.

### 333. When accused appears to have been of sound mind.

When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act, which, if he had been of sound mind, would have been an offence and that he was, at the time when the act was committed by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and if the accused ought to be tried by the court of session, commit him for trial before the Court of Session.

### 334. Judgment of acquittal on ground of unsoundness of mind.

Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence he was, by reason of unsoundness, of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

### 335. Person acquitted on such ground to be detained in safe custody.

(1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or court before whom or which the trial has been held shall, if such act would, but for the incapacity found have constituted an offence.

(a) Order such person to be detained in safe custody in such place and manner as the Magistrate or court thinks fit; or

(b) Order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a lunatic asylum shall be made under clause (a) of sub-section (1) otherwise than in accordance with such rules as the State Government may have made under the Indian Lunacy Act, 1912 (4 of 1912).

(3) No order for the delivery of the accused to a relative or friend shall be made under clause (b) of sub-section (1) except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or court that the person delivered shall-

(a) Be properly taken care of and prevented from doing injury to himself or to any other person;

(b) Be produced for the inspection of such officer, and at such times and places, as the State Government may, direct.

(4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

### 336. Power of State Government to empower officer in charge to discharge.

The State Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 330 or section 335 to discharge all or any of the functions of the Inspector-General of Prisons under section 337 of section 338.



### 337. Procedure Where lunatic prisoner is reported capable of making his defence.

If such person is detained under the provisions of subsection (2) of section 330, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them shall certify, that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or court, as the case may be, at such time as the Magistrate or court appoints, and the Magistrate or court shall deal with such person under the provisions of section 332; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

### 338. Procedure where lunatic detained is declared fit to be released.

(1) If such person is detained under the provisions of sub-section (2) of section 330, or section 335, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the State Government may thereupon order him to be released, or, to be detained in custody, to be transferred to a public lunatic asylum if he has not already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a commission consisting of a judicial and two medical officers.

(2) Such Commission shall make a formal inquiry, into the state of mind of such person, take such evidence as is necessary, and shall report to the State Government, which may order his release or detention as it thinks fit

### 339. Delivery of lunatic to care or relative or friend.

(1) Whenever any relative 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 subsection (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 of court shall proceed in accordance with the provisions of section 332, and certificate of the inspecting officer shall be receivable as evidence.

### 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 interest 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 for the accused before such Magistrate, or if the alleged offence is non-bailable and the court thinks it necessary so to do send the accused in custody to such Magistrate; and

(e) Bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a court by sub-section (1) in respect of an offence may, in any case where that court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the court to which such former court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed, -

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

<sup>1</sup>[(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.

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**1. Subs. by Act 2 of 2006, sec. 6, for clause (b). Clause (b), before substitution, stood as under: "(b) in any other case, by the presiding officer of the Court." (w.e.f. 16-4-2006).**

## 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 95, and the superior court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, making of the complaint which such former court might have made under section 340, and if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section and subject to any such order, an order under section 340, shall be final, and shall not be subject to revision.



## 342. Power to order court.

Any court dealing with an application made to it for filing a complaint under section 340 or an appeal under section 341, shall have power to make such order as to costs as may be just.

## 343. Procedure of Magistrate taking cognizance.

(1) A Magistrate to whom a complaint is made under section 340 or section 341 shall, notwithstanding anything contained in Chapter XV proceed, as far as may be, to deal with the case as if it were instituted on a police report.

(2) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage, adjourn the hearing of the case until such appeal is decided.

## 344. Summary procedure for trial for giving false evidence.

(1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or willfully 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.

## 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 on 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 facts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal Code (45 of 1860), the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

## 346. Procedure where Court considers that case should not be dealt with under section 345.

(1) If the Court in any case considers that a person accused of any of the offences referred to in section 345 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 345 such Court, after recording the facts constituting the offence and the statement of the accused as herein before provided, may forward the case to a magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police report.

## 347. When Registrar or Sub-Registrar to be deemed a civil Court.

When the State Government so directs, any Registrar or any Sub-Registrar appointed under the <sup>1</sup>[\*\*\*] Registration Act, 1908 (16 of 1908), shall be deemed to be a Civil Court within the meaning of sections 345 and 346.

**1. The word "Indian" omitted by Act 56 of 1974. Sec.3 and second Sch. (w.e.f. 20-12-1974**

## 348. Discharge of offender on submission of apology.

When any Court has under section 345 adjudged an offender to punishment, or has under section 346 forwarded him to a Magistrate for trial, for refusing, or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court or on apology being made to its satisfaction.

## 349. Imprisonment or Committal of person refusing to answer or produce document.

If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such question 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 of section 346.

### 350. Summary procedure for punishment for non-attendance by a witness in obedience to summons.

(1) If any witness being summoned to appear before a Criminal Court 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 law full for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interest of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

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

### 351. Appeals from convictions under section 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 appeal able.

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

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

(4) An appeal from such conviction by any Registrar of 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 of Sub-Registrar is situate.

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

Except as provided in sections 344, 345, 349 and 350, no Judge of a Criminal Court (other than a judge of a High Court) or Magistrate shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

### 353. 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 of which notice shall be given to the parties or their pleaders.

(a) By delivering the whole of the judgment: or



(b) By reading out the whole of the judgment: or

(c) By reading out the operative part of the judgment and explaining the substance of the judgment in a language, which is understood by the accused or his pleader.

(2) Where the judgment is delivered under clause (a) of sub-section (1), the presiding officer shall cause it to be taken down in short hand, sign the transcript and every page thereof as soon as it is made ready, and write on it the date of the delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out under clause (b) or clause (c) of sub-section (1), as the case may be, it shall be dated and signed by the presiding officer in open court and if it is not written with his own hand, every page of the judgment shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in clause (c) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their pleaders free of cost.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced.

(6) If the accused is not in custody, he shall be required by the court to attend to hear the judgment pronounced, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted:

Provided that, where there are more accused than one, and one or more of them do not attend the court on the date on which the judgment is to be pronounced, the presiding officer may, in order to avoid undue delay in the disposal of the case, pronounce the judgment notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(8) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 465.

## 354. Language and contents of judgment.

(1) Except as otherwise expressly provided by this Code, every judgment referred to in section 353, –

(a) Shall be written in the language of the court;

(b) Shall contain the point or points for determination, the decision thereon and the reasons for the decision;

(c) Shall specify the offence (if any) of which, and the section of the Indian Penal Code (45 of 1860) or other law under which, the accused is convicted and the punishment to which he is sentenced;

(d) If it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty.





(2) When the conviction is under the Indian Penal Code (45 of 1860) and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the court shall distinctly express the same, and pass judgment in the alternative.

(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the court or unless the case was tried summarily under the provisions of this Code.

(5) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(6) Every order under section 117 or sub-section (2) of section 138 and every final order made under section 125, section 145 or section 147 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

## 355. Metropolitan Magistrate's Judgment.

Instead of recording a judgment in the manner hereinbefore provided, a Metropolitan Magistrate shall record the following particulars, namely.

- (a) The serial number of the case;
- (b) The date of the commission of the offence;
- (c) The name of the complainant (if any);
- (d) The name of the accused person, and his parentage and residence;
- (e) The offence complained of or proved,
- (f) The plea of the accused and his examination (if any)
- (g) The final order;
- (h) The date of such order;
- (i) In all cases in which an appeal lies from the final order either under section 373 or under sub-section (3) of section 374, a brief statement of the reasons for the decision.

## 356. Order for notifying address of previously convicted offender.

(1) When any person, having been convicted by a court in India of an offence punishable under section 215, section 489A section 489B, section 489C or section 489D <sup>1</sup>[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 <sup>1</sup>[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 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 (I) with reference to the offences named therein, apply also 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 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 cleared 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.

#### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

Sub-section (1) of section 356 has been amended to bring within its ambit all offences in Chapter XVI of the Indian Penal Code (offences affecting the human body) punishable with imprisonment for three years or more as well as the aggravated form of the offence under section 506 (criminal intimidation punishable with imprisonment for a term which may extend to seven years, or with fine, or with both).

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#### **1. Ins. by Act 25 of 2005, sec. 29.**

### **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 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 shelf all offence, in paying in, 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 reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by all Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

## **STATE AMENDMENTS**

### **ANDHRA PRADESH:**

(i) In subsection (1), after the words "the court may", the expression "and where a person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes as defined in Clauses (24) and (25) of Article 366 of the Constitution of India except when both the accused person and the person against whom an offence is committed belong either to such castes or tribes, the court shall," shall be inserted, and

(ii) For Sub-section (3), the following sub-section shall be substituted, namely-

"(3) When a court imposes a sentence, of which fine does not form a part, the court may, and where a person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes as defined in Clauses (24) and (25) of Article 366 of the Constitution of India, the court shall, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced:

Provided that the court may not order the accused person to pay by way of compensation any amount, if both the accused person and the person against whom an offence is committed belongs either to the Scheduled Castes or the Scheduled Tribes."

[Vide A.P. Act 21 of 1993 (w.e.f. 3-9-1993)].

### **BIHAR**

In Sub-section (I) of section 357, the following provision shall be added, namely.

"Provided that the person against whom an offence is committed, belongs to Scheduled Castes and to Scheduled Tribes as defined in clause (24) and clause (25) of Article 366 of the Constitution, the Court shall at the time of Judgment pass order that the entire amount of fine realized or any part if it will be utilised for the benefit of such person by way of compensation.

[Vide Bihar Act 9 of 1985, sec. 2 (w.e.f. 13-8-1985)]



**KARNATAKA:**

(1) In Sub Section (1), after the words "the court may" the brackets, figures and words "and where the person against whom an offence is committed belongs to a Scheduled Caste or Scheduled Tribe as defined in clauses (24) and 25 of Article 366 of the Constitution and the accused person doesn't belong to a Scheduled Caste or a Scheduled Tribe the Court shall" shall be inserted.

(2) For sub-section (3), the following sub-section shall be substituted, namely: –

"(3) When a court imposes a sentence of which the fine does not form a part, the Court may, and where a person against whom an offence is committed belongs to a Scheduled Caste or a Schedule a Tribe as defined in clauses (24) and (25) of Article 366 of the constitution and the accused person does not belong to a Schedule Caste or a Schedule Tribe, the Court shall when passing Judgment order the accused person to paid, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the Act for which the accused person has been so sentenced."

[Vide Karnataka Act 27 of 1987, of sec. 2 (w.e.f. 22-7-1987)].

**MADHYA PRADESH.**

In section 357, –

(i) In sub-section (1), for the brackets, figure and words "(1) when a court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the court may, when passing Judgment, order the whole or any part of the fine recovered to replied" the brackets, figures and words "(1) when a court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the court may, and where a person against whom an offence is committed belongs to a Scheduled Caste or a Scheduled Tribe as defined in clauses (24) and (25) and of Article 366 of the Constitution except when both the accused person and the person against whom an offence is committed belong either to such Castes or Tribes, the court shall, when passing judgment, order the whole or any part of the fine recovered to be applied shall be substituted; and

(ii) For sub-section (3), the following sub-section shall be substituted, namely.

"(3) When court imposes a sentence, of which fine does not form a part, the court may, and where a person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes as defined in clauses (24) and (25) of Article 366 of the Constitution, the court shall when passing judgment order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced:

Provided that the court may not order the accused person to pay by way of compensation any amount if both the accused person and the person against whom an offence is committed belong either to the Scheduled Castes or the Scheduled Tribes."

[Vide M.P. Act 29 of 1978 (w.e.f. 5-10-1978)].

**RAJASTHAN:**

In section 357,-



(i) In sub-section (1), between the expression "the court may" and the expression "when passing judgment" the expression "and where the person against whom an offence is committed belongs to a Scheduled Caste or a Scheduled Tribe but the accused person does not so belong, the court shall" shall be inserted and

(ii) In Sub-section (3), between the expression "the court may," and the expression "when passing judgment" the expression "and where the person against whom an offence is committed" belongs to a Scheduled Caste or a Scheduled Tribe but the accused person does not so belong, the court shall", shall be inserted.

[Vide Rajasthan Act No. 3 of 1993, sec. 2].

#### **UTTAR PRADESH:**

In section 357, –

(a) In sub-section (1), after clause (d), the following proviso shall be inserted, namely.

"Provided that if a person who may receive compensation under clauses (b) (c) and (d) a member of the Scheduled Castes or the Scheduled Tribes and the person sentenced is not a member of such Castes or Tribes, the court shall order the whole or any part of the fine recovered to be applied in payment of such compensation."

(b) For subsection (3), the following sub-section shall be substituted, namely.

"(3) When the court imposes a sentence, of which fine does not form a part, the court may and where the person who has suffered the loss or injury is a member of the Scheduled Castes or the Scheduled Tribes and the person sentenced is not a member of' such Castes or Tribes the court shall, when passing judgment, order the person sentenced 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 person has been so sentenced."

(c) After subsection (5) the following Explanation shall be inserted, namely.

" Explanation. for the purposes of this section the expressions "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of' Article 366 of the Constitution."

[Vide U.P. Act 17 of' 1992, sec. 2].

#### **WEST BENGAL:**

(a) In sub-section (1), for the words and brackets "When a court imposes a sentence of fine or a sentence including a (sentence of death) of which fine forms a part, the court may, when passing Judgment orders the whole or any part of the fine recovered to be applied" the words and brackets "When a court imposes a sentence or fine or a sentence (including it sentence of death) of' which fine forms a part, the court may, and where the person against whom an offence has been committed belongs to Scheduled Castes or Schedule Tribes, except when both the accused person and the person against whom an offence has been committed belong either to Scheduled Castes or to Scheduled Tribes shall, when passing judgment order the whole or any part of the fine recovered to be applied-"shall be substituted.

(b) For sub-section (3) the following subsection shall be substituted, namely.



(3) When a court imposes a sentence, of which fine does not form a part, the court may, and where the person against whom an offence has been committed belongs to Scheduled Castes or Scheduled Tribes, shall, when passing Judgment order the accused person to pay by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

Provided that the court may not order the accused person to pay by way of compensation any amount if both the accused person and the person, against whom an offence has been committed belongs either to Scheduled Castes or to Scheduled Tribes."

(c) After subsection (5), the following Explanation shall be inserted, namely.

Explanation. for the purposes of the section the expression "Scheduled Castes" and "Scheduled Tribes" shall have the meaning respectively assigned to them in clauses and (25) of Article 366 of the constitution of India".

[Vide Act 33 of 1985. sec. 3].

## 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 case is heard that there was no sufficient ground of causing such arrest, the Magistrate may award such compensation, not exceeding <sup>1</sup>[one hundred rupees], to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses 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 hundred 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.

### Cr PC (Amendment ) Act, 2005 (Notes on Clauses)

Section 358 has been amended to enhance the limit of fine of one hundred rupees to one thousand rupees so as to make this provision more effective.

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#### 1. Subs. by Act of 25 of 2005, sec. 30, for "one hundred rupees".

## 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 penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees witnesses and pleader's fees which the court may consider reasonable.



(2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

### 360. Order to release on probation of good conduct or after admonition.

(1) When any person not under twenty-one years of age is convicted of an offence punishable fine, 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 find be of' good behaviour :

Provided that where 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 accuses 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 proceeding are submitted to the Magistrate of the 1st class as provided in 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 thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code (45 of 1860) punishable with not more than two years imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentences 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 power of revision.

(5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as may be apply in the case of sureties offered in pursuance of the provisions of this section.



(7) The court, before directing the release of an offender under sub-section (1) shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the court, which convicted the offender, or a court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the court issuing the warrant, and such court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such court may after hearing the case, pass sentence.

(10) Nothing in this section shall affect the provisions of the Probation of offenders Act, 1958 (20 of 1958), or the Children Act, 1960 (60 of 1960), or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

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

Where in any case the court could have dealt with-

(a) An accused person under section 360 or under the provisions of the Probation of offenders Act, 1958 (20 of 1958), or

(b) A youthful offender under the Children Act, 1960 (60 of 1960), or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders,

but has not done so, it shall record in its judgment the special reasons for not having done so.

### 362. Court not to alter judgment.

Save as otherwise provided by this Code or by any other law for the time being in force, no court when it has signed its judgment or final order disposing of a case, shall after or review the same except to correct a clerical or arithmetical error.

### 363. Copy of judgment to be given to the accused and other persons.

(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 117 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.

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

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

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

In cases tried by the Court of Session or a Chief Judicial Magistrate, the court or such Magistrate as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.

### **366. Sentence of death to be submitted by Court of Session for confirmation.**

(1) When the Court of Session passes a sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

(2) The court passing the sentence shall commit the convicted person to jail custody under a warrant.



### **367. Power to direct further inquiry to be made or additional evidence to be taken.**

(1) If, when such proceedings are submitted, the High Court thinks that a further inquiry, should be made into or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself or direct it to be made or taken by the Court of Session.

(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.

(3) When the inquiry or evidence (if any) is not made or taken by the High Court, the result of such inquiry or evidence shall be certified to such court.

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

In any case submitted under section 366, the High Court-

(a) May confirm the sentence, or pass any other sentence warranted by law, or

(b) May annul the conviction, and convict the accused of any offence of which the Court of Session might have convicted him, or order a new trial on the same or an amended charge, or

(c) May acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

### 369. Confirmation or new sentence to be signed by two Judges.

In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall when such court consists of two or more Judges, be made, passed and signed by at least two of them.

### 370. Procedure in case of difference of opinion.

Where any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case shall be decided in the manner provided by section 392.

### 371. Procedure in cases submitted to High Court for confirmation.

In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court and attested with his official signature, to the Court of Session



### 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 or by any other law for the time being in force.

### 373. Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.

Any person, –

(i) Who has been ordered under section 117 to give security for keeping the peace or for good behaviour, or

(ii) Who is aggrieved by any order refusing to accept or rejecting a surety under section 121,

may appeal against such order to the Court of Session:

Provided that nothing in this section, shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 122.

### 374. Appeals from convictions.

(1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other court in which a sentence of imprisonment for more than seven years <sup>1</sup>[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.

**1. Subs. by Act 45 of 1978, Sec. 28, for “has been passed” (w.e.f. 18-12-1978).**

#### **STATE AMENDMENTS**

#### **PUNJAB AND UNION TERRITORY OF CHANDIGARH:**

In Sub-section (3) of section 374, for the words “Magistrate of the first class” read its Executive Magistrate”.

[Vide, Punjab Act 22 of 1983 (w.e.f 27-6-1983)].



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

Notwithstanding anything maintained 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.

### **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 any such sentence if any other punishment is combined with it, that 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 is imposed does not exceed the amount hereinbefore specified in respect of the case.

## 377. Appeal by the State Government against sentence.

(1) Save as otherwise provided in sub-section (2), the State Government may in any case of conviction on a trial held by any Court other than a High Court, direct the Public prosecutor to present <sup>2</sup>[an appeal to the High Court 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, <sup>1</sup>[the Central Government may also direct] the Public Prosecutor to present <sup>2</sup>[an appeal to the High Court 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, <sup>3</sup>[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 or for the reduction of the sentence.

### Cr PC (Amendment) Act, 2005 (Notes on Clauses)

Section 377 has been amended so as to permit the filing of an appeal in the Court of Session instead of the High Court on the ground of inadequacy of sentence passed by a Magistrate. This amendment is intended not only to make it easier for the administration to prefer appeals against unduly lenient sentences by Magistrates but will also deter the latter from passing sentence that are grossly inadequate.

### COMMENTS

It would clearly be violative of article 21 of the Constitution of India to induce or lead an accused to plead guilty under a promise or assurance that he would be left off lightly and then in appeal or revision to enhance the sentence; *State of Karnataka v. Benoy Thomas*, (1997) 2 Crimes 141 (Karn).



**1. Subs. by Act 45 of 1978, sec. 29, for "the Central Government may direct"(w.e.f. 18-12-1978).**

**2. Subs. by Act 25 of 2005, sec. 31, for "an appeal to the High Court against the sentence on the ground of its inadequacy".**

**3. Subs. by Act 25 of 2005, sec. 31, for "the High Court".**

## 378. Appeal in case of acquittal.

<sup>2</sup>[(1) Save as otherwise provided in sub-section (2) and subject to the provisions of subsections (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)] <sup>1</sup>[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. <sup>3</sup>[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)<sup>4</sup>[No appeal to the High Court] under subsection (1) or subsection (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 subsection (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 subsection (2).



**Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

In order to guard against the arbitrary exercise of power and to reduce reckless acquittals, section 378 has been amended to provide that an appeal against an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence filed on a police report would lie to the Court of Session, and the District Magistrate will be authorised to direct the Public Prosecutor to file such appeals. In respect of all other cases filed on a police report, an appeal against an order of acquittal passed by any Court other than the High Court should lie only to the High Court and the authority to direct the Public Prosecutor to present an appeal shall continue to be with the State Government.

**COMMENTS**

(i) In an appeal against acquittal the appellate court has the undoubted power to review the entire evidence and to come to its own conclusion, but, in doing so, it should not only consider every matter on record having a bearing on the question of fact and the reasons given by the court below in support of its order of acquittal but also should express the reasons in its judgment which let it to hold that the acquittal was not justified; *State of Maharashtra v. Joseph Mingel Koli*, (1997) 2 Crimes 228 (Bom).

(ii) If two conclusions can be based upon the evidence on record the High Court should not disturb the finding of acquittal recorded by the trial court; *State of Maharashtra v. Suresh Nivrutti Bhurare*, (1997) 2 Crimes 257 (Bom).

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**1. Ins. by Act 45 of 1978, Sec. 30 (w.e.f.18-12-1978).**

**2. Subs. by Act 25 of 2005, sec. 32, for sub-section "(1) Save as otherwise provided in sub-section (2) and subject to the provisions of sub-sections (3) and (5), 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 or an order of acquittal passed by the Court of Session in revision".**

**3. Subs. by Act 25 of 2005, sec. 32, for "the Central Government may also direct the Public Prosecutor to present an appeal, subject to the provisions of sub-section (3), to the High Court from the order of acquittal".**

**4. Subs. by Act 25 of 2005, sec. 32, for "No appeal".**

### 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, convicted him, and sentenced him to death or to imprisonment for life or to imprisonment for a term of ten years or more, he may appeal to the Supreme Court.

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

Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment of order has been passed in respect of any of such person, all or any of the persons convicted at such trial shall have a right of appeal.



## 381. Appeal to Court of Session how heard.

(1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a Magistrate of the second-class may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate.

(2) An Additional Sessions Judge, Assistant Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

## 382. Petition of appeal.

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

### STATE AMENDMENT

#### Andaman and Nicobar Islands and Lakshadweep:

Section 382 shall be renumbered as sub-section (1) of that section, and subsection (1) as so renumbered the following provisos and Explanation shall be added, namely:

"Provided that where it is not practicable to file the petition of appeal to the proper Appellate Court, the petition of appeal may, be presented to the Administrator or to an executive Magistrate, not below the rank of Sub-Divisional Magistrate, he shall record thereon the date of presentation and, if he is satisfied that, by reason of the weather, transport or other difficulties, it is not possible for the appellant to obtain, from the proper Appellate Court, orders for the suspension of sentence or for bail, he may, in respect of such appeal, or an appeal forwarded to him under section 383, exercise all or any of the powers of the proper Appellate Court and sub-section (1) of section 389 with regard to suspension of sentence or release of convicted person on bail:

Provided further that the order so made by Administrator or the Executive Magistrate shall have effect until it is reversed or modified by the proper Appellate Court.

Explanation. For the purposes of the provisos to this section and section 383, 'Administrator' in relation to a Union territory means the Administrator appointed by the President under article 239 of the Constitution, for that Union territory."

In section 382 after subsection (1) as so re-numbered, the following sub-section shall be

(2) For purposes of computation of the period of limitation, and for all other purposes, an appeal presented to an Administrator or an Executive Magistrate under sub-section (1) or as the case may be, under section 383, shall be deemed to be an appeal presented to the proper Appellate Court."

[Vide Regulation I of 1974, sec. 4 (w.e.f. 30-3-1974)].

## 383. Procedure when appellant in jail.



If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

## STATE AMENDMENT

### Andaman and Nicobar Islands and Lakshadweep:

In section 383, the following words shall be inserted at the end, namely.

"or if, by reason of the weather, transport or other difficulties, it is not possible to forward and them to the proper Appellate Court then, shall be forwarded to the Administrator or an Executive Magistrate, not below the rank of a Sub-Divisional Magistrate, who shall, on receipt of such petition of appeal and copies, record thereon the date of receipt thereof and thereafter forward the same to the proper Appellate Court.

[Vide Regulation 1 of 1974, sec. 4 (w.e.f. 30-3-1974)].

## 384. Summary dismissal of appeal.

(1) If upon examining the petition of appeal and copy of the judgment received under section 382 or section 383, the Appellate Court considers that there is no sufficient ground for interfering it may dismiss the appeal summarily:

Provided that-

(a) No appeal presented under section 382 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same;

(b) No appeal presented under section 383 shall be dismissed except after giving the appellant a reasonable opportunity of being heard in support of the same, unless the Appellate Court considers that the appeal is frivolous or that the production of the accused in custody before the court would involve such inconvenience as would be disproportionate in the circumstances of the case;

(c) No appeal presented under section 383 shall be dismissed summarily until the period allowed for preferring such appeal has expired.

(2) Before dismissing an appeal under this section, the court may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this section is a Court of Session or of the Chief Judicial Magistrate, it shall record its reasons for doing so.

(4) Where an appeal presented under section 383 has been dismissed summarily under this section and the appellate court finds that another petition of appealed dully presented under section 382 on behalf of the same appellant has not been considered by it, that court may, notwithstanding anything contained in section 393, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

## 385. Procedure for hearing appeals not dismissed summarily.

(1) If the Appellate Court does not dismiss the appeal summarily, it shall cause notice of the time and place at which such appeal will be heard to be given-





- (i) To the appellant or his pleader;
- (ii) To such officer as the State Government may appoint in this behalf,
- (iii) If the appeal is from a judgment of conviction in a case instituted upon complaint to the complainant;
- (iv) If the appeal is under section 377 or section 378, to the accused, and shall furnish such officer, complainant and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record or the case if such record is not already available in that court and hear the parties:

Provided that if the appeal is only as to the extent or the legality of the sentence, the court may dispose of the appeal without sending for the record.

(3) Where the only ground for appeal from a conviction is the alleged severity of the sentence, the appellant shall not except with the leave of the court urge or be heard in support of any other, ground.

## 386. Powers of the Appellate Court.

After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and in case of an appeal under section 377 or section 378, the accused, if he appears, the

Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may-

(a) In an appeal from an order 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 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;



(3) Make any amendment or any consequential or incidental order that may be just or proper.

Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement:

Provided further that the Appellate Court shall not inflict greater punishment for the offence, which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal.

### 387. Judgments of subordinate Appellate Court.

The rules contained in Chapter XXVII as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment in appeal of a Court of Session or Chief Judicial Magistrate:

Provided that unless the Appellate Court otherwise directs, the accused shall not be brought up required to attend, to hear judgment delivered.

### 388. Order of high Court on appeal to be certified to lower court.

(1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the court by which the finding, sentence or order appealed against was recorded or passed and if such court is that of a Judicial Magistrate other than the Chief Judicial Magistrate, the High Court's judgment or order shall be sent through the Chief Judicial Magistrate and if such court is that of an Executive Magistrate, the High Court's judgment or order shall be sent through the District Magistrate.

(2) The court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary; the record shall be amended in accordance therewith.

### 389. Suspension of sentence pending the appeal; release of appellant on bail.

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

<sup>1</sup>[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 an Appellate Court may be exercised also by the High Court in the case of an appeal by 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.

#### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

Provisos to sub-section (1) have been added to the effect that (i) the Appellate Court will give notice to the prosecution before releasing a convicted person on bail, if he was convicted of an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years; and (ii) the prosecution should be permitted to move an application for cancellation of bail granted by the Appellate Court.

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#### **1. Ins. by Act 25 of 2005, sec. 33.**

### **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 commit him to prison pending the disposal of the appeal or admit him to bail.

### **391. Appellate Court may take further evidence or direct it to be taken.**

(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate, or when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such court shall thereupon proceed to dispose of the appeal.

(3) The accused or his pleader shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIII, as if it were an inquiry.



## 392. Procedure where Judges of court of appeal are equally divided.

When an appeal under this Chapter is heard by a High Court before a Bench of Judges and they are divided in opinion, the appeal, with their opinions, shall be laid before another Judge of that court, and that Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow that opinion:

Provided that if one of the Judges constituting the Bench, or, where the appeal is laid before another Judge under this section, that Judge, so requires, the appeal shall be re-heard and decided by a larger Bench of Judges.

## 393. Finality of judgments and orders on appeal.

Judgments and orders passed by an Appellate Court upon an appeal shall be final, except in the case provided for in section 377, section 378, sub-section (4) of section 384 or Chapter XXX:

Provided that notwithstanding the final disposal of an appeal against conviction in any case, the Appellate Court may hear and dispose of, on the merits.

(a) An appeal against acquittal under section 378, arising out of the same case, or

(b) An appeal for the enhancement of sentence under section 377,, arising out of the same case.

## 394. Abatement of appeals.

(1) Every 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 if 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.

## 395. Reference to High Court.

(1) Where any court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the 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 therefore 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 subsection (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.

### 396. Disposal of case according to decision of High Court.

(1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause it copy of such order to be sent to the court by which the reference was made, which shall dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such reference shall be paid.

### 397. Calling for records to exercise powers of revision.

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation. All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction shall be deemed to be inferior to the Sessions Judge for the purposes of this subsection 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 of the of them.

### 398. Power to order inquiry.

In 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 of sub-section (4) of section 204 or into the case of any person accused of an offence who has been discharged:

Provided that no court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

### 399. Sessions Judge's powers of revision.

(1) In the case of any proceeding the record of which has been called for by himself the Sessions Judge may exercise all or any of the powers, which may be exercised by the High Court



under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under subsection (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 subsections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other court.

## 400. Power of Additional Sessions Judge.

An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge.

## 401. High Court's powers of revision.

(1) In the case of any proceeding the record of which has been called for by it self 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 of conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

## 402. Power of High Court to withdraw or transfer revision cases.

(1) Whenever one or more persons convicted at the same trial makes or make application to a High Court for revision and any other person convicted at the same trial makes an application to the Sessions Judge for revision, the High Court shall decide, having regard to the general convenience of the parties and the importance of the question involved, which of the two Courts should finally dispose of the applications for revision and when the High Court decides that all the application 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 or to the Sessions Judge, no further application for revision shall lie to the High Court or to the any other Court at the instance of the person or persons whose applications for revision have been disposed of by the Sessions Judge.

### 403. Option of court to hear parties.

Save as otherwise expressly provided by this Code no party has any right to be heard either personally or by pleader before any court exercising its powers of revision; but the court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader.

### 404. Statement by Metropolitan Magistrate of grounds of his decision to be considered by High Court.

When the record of any trial held by a Metropolitan Magistrate is called for by the High Court or Court of Session under section 397, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the court shall consider such statement before overruling or setting aside the said decision or order.

### 405. High Court's order to be certified to lower court.

When a case is revised under this Chapter by the High Court or a Sessions Judge, it or he shall, in the manner provided by section 388, certify its decision or order to the court by which the finding, sentence or order revised was recorded or passed, and the court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

### 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 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 partly interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney-General of India or the Advocate-General of the State, be supported by affidavit or affirmation.

(3) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.



## 407. Power of High Court to transfer cases and appeals.

(1) Whenever it is made to appear to the High Court-

(a) That a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) That some question of law of unusual difficulty is likely to arise; or

(c) That an order under this section is required by any provision of this Code, or will tend be 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 of to a Court of Session; or

(iv) That any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor, notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the applications unless at least-twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case of appeal from any subordinate court, the High Court may, if it is satisfied that it is necessary so to do in the interests 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 such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any court for trial before itself, it shall observe in such trial the same procedure which that court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under section 197.

## **408. Power of Sessions Judge to transfer cases and appeals.**

(1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his session's 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 subsection (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.

## **409. 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, 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, as 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 a 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.

## **410. 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 192 to any other Magistrate and may require into or try such cases himself.

## **411. Making over or withdrawal of cases by Executive Magistrates.**



Any District Magistrate or Sub-divisional Magistrate may-

- (a) Make over, for disposal, any proceeding that has been started before him, to any Magistrate subordinate to him;
- (b) Withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and dispose of such proceeding himself or refer it for disposal to any other Magistrate.

## 412. Reasons to be recorded.

A Sessions Judge or Magistrate making an order under section 408, section 409, section 410 or section 411 shall record his reasons for making it.

## 413. Execution of order passed under section 368.

When in a case submitted to the High Court for the confirmation of a sentence of death, the Court of Session receives the order of confirmation or other order of the High Court thereon, it shall cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

## 414. Execution of sentence of death passed by High Court.

When a sentence of death is passed by the High Court in appeal or in revision, the Court of Session shall, on receiving the order of the High Court, cause the sentence to be carried into effect by issuing a warrant.

## 415. Postponement of execution of sentence of death in case of appeal to Supreme Court.

(1) Where a person is sentenced to death by the High Court and an appeal from its judgment lies to the Supreme Court under sub-clause (a) or sub-clause (b) of clause (1) of Article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until the period allowed for preferring such appeal has expired, or if an appeal is preferred within that period, until such appeal is disposed of.

(2) where a sentence of death is passed or confirmed by the high court, and the person sentenced makes an application to the High Court for the grant of a certificate under Article 132 or under sub-clause (c) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until such application is disposed of by the High Court, or if a certificate is granted on such application until the period allowed for preferring an appeal to the Supreme Court on such certificate has expired.

(3) Where a sentence of death is passed or confirmed by the High Court, and the High Court is satisfied that the person sentenced intends to present a petition to the Supreme Court for the grant of special leave to appeal under Article 136 of the Constitution, the High Court shall order the execution of the sentence to be postponed for such period as it considers sufficient to enable him to present such petition.

## 416. Postponement of capital sentence on pregnant woman.

If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed and may, if thinks fit commute the sentence to imprisonment



for life.

## 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 of 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 there from, be sent back to the civil jail, unless either-

(a) Three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been released from the civil jail under section 58 of the Code of Civil Procedure, 1908 (5 of 1908) or section 23 of the provincial Insolvency Act, 1920 (5 of 1920), as the case may be; or

(b) The court which ordered his imprisonment in the civil jail has certified to the officer-in-charge of the criminal jail that he is entitled to be released under section 58 of the Code of Civil Procedure, 1908 (5 of 1908) or under section 23 of the Provincial Insolvency Act, 1920 (5 of 1920), as the case may be.

## 418. Execution of sentence of imprisonment.

(1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 413, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined, and, unless the accused is already confined in such jail or other place, shall forward him to such jail or other place, with the warrant:

Provided that where the accused is sentenced to imprisonment till the rising of the Court, it shall not be necessary to prepare or forward a warrant to a jail and the accused may be confined in such place as the court may direct.

(2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in subsection (1), the court shall issue a warrant for his arrest for the purpose of forwarding him to 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.

## 419. Direction of warrant for execution.

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

## 420. Warrant with whom to be lodged.

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

## 421. Warrant for levy of fine.



(1) When an offender has been sentenced to pay a the court passing the sentence make 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, authorizing him to realize the amount as arrears of land revenue from the movable or immovable property, or both of the defaulters;

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 realize the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

## 422. Effect of such warrant.

A warrant issued under clause (a) of sub-section (1) of section 421 by any court may be executed within the local jurisdiction of such court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local Jurisdiction such property is found.

## 423. Warrant for levy of fine issued by a court in any territory to which this Code does not extend.

Notwithstanding anything contained in this Code or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in any territory to which this Code does not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Code extends, authorizing him to realize 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 subsection (1) of section 421 by a court in the territories to which this Code extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

## 424. Suspension of execution of sentence of imprisonments.

(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 fully 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;

(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, on condition for his appearance before the court on the date or dates on or before which payment of the fine or the installment 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.

## 425. Who may issue warrant.

Every warrant for the execution of a sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in-office.

## 426. Sentence on escaped convict when to take effect.

(1) When a sentence of death, imprisonment for life or fine is passed under this Code on an escaped convict, such sentence shall, subject to the provisions hereinbefore contained, take effect immediately.

(2) When a sentence of imprisonment for a term is passed under this Code on an escaped convict, –

(a) If such sentence is severer in kind than the sentence, which such convict was undergoing when he escaped, the new sentence shall take effect immediately;

(b) If such sentence is not severer in kind than the sentence, which such convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that, which, at the time of his escape, remained unexpired of his former sentence.

(3) For the purposes of sub-section (2), a sentence of rigorous imprisonment shall be deemed to be severer in kind than a sentence of simple imprisonment.

## 427. Sentence on offender already sentenced for another offence.

(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.



(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

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

Where an accused person has, on conviction, been sentenced to imprisonment, for a term <sup>1</sup>[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.

<sup>2</sup>[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.]

### Cr PC (Amendment) Act, 2005 (Notes on Clauses)

As the provision of section 433A adversely affects the reformation of lifer, whose case inspite of good conduct in jail cannot be referred to the Advisory Board for recommending his premature release to the State Government, unless he has completed 14 years of actual imprisonment. Section 428 has been amended to provide that the period for which the life convict remained in detention during investigation, inquiry or trial shall be set off against the period of 14 years of actual imprisonment prescribed in section 433A.

### COMMENTS

(i) Benefit of set off under section 428 is not available to life convicts; Kartar Singh v. State of Haryana, AIR 1982 SC 1433.

(ii) It has been held that detention under the preventive detention laws is not punitive but is essentially a precautionary measure intended to prevent and intercept a person before he commits an infra-active act which he had done earlier; Maliyakkal Abdul Aneez v. Assistant Collector, AIR 2003 SC 928.

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**1. Ins. by Act 45 of 1978, Sec. 31 (w.e.f 18-12-1978).**

**2. Added by Act 25 of 2005, sec. 34.**

## 429. Saving.

(1) Nothing in section 426 or section 427 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences of imprisonment, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.



## 430. Return of warrant on execution of sentence.

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

## 431. Money ordered to be paid recoverable as a fine.

Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine.

Provided that section 421 shall, in its application to an order under section 359, by virtue of this section, be construed as if in the proviso to sub-section (1) of section 421, after the words and figures "under section 357", the words and figures "or an order for payment of costs under section 359" had been inserted.

## 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 that the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the, unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eight 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 is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government.

(b) In other cases the Government of the State within which the offender is sentenced or the said order is passed.

### 433. Power to commute sentence.

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

(a) A sentence of death, for any other punishment provided by the Indian Penal Code (45 of 1860);

(b) A sentence of imprisonment for life, for imprisonment for a term not exceeding fourteen years or for fine;

(c) A sentence of rigorous imprisonment for simple imprisonment for any term to which that person might have been sentenced, or for fine;

(d) A sentence of simple imprisonment, for fine.



### 433A. Restriction on powers of remission or commutation in certain cases.

<sup>1</sup>[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 punishment provided by laws 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.]

**1. Ins. by Act 45 of 1978, Sec. 32 (w.e.f. 18-12-1978).**

### 434. Concurrent power of Central Government in case of death sentences.

The powers conferred by sections 432 and 433 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

### 435. State Government to act after consultation with Central Government in certain cases.

(1) The powers conferred by sections 432 and 433 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence-



(a) Which was investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, or

(b) Which involved the misappropriation or destruction of or damage to, any property belonging to the Central Government, or

(c) Which was committed by a person in the service of the Central Government, while acting or purporting to act in the discharge of his official duty

shall not be exercised by the State Government except after consultation with the Central Government.

(2) No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

## 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, <sup>2</sup>[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:

<sup>3</sup>[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 <sup>1</sup>[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.

### Cr PC (Amendment) Act, 2005 (Notes on Clauses)

In respect of bailable offences, a person has to remain in jail for his inability to furnish bail, till the case is disposed of. Sub-section (1) has been amended to make a mandatory provision that if the arrested person is accused of a bailable offence and he is an indigent and cannot furnish surety, the Court shall release him on his execution of a bond without sureties.

### STATE AMENDMENT



**Uttar Pradesh:**

In section 436, in the first proviso, to section (1), for the word "discharge" the word "release" shall be substituted.

[Vide Uttar Pradesh Act 1 of 1984, sec. 10 (w.e.f. 1-5-1984)].

**COMMENTS**

It is true that Supreme Court does not interfere with an order granting bail but judicial discipline will be sacrificed at the alter of judicial discretion if jurisdiction under article 136 is refused to be exercised; State of Maharashtra v. Captain Buddhikota Subha Rao, (1989) Cr LJ 2317: AIR 1989 SC 2292.

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**1. Ins. by Act 63 of 1980. Sec. 4 (w.e.f. 23-9-1980).**

**2. Subs. by Act 25 of 2005, sec. 35, for "may instead of taking bail".**

**3. Ins. by Act 25 of 2005, sec. 35.**

## 436 A. Maximum period for which an undertrial prisoner can be detained.

<sup>1</sup>[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.]

### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

There has been instances, where under-trial prisoners were detained in jail for periods beyond the maximum period of imprisonment provided for the alleged offence. As remedial measures section 436a has been inserted to provide that where an under-trial prisoner other than the one accused of an offence for which death has been prescribed as one of the punishments, has been under detention for a period extending to one-half of the maximum period of imprisonment provided for the alleged offence, he should be released on his personal bond, with or without sureties. It has also been provided that in no case will an under-trial prisoner be detained beyond the maximum period of imprisonment for which he can be convicted for the alleged offence.



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**1. Ins. by Act 25 of 2005, sec. 36.**

## 437. When bail may be taken in case of non-bailable offence.

<sup>1</sup>[(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 <sup>2</sup>[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:]

<sup>3</sup>[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, <sup>4</sup>[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 abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1) <sup>5</sup>[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 <sup>6</sup>[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, 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.

#### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**



Section 437 has been amended to provide that if a person commits a cognizable and non-bailable offence and he has previously been convicted on two or more occasions of a cognizable offence punishable with imprisonment for 3 years or more but not less than 7 years, he shall not be released except in the circumstances specified in the provision.

It has further been provided that if an accused appears before the Court while in judicial custody and prays for bail, or a prayer for bail is made on his behalf, the Court shall grant bail only after giving an opportunity of hearing to the prosecution, if the offence allege to have been committed by the accused is punishable with death, imprisonment for life or imprisonment for not less than 7 years.

Under sub-section (3) the Court has got the discretion to impose certain conditions for the grant of bail. Under section 441 (2), where any condition is imposed for the release of a person on bail, the bond shall contain that condition also. In order to make the provision stringent and to see that the person on bail does not interfere or intimidate witness, sub-section (3) has been amended to specify certain conditions, which are mandatory.

#### **COMMENTS**

(i) In non-bailable cases in which the person is not guilty of an offence punishable with death or imprisonment for life, the court will exercise its discretion in favour of granting bail subject to sub-section (3) of section 437 if it deems necessary to act under it; Anil Sharma v. State of Himachal Pradesh, (1997) 3 Crimes 135 (HP).

(ii) Unless exceptional circumstances are brought to the notice of the court which may defeat the proper investigation and fair trial, the court will not decline bail to a person who is not

accused of an offence punishable with death or imprisonment for life; Anil Sharma v. State of Himachal Pradesh, (1997) 3 Crimes 135 (HP).

(iii) It has been held that since the jurisdiction is discretionary, it is required to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general; Mansab Ali v. Irsan, AIR 2003 SC 707.

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**1. Subs. by Act 63 of 1980. Sec. 5, for sub-section (1) (w.e.f. 23-9-1980).**

**2. Subs. by Act 25 of 2005, sec. 37, for "a non-bailable and cognizable offence".**

**3. Ins. by Act 25 of 2005, sec. 37.**

**4. Subs. by Act 63 of 1980. Sec. 5. for certain words (w.e.f 23-9-1980) .**

**5. Subs. by Act 25 of 2005, sec. 37, for "the Court may impose any condition which the Court considers necessary-**

**(a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or**

**(b) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or**

**(c) otherwise in the interests of justice."**

**6. Subs. by Act 63 of 1980. Sec. 5, for "reasons" (w.e.f. 23-9-1980).**

## 438. Direction for grant of bail to person apprehending arrest.

<sup>1</sup>[(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrersted,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.



(1A) Where the Court grants an interim order under sub-section (1), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

(1B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice.]

(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 and when required;

(ii) a condition that the person shall not, directly or indirectly,- make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer,

(iii) a condition that the person shall not leave India without the previous permission of the court;

(iv) Such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted -under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail, and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the court under sub-section (1).

### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

Section 438 has been amended to the effect that (i) the power to grant anticipatory bail should be exercised by the Court of Session or High Court after taking into consideration certain circumstances; (ii) if the Court does not reject the application for the grant of anticipatory bail, and makes an interim order of bail, it should, forthwith give notice to the Public Prosecutor and Superintendent of Police and the question of bail would be re-examined in the light of the respective contentions of the parties; and (iii) the presence of the person seeking anticipatory bail in the Court should be made mandatory at the time of hearing of the application for the grant of anticipatory bail subject to certain exceptions.

### **STATE AMENDMENTS**

#### **Maharashtra:**

For section 438, the following section shall be substituted, namely.

“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 that in



the event of such arrest, he shall be released on bail; and that court may, after taking into consideration, inter alia, the following factors.

- (i) the nature and gravity or seriousness of the accusation as apprehended by the applicant;
- (ii) the antecedents of the applicant including the fact as to whether he has, on conviction by a court previously undergone imprisonment for a term in respect of any cognizable offence;
- (iii) the likely object of the accusation to humiliate or malign the reputation of the applicant by having him so arrested, and
- (iv) the possibility of the applicant, if granted anticipatory bail, fleeing from justice,

either reject the application forth with or issue an interim order for the grant of anticipatory bail:

Provided that where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(2) Where the High Court or, as the case may be, the Court of Session, consider it expedient to issue an interim order to grant anticipatory bail under sub-section (1), the court shall indicate therein the date, on which the application for grant of, anticipatory bail shall be finally heard for passing an order thereon, as the court may deem fit; and if the court passes any order granting anticipatory bail, such order shall include inter area the following conditions, namely:-

- (i) that the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the court or to any police officer;
- (iii) That the applicant shall not leave India without the previous permission of the court: and
- (iv) Such other conditions as may be imposed under sub-section (3) of section 437 as if the bail was granted under that section.

(3) Where the court grants an interim order under sub-section (1), it shall forthwith cause a notice, being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Commissioner of Police, or as the case may be, the concerned Superintendent of police. With a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the court.

(4) The presence of the applicant seeking anticipatory bail shall be obligatory, at the time of final hearing of the application and passing of final order by the court, if on an application made to it by the Public Prosecutor, the court considers such presence necessary in the interest of justice.

(5) On the date indicated in the interim order under sub-section (2), the court shall hear the Public Prosecutor and the applicant and after due consideration of their contentions, it may either confirm, modify or cancel the interim order made under subsection (1).

[Vide Maharashtra Act 24 of 1993. sec. 2 (w.e.f. 28-7-1993)].



**Orissa:**

In sub-section (1) of section 438, the following proviso shall be added, namely.

“Provided that where the apprehended accusation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than seven years, no final order shall be made on such application without giving the State notice to present its case”.

[Vide Orissa Act 11 of 1988, sec. 2 (w.e.f 28-6-1988)].

**Uttar Pradesh:**

Section 438 shall be omitted.

[Vide U.P. Act -16 of 1976, Sec. 9 (w.e.f. 28-1-1976)].

**West Bengal:**

In section 438, for sub-section (1), the following sub-sections shall be substituted, namely:-

“(1) (a) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest, he shall be released on bail:

Provided that the mere fact that a person has applied to the High Court or the Court of Session for a direction under this section shall not, in the absence of any order by that court, be a bar to the apprehension of such person, or the detention of such person in custody, by an officer-in-charge of a police station.

(b) The High Court or the Court of Session, as the case may be, shall dispose of an application for a direction under this sub-section within thirty days of the date of such application:

Provided that where the apprehended accusation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than seven years, no final order shall be made on such application without giving the State not less than seven days’ notice to present its case.

(c) If any person is arrested and detained in custody by an officer-in-charge of a police station before the disposal of the application of such person for a direction under this subsection, the release of such person on bail by a court having jurisdiction, pending such disposal shall be subject to the provisions of section 437.

(1A) The provisions of sub-section (1) shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any judgment, decree or order of any court, tribunal or other authority”.

[ Vide W.B. Act 25 of 1990].

**COMMENTS**

(i) Section 438 makes no distinction whether the arrest is apprehended at the hands of the police or at the instance of the Magistrate; *Sennasi v. State of Tamil Nadu*, (1997) 3 Crimes 112 (Mad).





(ii) The grant of bail under section 438 (1) by the High Court or the Court of Session is dependent on the merits of a case and not the order of the Magistrate choosing to summon an accused through bailable or non-bailable warrant; Sennasi v. State of Tamil Nadu, (1997) 3 Crimes 112 (Mad).

(iii) Anticipatory bail may be granted for a duration which may extend to the date on which the bail application is to be disposed of or even a few day thereafter to enable the accused to move the higher court if he so desires; Sennasi v. State of Tamil Nadu, (1997) 3 Crimes 112 (Mad).

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**1. Subs. by Act 25 of 2005, sec. 38, for "(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 direction under this section; and the Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail".**

## 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.

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

### STATE AMENDMENTS

#### Punjab and Union Territory of Chandigarh:

In its application to the State of Punjab and Union Territory of Chandigarh after section 439, following section shall be inserted, namely.

"439-A. Notwithstanding anything contained in this Code, no person-

(a) Who, being accused or suspected of committing an offence under any of the following sections, namely- sections 120 B, 121, 121A, 122, 123, 124A, 153A, 302, 304, 307, 326, 333, 363, 364, 365, 367, 368, 392, 394, 395, 396, 399, 412, 431, 436, 449 and 450 of the Indian Penal Code, 1860, sections 3, 4, 5, and 6 of the Explosive Substances Act, 1908, and sections 25, 26, 27, 28, 29, 30 and 31 of the Arms Act, 1959, is arrested or appears or is brought before a court; or



(b) Who, having any reason to believe that he may be arrested on accusation of committing an offence as specified in clause (a), has applied to the High Court or the Court of Session for a direction for his release on bail in the event of his arrest shall be released on bail or, as the case may be, directed to be released on bail, except on one or more of the following grounds, namely:-

(i) That the court including the High Court or the Court of Session for reasons to be recorded in writing is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);

(ii) That such person is under the age of sixteen years or a woman or a sick or an infirm person;

(iii) That the court including the High Court or the Court of Session for reasons to be recorded in writing is satisfied that there are exceptional and sufficient grounds to release or direct that release of the accused on bail”.

[Vide Punjab Act 22 of 1983, sec. 11 (w.e.f. 27-6-1983)].

Tripura

After section 439, the following section shall be inserted namely.

“439A. Power to grant bail Notwithstanding anything contained in this Code, no person,

(a) Who being accused of or suspected of committing an offence under sections 120B, 121, 121A, 122, 123, 124A, 153A, 302, 303, 304, 307, 326, 333, 364, 365, 366, 366A, 366B, 367, 368, 376, 386, 387, 392, 394, 395, 396, 397, 399, 412, 436, 449 and 450 of the Indian Penal Code, (45 of 1860) and sections 25, 26, 27 and 28 of the Arms Act, 1959 (54 of 1959) and sections 3, 4, 5 and 6 of the Explosives Substances Act, 1908, (Act VI of 1908), is arrested or appears or is brought before a court; or

(b) Who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a) has applied to the High Court or Court of Session for a direction for his release, on bail in the event of his arrest shall be released on bail or, as the case may be, directed to be released on bail except on one or more of the following grounds, namely.

(i) That the court including the High Court or the Court of Session for reasons to be recorded in writing,, is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);

(ii) That such person is under the age of sixteen years or a woman or a sick or infirm person;

(iii) That the Court including the High Court or the Court of Session, for reasons to be recorded in writing, is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail.”

[Vide Tripura Act 6 of 1992, sec. 3 (w. e. f. 29-7-1992)].

## 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 Court of Session may direct that the bail required by a police officer or Magistrate be reduced.



## 441. Bond of accused and sureties.

(1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or court, as the case may be.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the court, as to such sufficiency or fitness.

### 441 A. Declaration by sureties.

<sup>1</sup>[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.]

#### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

Section 441A has been inserted to provide that a person standing surety for an accused person shall disclose as to in how many cases he has already stood surety for accused persons.

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#### **1. Ins. by Act 25 of 2005, sec. 39.**

## 442. Discharge from custody.

(1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and when he is in jail the court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the orders shall release him.

(2) Nothing in this section, section 436 or section 437 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

## 443. Power to order sufficient bail when that first taken is insufficient.

If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and on his failing so to do, may commit him to jail.



## 444. Discharge of sureties.

(1) All or any sureties for the attendance and appearance of a person released on 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.

## 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 if in lieu of executing such bond.

## 446. Procedure when bond has been forfeited.

(1) Where a bond under this Code is for appearance, or for production of property, before a court and it is proved to the satisfaction of that court or of any court to which the case has subsequently been transferred, that the bond has been forfeited,

or where in respect of any other bond under this Code, it is proved to the satisfaction of the court by which the bond was taken, or of any court to which the case has subsequently been transferred, or of the court of any Magistrate of the first class, that the bond has been forfeited,

the court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

Explanation. A condition in a bond for appearance, or for production of property, before a court shall be construed as including a condition for appearance, or as the case may be, for production of property before any court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the same, as if such penalty were a fine imposed by it under this Code:

<sup>1</sup>[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, <sup>2</sup>[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 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.

### **Cr PC (Amendment) Act, 2005 (Notes on Clauses)**

Under sub-section (1) of section 446, where a bond for appearance before a Court is forfeited the Court records the grounds of such proof and calls upon persons bound by such bond to pay a penalty thereof or to show cause why it should not be paid. The Court, however, has a discretion to remit any portion of the penalty and enforce payment in part only. In order to see that such a penalty is not reduced liberally, sub-section (3) has been amended to provide that the Court shall record reasons before reducing the penalty.

### **COMMENTS**

Forfeiture of a bond would entail the penalty against each surety for the amount which he has undertaken in the bond executed by him. Both the sureties cannot claim to share the amount by half and half as each can be made liable to pay; Mohd.Kunju v. State of Karnataka, AIR 2000 SC 6: 2000 Cr LJ 165 (SC).

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**1. Ins. by Act 63 of 1980, Sec. 6 (w.e.f. 23-9-1980).**

**2. Subs. by Act 25 of 2005, sec. 40, for "at its discretion".**

## **446A. Cancellation of bond and bail bond.**

<sup>1</sup>[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 provision 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.]

**1. Ins. by Act 63 of 1980, Sec. 7 (w.e.f. 23-9-1980).**

## **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 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.

#### 448. Bond required from minor.

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

#### 449. Appeal from orders under section 446.

All orders passed under section 446 shall be appealable, –

- (i) In the case of an order made by a Magistrate, to the Sessions Judge;
- (ii) In the case of an order made by a Court of Sessions, to the court to which an appeal lies from an order made by such court.

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

The High Court or Court of 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.

#### 451. Order for custody and disposal of property pending trial in certain cases.

When any property is produced before any Criminal Court during an inquiry or trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation. For the purposes of this section, "property" includes–

- (a) Property of any kind or document which is produced before the court or which is in its custody.
- (b) Any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

#### 452. Order for disposal of property at conclusion of trial.

(1) When an inquiry or trial in any Criminal Court is concluded, the court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond with or without sureties, to the satisfaction of the court, engaging to restore



such property to the court if the order made under subsection (1) is modified or set aside on appeal or revision.

(3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

### **453. Payment to innocent purchaser of money found on accused.**

When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.



### **454. Appeal against orders under section 452 or section 453.**

(1) Any person aggrieved by an order made by a court under section 452 or section 453, may appeal against it to the court to which appeals ordinarily lie from convictions by the former court.

(2) On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be exercised by a court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made.

### **455. Destruction of libelous 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 preparations in respect of which the conviction was had, to be destroyed.

**STATE AMENDMENT****Tamil Nadu**

In sub-section (1) of section 455, after the word and figures "section 292" the word, figures and letter "section 292A" shall be inserted.

[Vide Tamil Nadu Act 13 of 1982, sec. 2 (w.e.f. 21-9-1981)].

**456. Power to restore possession of immovable property.**

(1) When a person is convicted of an offence attended by criminal force or show of force or by criminal intimidation, and it appears to the court that, by such force or show of force or intimidation, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property:

Provided that no such order shall be made by the court more than one month after the date of the conviction.

(2) Where the court trying the offence has not made an order under sub-section (1), the court of appeal, confirmation or revision may, if it thinks fit, make such order while disposing of the appeal, reference or revision, as the case may be.

(3) Where an order has been made under sub-section (1), the provisions of section 454 shall apply in relation thereto as they apply in relation to an order under section 453.

(4) No order made under this section shall prejudice any right or interest to or in such immovable property, which any person may be able to establish in a civil suit.

**457. Procedure by police upon seizure of property.**

(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

**458. Procedure when 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 be against any such order to the court to which appeals ordinarily lie from convictions by the Magistrate.





(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 be against any such order to the court to which appeals ordinarily lie from convictions by the Magistrate.

## 459. Power to sell perishable property.

If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is <sup>1</sup>[less than ten 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.

### Cr PC (Amendment) Act, 2005 (Notes on Clauses)

Section 459 has been amended to make a consequential amendment due to insertion of a proviso to section (3) of section 102 of the Code which seeks to empower the police to sell perishable property up to a value of five hundred rupees. Previously the Magistrate was empowered to sell perishable property of the value of less than ten rupees only.

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**1. Subs. by Act 25 of 2005, sec. 41, for "less than ten rupees".**

## 460. 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 94;
- (b) To order, under section 155, the police to investigate an offence;
- (c) To hold an inquest under section 176;
- (d) To issue process under section 187, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;
- (e) To take cognizance of an offence under clause (a) or clause (b) of sub-section (1) of section 190;
- (f) To make over a case under sub-section (2) of section 192;
- (g) To tender a pardon under section 306;
- (h) To recall a case and try it himself under section 410; or
- (i) To sell property under section 458 or section 459,



erroneously in good faith does that thing; his proceedings shall not be set-aside merely on the ground of his not being so empowered.

## 461. Irregularities, which vitiate proceedings

If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely.

- (a) Attaches and sells property under section 83;
- (b) Issues a search warrant for a document, parcel or other thing in the custody of a postal or telegraph authority;
- (c) Demands security to keep the peace;
- (d) Demands security for good behaviour;
- (e) Discharges a person lawfully bound to be of good behaviour;
- (f) Cancels a bond to keep the peace;
- (g) Makes an order for maintenance;
- (h) Makes an order under section 133 as to a local nuisance;
- (i) Prohibits, under section 143, the repetition or continuance of a public nuisance;
- (j) Makes an order under Part C or Part D of Chapter X;
- (k) Takes cognizance of an offence under clause(c) of sub-section (1) of section 190;
- (l) Tries an offender;
- (m) Tries an offender summarily;
- (n) Passes a sentence, under section 325, on proceedings recorded by another Magistrate;
- (o) Decides an appeal;
- (p) Calls, under section 397, for proceedings; or
- (q) Revises an order passed under section 446, his proceedings shall be void.

## 462. Proceedings in wrong place.

No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

## 463. Non-compliance with provisions of section 164 or section 281.



(1) If any court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 164 or section 281, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 91 of the Indian Evidence Act, 1872 (1 of 1872), take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence on the merits and that he duly made the statement recorded, admit such statement.

(2) The provisions of this section apply to courts of appeal, reference and revision.

## 464. Effect of omission to frame, or absence of, or error in, charge.

(1) No finding sentence or order by a court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charge, 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.

## 465. Finding or sentence when reversible by reason of error, omission or irregularity.

(1) Subject to the provisions hereinbefore contained, on finding sentence or order passed by a court of competent jurisdiction shall be reversed or altered by a court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or any error, or irregularity in any sanction for the prosecution unless in the opinion of that court, a failure of justice has in fact been occasioned thereby.

(2) In determining whether any error, omission or irregularity in any proceeding under this Code, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

## 466. Defect or error not to make attachment unlawful.

No attachment made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want or form in the summons, conviction, writ of attachment or other proceedings relating thereto.



## 467. Definitions.

For the purposes of this Chapter, unless the context otherwise requires, "period of limitation" means the period specified in section 468 for taking cognizance of an offence.

## 468. Bar to taking cognizance after lapse of the period of limitation.

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

(2) The period of limitation shall be-

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

(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.

<sup>1</sup>[(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.]

**1. Ins. by Act 45 of 1978, Sec. 33 (w.e.f. 18-12-1978).**

## 469. Commencement of the period of limitations.

(1) The period of limitation, in relation to an offence, shall commence, –

(a) On the date of the offence; or

(b) Where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) Where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

## 470. Exclusion of time in certain cases.

(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a court of first instance or in a court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.



(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation. In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender-

(a) Has been absent from the India or from any territory outside India which is under the administration of the Central Government, or

(b) Has avoided arrest by absconding or concealing himself, shall be excluded.

## 471. Exclusion of date on which court is closed.

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

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

## 472. Continuing offence.

In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

## 473. Extension of period of limitation in certain cases.

Notwithstanding any thing contained in the foregoing provisions of this Chapter, any court may make cognizance of an offence after the expiry of the period of limitations, 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.

## 474. Trials before High Court.

When an offence is tried by the High Court otherwise than under section 407, it shall, in the trial of the offence, observe the same procedure as a Court of Sessions would observe, if it were trying the case.

## 475. Delivery to commanding officers of persons liable to be tried by Court-martial.



(1) The Central Government may make rules consistent with this Code and the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), and the Air Force Act, 1950 (45 of 1950), and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to military, navel 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 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 purposes by the commanding officer of any unit or body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavors to apprehend and secure any person accused of such offence.
- (3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.



## 476. Forms.

Subject to the power conferred by Article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

## 477. Power of High Court to make rules.

- (1) Every High Court may, with the previous approval of the State Government, make rules-
- (a) As to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it:
  - (b) Regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them.
  - (c) Providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed;
  - (d) Any other matter, which is required to be, may be, prescribed.
- (2) All rules made under this section shall be published in the Official Gazette.

## 478. Power to alter functions allocated to Executive Magistrates in certain cases.

<sup>1</sup>[478. Power to alter functions allocated to Executive Magistrates in certain cases.

If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with 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.]

**1. Subs. by Act 63 of 1980, Sec. 8, for section 478 (w.e.f. 23-9-1980).**

**STATE AMENDMENT**

**Maharashtra**

In section 478 for the words "to an Executive Magistrate shall be construed "the words" to an Executive Magistrate in the areas of the State outside Greater Bombay shall be construed" shall be substituted.

[Vide Maharashtra Act 1 of 1978 (w.e.f 15-4-1978)]. [Ed. Tis amendment has been made prior to the enactment of the Code of Criminal Procedure (Amendment) Act,1980 (Central Act 63 of 1980, sec. 8 (w.e.f. 23-9-1980)].

## 479. 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.

## 480. Practising pleader not to sit as Magistrate in certain courts.

No pleader who practises in the court of any Magistrate shall sit as a Magistrate in that court or in any court within the local jurisdiction of that court.

**STATE AMENDMENT**

**Karnataka**

After section 480, the following section shall be inserted, namely.

"480A. Other powers of Magistrate.

Any Judicial Magistrate or Executive Magistrate shall be entitled to attest, verify or authenticate any document brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by any law for the time being in force."



[ Vide Karnataka Act 35 of 1984, sec. 2 (w.e.f. 2-7-1984)].

## 481. Public servant concerned in sale not to purchase or bid for property.

A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

## 482. Saving of inherent power 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 this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

## 483. Duty of High Court to exercise continuous superintendence over courts of Judicial Magistrates.

Every High Court shall so exercise its superintendence over the courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates.

## 484. Repeal and savings.

(1) The Code of Criminal Procedure, 1898 (5 of 1898), is hereby repealed.

(2) Notwithstanding such repeal, –

(a) If, immediately before the date on which this Code comes into force, there is any appeal, application, trial inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), as in force immediately before such commencement (hereinafter referred to as the Old Code), as if this Code had not come into force:

Provided that every inquiry under Chapter XVIII of the Old Code, which is pending at the commencement of this Code, shall be dealt with and disposed of in accordance with the provisions of this Code;

(b) All notifications published, proclamations issued, powers conferred, forms prescribed, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the Old Code and which are in force immediately before the commencement of this Code, shall be deemed, respectively to have been published, issued, conferred, prescribed defined, passed or made under the corresponding provisions of this Code;

(c) Any sanction accorded or consent given under the Old Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Code and proceedings may be commenced under this Code in pursuance of such sanction or consent;

(d) The provisions of the Old Code shall continue to apply in relation to every prosecution against a Ruler within the meaning of Article 363 of the Constitution.





(3) Where the period prescribed for an application or other proceeding under the Old Code had expired on or before the commencement of this Code, nothing in this Code shall be construed as enabling any such application to be made or proceeding to be commenced under this Code by reason only of the fact that a longer period therefor is prescribed by this Code or provisions are made in this Code for the extension of time.

## STATE AMENDMENT

### Uttar Pradesh

In section 484, in sub-section (2), in clause (a) after the proviso, the following further proviso shall be inserted, namely.

"Provided further that the provisions of section 326 of this code as amended by the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 shall apply also to every trial pending in a Court of Session at the commencement of this Code and also pending at the commencement of the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1983".

[ Vide U.P. Act 1 of 1984, sec. 11 (w.e.f. 1-5-1984)].

In section 484, in sub-section (2), after clause (d) the following clause shall be inserted and be deemed always to have been inserted, namely.:-

"(e) The provisions of the United Provinces Borstal Act, 1938 (U.P. Act VIII of 1938) the United Provinces First Offenders Probation Act, 1938 (U.P. Act VI of 1938), and the Uttar Pradesh Children Act, 1951 (U.P. Act I of 1951) shall continue in force in the State of Uttar Pradesh until altered or repealed or amended by the competent Legislature or other competent authority, and accordingly, the provisions of section 360 of this code shall not apply, to that State, and the provisions of section 361 shall apply with the substitution of references to the Central Act named therein by references to the corresponding Acts in force in the State."

[Vide U.P. Act 16 of 1976. Sec. 10 (w.e.f. 1-5-1976)].

## THE FIRST SCHEDULE

### CLASSIFICATION OF OFFENCES

Explanation Note. – (1) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the Number of which is given in the first column are not intended as the definition of, and the punishment prescribed for the offence in the Indian Penal Code, but merely as indication of the substance of the section.

(2) In this Schedule. (i) the expression "Magistrate of the first class" and "Any Magistrate" include Metropolitan Magistrates but not Executive Magistrate: (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".

Sec	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.
1	2	3	4	5	6

109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	Same as for offence abetted.	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
110	Abetment of any, offence, if the person abetted does the act with a different intention from that of the abettor.	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.
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Same for offence intended to be 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.
113	Abetment of any, offence, when an effect is caused by the act abetted different from that intended by the abettor.	Same as for offence committed.	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.
114	Abetment of any offence if abettor is 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 is triable.
115	Abetment of an offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment	Imprisonment for 7 Years and fine.	According as offence abetted is cognizable or non-cognizable	Non-bailable.	Court by which offence 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 is triable.
116	Abetment of an offence, punishable with Imprisonment, if the offence be not committed in consequence of the abetment.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	According as offence abetted is cognizable or non-cognizable	According as offence abetted is bailable or non-bailable.	Court by which offence is triable.
117	Abetting the commission	Imprisonment for 3	According	According	Court



	of an offence by the public or by more than ten persons.	Years or fine, or both	as offence abetted is cognizable or non-cognizable	as offence abetted is bailable or non-bailable.	by which offence is triable.
118	Concealing a design to commit an 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 is triable.
	If the offence be not committed	Imprisonment for 3 Years and fine	According as offence abetted is cognizable or non-cognizable	Bailable	Court by which offence is triable.
119	A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed	Imprisonment extending to half of the longest term provided for the offence, or fine, or both.	According as offence abetted is Cognizable or Non-Cognizable	According as Court offence abetted is bailable or Non-bailable	Court by which offence abetted is triable
	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
	If the offence be not committed.	Imprisonment extending to a quarter 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
120	Concealing a design to commit an offence punishable with imprisonment, if offence be committed.	Imprisonment extending to a quarter part 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 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

Section	Offence	Punishment	Cognizable or Non-	Bailable or Non	By what Court
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			<b>Cognizable</b>	<b>Bailable</b>	
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
120B.	Criminal conspiracy to commit an offence punishable with imprisonment for life or rigorous imprisonment for a term of 2 years or upward.	Same as for abetment of the offence, which is the object of the conspiracy.	According as offence which is the object of conspiracy is cognizable or non-cognizable.	According as offence is object of conspiracy is bailable or non-bailable.	Court by which abetment of the offence which is the object of conspiracy is triable.
	Any other criminal conspiracy.	Imprisonment for 6 months or fine, or both.	Non-Cognizable	Bailable	Magistrate of the first class.

<b>Section</b>	<b>Offence</b>	<b>Punishment</b>	<b>Cognizable or Non-Cognizable</b>	<b>Bailable or Non Bailable</b>	<b>By what Court triable.</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
121	Waging or attempting to wage War, or abetting the Waging of war, against the Government of India.	Death, or imprisonment for life and fine.	Cognizable	Non-bailable	Court of Sessions.
121A	Conspiring to commit certain offences against the State.	Imprisonment for life or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Sessions.
122	Collecting arms, etc, with the intention of waging war against the Government of India.	Imprisonment for life or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Sessions.
123	Concealing with intent to facilitate design to wage war.	Imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Sessions.
124	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 Sessions.
124A	Sedition.	Imprisonment for life and fine, or imprisonment for 3 years and fine, or fine.	Cognizable	Non-bailable	Court of Sessions.
125	Waging war against any Asiatic power in alliance or at peace with the	Imprisonment for life and fine, or imprisonment for	Cognizable	Non-bailable	Court of Sessions.



	Government of India, or abetting the waging of such war.	7 years and fine, or fine.			
126	Committing depredation on the territories of any, power in alliance or at peace with the Government of India.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Cognizable	Non-bailable	Court of Session
127	Receiving property, taken by war or depredation mentioned in sections 125 and 126.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Cognizable	Non-bailable	Court of Session
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Imprisonment for life or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
130	Aiding escape of rescuing or harboring, such prisoner, or offering any resistance to the recapture of such prisoner.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of session



Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non-Bailable	By what Court triable.
1	2	3	4	5	6
131	Abetting mutiny or attempting to seduce an officer soldier sailor or airman from his allegiance or duty.	Imprisonment for life or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of session
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of session
133	Abetment of an assault by an officer, soldier sailor or airman on his superior officer when in the execution of his office.	Imprisonment for 3 years and fine.	Cognizable	Non-bailable	Magistrate of the first class
134	Abetment of such assault, if the assault is committed	Imprisonment for 7 year and fine.	Cognizable	Non-Bailable	Magistrate of the first class
135	Abetment of the desertion	Imprisonment	Cognizable	Bailable	Any

	of an officer , soldier, sailor or airman.	for two year, or fine, or both.			Magistrate.
136	Harbouring such an officer, soldier, sailor or airman who has deserted.	Imprisonment for two year, or fine, or both.	Cognizable	Bailable	Any Magistrate.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Fine of 500 rupees	Non-cognizable	Bailable	Any Magistrate.
138	Abetment of act of insubordination by an officer, soldier, sailor or airman if the offence be committed in consequence.	Imprisonment for 6 months, or fine or both.	Cognizable	Bailable	Any Magistrate.
140	Wearing the dress or carrying any token used by a soldier, sailor or airman with intent that it may be believed that he is such a soldier, sailor or airman.	Imprisonment for 3 months or fine of 500 rupees, or both	Cognizable	Bailable	Any Magistrate.

#### CHAPTER VIII -OFFENCES AGAINST THE PUBLIC TRANQUILLITY

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.
1	2	3	4	5	6
143	Being member of an unlawful assembly.	Imprisonment for 6 months of fine, or both	Cognizable	Bailable	Any Magistrate
144	Joining an unlawful assembly armed with any deadly weapon.	Imprisonment for 2 year, or fine or both	Cognizable	Bailable	Any Magistrate
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Imprisonment for 2 year, or fine or both	Cognizable	Bailable	Any Magistrate
147	Rioting.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable	Any Magistrate.
148	Rioting armed with deadly weapon.	Imprisonment for 3 years, or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
149	If an offence be	The same as	According	According	The Court by



	committed by any member of an unlawful Assembly, every other member of such assembly shall be guilty of the offence.	for the offence.	as offence is cognizable or non-cognizable.	as offence is bailable or non-bailable	which the offence is triable.
150	Hiring engaging or employing persons to take part in an unlawful assembly.	The same as for a member of such assembly and for any offence committed by any member of such assembly.	Cognizable	According as offence is bailable or non-bailable	The Court by which the offence is triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Imprisonment for 6 months or fine or both.	Cognizable	Bailable	Any Magistrate
152	Assaulting or obstructing public servant when suppressing riot, etc.	Imprisonment for 3 years, or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Imprisonment for 1 year, or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
	If not committed.	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
153A.	Promoting enmity between classes.	Imprisonment for 3 year, or fine, or both.	Cognizable.	Non-Cognizable.	Magistrate of the first class.
	Promoting enmity between classes in place of worship, etc.	Imprisonment for 5 years, and fine.	Cognizable.	Non-Cognizable.	Magistrate of the first class.
1[153-AA	Knowingly carrying arms in any procession or organising or holding or taking part in any mass drill or mass training with arms.	Imprisonment for 6 months and fine of 2,000 rupees	Cognizable	Non-bailable	Any Magistrate]
153B.	Imputations, assertions prejudicial to national integration.	Imprisonment for 3 year, or fine, or both.	Cognizable.	Non-bailable	2[Magistrate of the first class.]
	If committed in a place of public	Imprisonment for 5 years,	Cognizable.	Non-bailable	Magistrate of the first class.



	worship, etc.	and fine.			
154	Owner or occupier of land non giving information of riot, etc.	Fine of 1,000 rupees.	Non-cognizable.	Bailable.	Any Magistrate.
155	Person for whose benefit or on whose behalf or riot takes place not using all lawful means to prevent it.	Fine.	Non-cognizable.	Bailable.	Any Magistrate
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Fine of 1,000 rupees.	Non-cognizable.	Bailable.	Any Magistrate
157	Harbouring persons hired for an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable.	Bailable.	Any Magistrate
158	Being hired to take a part in an unlawful assembly. or riot.	Imprisonment for 6 months, or fine, or both.	Cognizable.	Bailable.	Any Magistrate
	Or to go armed.	Imprisonment for 2 years or fine, or both.	Cognizable.	Bailable.	Any Magistrate
160	Committing affray.	Imprisonment for one month, or fine of 100 rupees, or both.	Cognizable.	Bailable.	Any Magistrate

**1. Inserted by Code of Criminal Procedure (Amendment) Act, 2005, sec. 42(a).**

**2. Substituted by Code of Criminal Procedure (Amendment) Act, 2005, sec. 42(b), for "Ditto"**

#### **CHAPTER IX- OFFENCES BY OR RELATING TO PUBLIC SERVANTS**

*161	Being or expecting to be a Public servant, and taking a gratification other than legal remuneration in respect of an official act.	Imprisonment for 3 year or fine, or both.	Cognizable	Non-cognizable	Magistrate of the first class.
*162	Taking gratification in order by corrupt or illegal means to influence a public servant.	Imprisonment for 3 years, of fine or both.	Cognizable	Non-cognizable	Magistrate of the first class.
*163	Taking a gratification for the exercise of personal influence with a public servant.	Simple imprisonment for 1 year, or fine or both.	Cognizable	Non-cognizable	Magistrate of the first class.



*164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Imprisonment for 3 years, or fine or both.	Cognizable	Non-cognizable	Magistrate of the first class.
*165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding of business transacted by such public servant.	Imprisonment for 3 years, or fine or both.	Cognizable	Non-cognizable	Magistrate of the first class.

*165A	Punishment for abetment of offences punishable under section 161 or section 165.	Imprisonment for 3 years, or fine or both.	Cognizable	Non-cognizable	Magistrate of the first class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Simple imprisonment for 1 year or fine, or both.	Non-cognizable.	Bailable	Magistrate of the first class.
4[166A	Public Servant disobeying direction under law	Imprisonment for minimum 6 months which may extend to 2 years and fine	Cognizable	Bailable	Magistrate of the first class
166B	Non-treatment of victim by hospital	Imprisonment for 1 year or fine or both	Non-Cognizable	Bailable	Magistrate of the first class";]
167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for 3 years, or fine or both.	Cognizable	Bailable	Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Simple imprisonment for 1 year, or fine or both.	Non-cognizable	Bailable	Magistrate of the first class.
169	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.
170	Personating a Public servant.	Imprisonment for 2 years, or fine, or both.	Cognizable	Non-cognizable	Any Magistrate
171	Wearing grab or carrying token used by public servant with fraudulent intent.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Cognizable	Non-cognizable	Any Magistrate

\*. Sections 161 to 165 of The Indian Penal Code (45 of 1860) repealed by Prevention of Corruption Act, 1988 (49 of 1988), sec. 31 (w.e.f. 9-9-1988).

**CHAPTER IXA- OFFENCES RELATING TO ELECTIONS**

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.
1	2	3	4	5	6
171E.	Bribery.	Imprisonment for one year, or fine, or both, or if treating only, fine only.	Non-cognizable	Bailable	Magistrate of any class.
171F.	Undue influence at an election.	Imprisonment for one year, or fine, or both.	Non-cognizable	Bailable	Magistrate of any class.
	Presonation at an election.	Imprisonment for one year, or fine, or both.	Cognizable	Bailable	Magistrate of any class.
171G.	False statement in connection with an election.	Fine	Non-cognizable	Bailable	Magistrate of any class.
171H.	Illegal payments in connection with election.	Fine of 500 rupees.	Non-cognizable	Bailable	Magistrate of any class.
171-I.	Failure to keep election accounts.	Fine of 500 rupees.	Non-cognizable	Bailable	Magistrate of any class.

**CHAPTER X- CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS**

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
172	Absconding to avoid service of summons or other proceeding from a public servant.	Simple imprisonment for one month or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
	If summons or notice require attendance in person. etc, in a court of justice	Simple imprisonment for 6 months or fine of 1000 rupees or both.	Non-cognizable	Bailable	Any Magistrate.
173	Preventing the service or the affixing of any Summons of notice or the removal of it when it has been affixed or	Simple imprisonment for 1 month or fine of 500 rupees or both.	Non-cognizable	Bailable	Any Magistrate.

	preventing a proclamation.				
	If summons etc., require attendance in person. etc., in a court of Justice.	Simple imprisonment for 6 month or fine of 1000 rupees, or both	Non-cognizable	Bailable	Any Magistrate.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Simple imprisonment for 1 month or fine of 500 rupees or both	Non-cognizable	Bailable	Any Magistrate.
	If the order requires personal Attendance, etc. in court of justice.	Simple imprisonment for 6 months or fine of 1,000 rupees or both.	Non-cognizable	Bailable	Any Magistrate.
<b>1</b> [174-A	Failure to appear at specified place and specified time as required by a proclamation published under sub-section(1) of section 82 of this Code.	Imprisonment for 3 years or with fine or with both	Cognizable	Non-bailable	Magistrate of the first class.
	In a case where declaration has been made under sub-section (4) of section 82 of this Code pronouncing a person as proclaimed offender	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto]
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Simple imprisonment for one month or fine of 500 rupees or both	<b>2</b> [Non-cognizable]	<b>3</b> [Bailable ]	The court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a court, any Magistrate.
	If the document is required to be produced in or delivered to a court of justice.	Simple imprisonment for one month, or fine of 1,000 rupees or both.	Non-cognizable	Bailable	The court in which the offence is committed subject to the provision



					of Chapter XXVI; or, if not committed in a court, any magistrate.
176	Intentionally emitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Simple imprisonment for 1 month, or fine of 500 rupees or both.	Non-cognizable	Bailable	Any Magistrate.
	If the notice or information required respects the commission of an offence, etc.	Simple imprisonment for 6 months or fine of 1,000 rupees or both.	Non-cognizable	Bailable	Any Magistrate.
	If the notice or information is required by an order passed under sub-section (1) of section 356 of this code.	Imprisonment for 6 months or fine of 1,000 rupees or both.	Non-cognizable	Bailable	Any Magistrate.
177	Knowingly furnishing false information to a public servant.	Imprisonment for 6 months, or fine, of 1,000 rupees or both.	Non-cognizable	Bailable	Any Magistrate.
	If the information required respects the commission of an offence. Etc.	Imprisonment for 2 years, or fine or both.	Non-cognizable	Bailable	Any Magistrate.
178	Refusing oath when duly re-quire to take oath by public servant.	Simple imprisonment for 6 months or fine of 1,000 rupees, or both.	Non-cognizable	Bailable	The court in which the offence is committed, subject to provisions Chapter XXVI; or if not committed in a court, any Magistrate.
179	Being legally bound to state truth and refusing to answer questions.	Simple imprisonment for 6 months or fine of 1,000 rupees or both.	Non-cognizable.	Bailable	The court in which the offence is committed subject to the provision of chapter



					XXVI; or it not committed in a court any Magistrate.
180	Refusing to sign statement made to a public servant when legally required to do so.	Simple imprisonment for 3 months or fine of 500 rupees or both.	Non-cognizable.	Bailable	The court in which the offence is committed subject to the provision of chapter XXVI; or it not committed in a court any Magistrate.
181	Knowingly stating to a public servant when legally on oath as true that which is false.	Imprisonment for 3 years and fine.	Non-cognizable.	Bailable	Magistrate of any class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury of annoyance of any person.	Imprisonment for 6 months or fine of 1,000 rupees or both.	Non-cognizable.	Bailable	Any Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Imprisonment for 6 months or fine of 1,000 rupees or both.	Non-cognizable.	Bailable	Any Magistrate.
184	Obstructing sale of property offered for sale by authority of a public servant both	Imprisonment for 1 month or fine of 500 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate.
185	Bidding by a person under a legal in capacity to purchase it for property at a lawfully authority sale or bidding without intending to perform the obligations incurred thereby.	Imprisonment for 1 month or fine of 200 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate.
186	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months or fine of 500	Non-cognizable	Bailable	Any Magistrate.



		rupees, or both.			
<b>STATE AMENDMENT</b>					
<b>Andhra Pradesh</b>					
Offence under 186 is cognizable. (Vide A.P.G.O. Ms No. 782, dated 5th December, 1991].					
187	Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month or fine of 200 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
	Willfully neglecting to aid a public servant who demands aid in the execution of progress, the prevention of offences etc.,	Simple imprisonment for 6 months or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction annoyance or injury to persons lawfully employed.	Simple imprisonment for 1 month or fine of 200 rupees, or both.	Cognizable	Bailable	Any Magistrate.
	If such disobedience causes danger to human life, health or safety, etc.	Imprisonment for 6 months or fine of 1,000 rupees, or both.	Cognizable	Bailable	Any Magistrate.
189	Threatening a public servant with injury to him or one in whom he is interested, to induced him to do or forbear to do any official act.	Imprisonment for 2 years or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
<b>STATE AMENDMENT</b>					
<b>Andhra Pradesh</b>					
Offence under section 189 is cognizable. [Vide A.P.G.O. Ms No.732, dated 5th December, 1991].					
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Imprisonment for 1 year or fine, or both.	Non-cognizable	Bailable	Any Magistrate.



**STATE AMENDMENT****Andhra Pradesh**

Offence under section 190 is cognizable. [Vide A.P.G.O. Ms No.732, dated 5th December, 1991].

- 1. Inserted by Code of Criminal Procedure (Amendment) Act, 2005, sec. 342(c).**
- 2. Substituted by Code of Criminal Procedure (Amendment) Act, 2005, sec. 342(d) (i), for "Ditto"**
- 3. Substituted by Code of Criminal Procedure (Amendment) Act, 2005, sec. 342(d) (ii) for "Ditto"**
4. Inserted by Section 24 of "The Criminal Law (Amendment) Act, 2013"

**CHAPTER XI- FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE**

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non-Bailable	By what Court triable.
1	2	3	4	5	6
193	Giving or fabricating false evidence in a judicial proceeding.	Imprisonment for 7 years and fine.	Non-Cognizable	Bailable	Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Imprisonment for 3 years and fine.	Non-Cognizable	Bailable	Any Magistrate
194	Giving or fabricating false evidence with intend to cause any person to be convicted of a capital offence.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Non-Cognizable	Non-Bailable	Court of sessions.
	If innocent person be thereby convicted and executed.	Death, or as above.	Non-Cognizable	Non-Bailable	Court of sessions.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for	The same is for the offence.	Non-Cognizable	Non-Bailable	Court of sessions.



	7 years or upwards.				
196	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.
197	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 or fabricating false evidence.	Non-Cognizable	Bailable	Court by which offence of giving evidence is triable.
198	Using as a true certificate one known to be false in a material point.	The same as for giving or fabricating false evidence.	Non-Cognizable	Bailable	Court by which offence of giving evidence is triable.
199	False statement made in any declaration, which is by law receivable as evidence.	The same as for giving or fabricating false evidence.	Non-Cognizable	Bailable	Court by which offence of giving evidence is triable.
200	Using as true any such declaration known to be false.	The same as for giving or fabricating false evidence.	Non-cognizable.	Bailable	Court by which offence of giving false evidence is triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender if a capital offence.	Imprisonment for 7 years and fine.	According as the offence in relation to which is appearance of evidence is caused is cognizable or non-cognizable.	Bailable	Court of Sessions.
	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.
	If punishable with less than 10 years imprisonment.	Imprisonment for a quarter of the longest	Non-cognizable	Bailable	Court by which the





		term provided for the offence, or fine, or both.			offence is triable.
202	International omission to give inaction of an offence by a person legally bound to inform.	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
203	Giving false information respecting an offence committed.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
204	Secreting or destroying any, document to prevent its production as evidence.	Ditto	Non-cognizable	Bailable	Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail.	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
206	Fraudulent removal or concealment, etc., of property to prevent its size 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.
207	Claiming property without right or practicing deception touching any right to it, to prevent its being taken as a forfeiture or in satisfaction of a fine under sentence or in execution of a decree.	Imprisonment for 2 years, or fine, or both.	Non-Cognizable.	Bailable	Any Magistrate.
208	Fraudulently suffering a decree to pass for a sum not due, or	Imprisonment for 2 years, or fine, or both.	Non-Cognizable.	Bailable	Magistrate the of any class.



	suffering decree to be executed after it has been satisfied.				
209	False claim in a court of Justice.	Imprisonment for 2 years, and fine or both.	Non-Cognizable.	Bailable	Magistrate the of any class.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Imprisonment for 2 years, and fine or both.	Non-Cognizable.	Bailable	Magistrate the of any class.
211	False charge of offence made with intent to injure.	Imprisonment for 2 years, and fine or both.	Non-Cognizable.	Bailable	Magistrate the of any class.
	If offence charged be punishable with imprisonment for 7 years or upward.	Imprisonment for 7 years, and fine.	Non-Cognizable.	Bailable	Magistrate the of any class.
	If offence charged be capital or punishable with imprisonment for life.	Imprisonment for 7 years, and fine.	Non-Cognizable.	Bailable	Court of Sessions.
212	Harbouring an offender, if the offence be capital.	The Imprisonment for 5 years and fine.	Cognizable	Bailable	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Cognizable	Bailable	Magistrate of the first class.
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine or both.	Cognizable	Bailable	Magistrate of the first class.
213	Taking gift, etc, to screen an offender from punishment if the offence be capital.	Imprisonment for 7 years and fine.	Cognizable	Bailable	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Cognizable	Bailable	Magistrate of the first class.



	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine or both.	Cognizable	Bailable	Magistrate of the first class.
214	Offerings gift or restoration of property, in consideration of screening offender if the offence be capital.	The Imprisonment for 7 years and fine.	Non-Cognizable	Bailable	Magistrate of the first class.
	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.
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Non-Cognizable	Bailable	Magistrate of the first class.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence without causing apprehension of offender.	Imprisonment for 2 year or fine of both.	Cognizable	Bailable	Magistrate of the first class
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Imprisonment for 7 years and fine.	Cognizable	Bailable	Magistrate of the first class
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years with or without fine.	Cognizable	Bailable	Magistrate of the first class
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Cognizable	Bailable	Magistrate of the first class
216A	Harbouring robbers or dacoits.	Rigorous imprisonment	Cognizable	Bailable	Magistrate of the first class



		for 7 years and fine.			
217	Public servant disobeying a direction of law with intend to save person from punishment, or property from forfeiture.	Imprisonment for 2 years, of fine, or both.	Non-cognizable	Bailable	Any Magistrate
218	Public servant framing an incorrect record or writing with intend to save person from punishment or property from forfeiture.	Imprisonment for 3 years or fine, or both.	Cognizable	Bailable	Magistrate of the first class
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Imprisonment for 7 years, or fine or both.	Non-cognizable	Bailable	Magistrate of the first class
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Imprisonment for 7 years, or fine or both.	Non-cognizable	Bailable	Magistrate of the first class.
221	International omission to apprehend on the part of a public servant by law to apprehend of offender if the offence be capital.	Imprisonment for 7 years, with or without fine.	According as the offence in relation to which commission has made is cognizable or non-Cognizable.	Bailable	Magistrate of the first class.
	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.
	If punishable with imprisonment for less than 10 years.	Imprisonment for 2 years, with or without fine.	Cognizable	Bailable	Magistrate of the first class.
222	International omission to	Imprisonment for life, or	Cognizable	Non-bailable	Court of session



	apprehend on the part of a public servant bound by law to apprehend person under sentence of a court of justice if under sentence of death.	imprisonment for 14 years, with or without fine.			
	If under sentence of imprisonment for life or imprisonment for 10 year, or upwards	Imprisonment for 7 years, with or without fine.	Cognizable	Non-bailable	Magistrate of the first class.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Imprisonment for 3 years, or fine or both.	Cognizable	Bailable	Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Simple imprisonment for 2 years, or fine for both.	Non-cognizable	Bailable	Any Magistrate.
224	Resistance or obstruction by a person to his lawfully apprehension.	Imprisonment for 2 years, or fine or both.	Cognizable	Bailable	Any Magistrate.
225	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.
	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.
	If charged with a capital offence.	Imprisonment for 7 years and fine.	Cognizable	Non-Bailable	Magistrate of the first class.
	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.



	If under sentence of death.	Imprisonment for life or imprisonment for 10 years and fine.	Cognizable	Non-Bailable	Court of Sessions.
225A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not other- wise 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, of both.	Non-cognizable	Bailable	Any Magistrate.
225B.	Resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for.	Imprisonment for 6 month or fine or both.	Cognizable	Bailable	Any Magistrate.
227	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.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for 6 month or fine of 1,000 rupees or both.	Non-Cognizable	Bailable	The court in which the offence is committed subject to the provisions of Chapter XXVI.

#### STATE AMENDMENT

##### Andhra Pradesh

Offence under section 228 is cognizable. [Vide A.P.G.O. Ms No. dated 5th December, 1991].

<sup>1</sup> [228A	Disclosure of identity of the victim of certain offences etc.	Imprisonment for 2 years or fine.	Cognizable	Bailable	Any Magistrate.
	Printing or publication of a proceeding without prior permission of court.	Imprisonment for 2 years or fine.	Cognizable	Bailable	Any Magistrate.
229	Personation of a	Imprisonment	Cognizable	Bailable	Magistrate of

	juror or assessor.	for 2 years or fine or both.			the first class.
<b>2[229-A</b>	Failure by person released on bail or bond to appear in Court	Imprisonment for 1 year, or fine or both	Cognizable	Non-bailable	Any Magistrate]

**1. Ins. by Act 43 of 1983, sec. 5. (w.e.f. 25-12-1983).**

**2. Inserted by Code of Criminal Procedure (Amendment) Act, 2005, sec. 42(e).**

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non-Bailable	By what Court triable.
1	2	3	4	5	6
231	Counterfeiting or performing any part of the process of counterfeiting coin.	Imprisonment for 7 years or fine or both.	Cognizable	Non-Bailable	Magistrate of the first class.
232	Counterfeiting or performing any part of the process of counterfeiting Indian coin.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-Bailable	Court of Sessions.
233	Making buying or selling instrument for the purpose of counterfeiting coin.	Imprisonment for 3 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
234	Making buying or selling instrument for the purpose of counterfeiting coin.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Court of Sessions.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Imprisonment for 3 years and fine.	Cognizable	Non-Bailable	Magistrate of the first class.
	It Indian coin.	Imprisonment for 10 years and fine.	Cognizable	Non-Bailable	Court of Session.
236	Abetting, in India, the counterfeiting, out of India, of coin.	The punishment provided for abetting the counterfeiting of such coin within India.	Cognizable	Non-Bailable	Court of Session.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Imprisonment for 3 years and fine.	Cognizable	Non-Bailable	Magistrate of the first class.



238	Import or export of counterfeit of Indian coin, knowing the same to be counterfeit.	Imprisonment for life and imprisonment for 10 years and fine.	Cognizable	Non-Bailable	Court of session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Imprisonment for 5 years and fine.	Cognizable	Non-Bailable	Magistrate of the first class.
240	Same with respect to Indian coin.	Imprisonment for 10 years and fine.	Cognizable	Non-Bailable	Court of Session.
241	Knowingly delivering to another and counterfeit coin as genuine, which when first possessed, the deliverer did not know to be counterfeited.	Imprisonment for 2 years or fin, or 10 times the value of the coin, counterfeited or both.	Cognizable	Non-Bailable	Any Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 3 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
243	Possession of Indian coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
245	Unlawfully taking from a Mint any coining instrument.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Imprisonment for 3 years and fine.	Cognizable	Non-cognizable	Ditto
247	Fraudulently diminishing the weight or altering the composition of Indian coin.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.





248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Imprisonment for 3 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
249	Altering appearance of Indian coin with intent that it shall pass as a coin of a different description.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Imprisonment for 5 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
251	Delivery of Indian coin possessed with the knowledge that it is altered.	Imprisonment for 10 years and fine.	Cognizable	Non-cognizable	Court of Session.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 3 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
253	Possession of Indian coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 5 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
254	Delivery to another of coin as genuine which when first possessed the deliverer did not know to be altered.	Imprisonment for 2 years, or fine, or 10 times the value of the coin.	Cognizable	Non-cognizable	Any Magistrate.
255	Counterfeiting a Government stamp.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-cognizable	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
258	Sale of counterfeit Government Stamp.	Imprisonment for 7 years and fine.	Cognizable	Non-cognizable	Magistrate of the first class.
259	Having possession of	Imprisonment	Cognizable	Bailable	Magistrate



	a counterfeit Government stamp.	for 7 years and fine.			of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Imprisonment for 7 years and fine, or both.	Cognizable	Bailable	Magistrate of the first class.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause a loss to Government.	Imprisonment for 3 years and fine, or both.	Cognizable	Non-Bailable	Magistrate of the first class.
262	Using a Government stamp known to have been before used.	Imprisonment for 2 years and fine, or both.	Cognizable	Non-Bailable	Any Magistrate.
263	Erasure of mark denoting that stamps have been used.	Imprisonment for 3 years and fine, or both.	Cognizable	Non-Bailable	Magistrate of the first class.
263A.	Fictitious stamps.	Fine of 200 rupees.	Cognizable	Non-Bailable	Any Magistrate.

#### CHAPTER XIII- OFFENCES RELATING TO WEIGHT AND MEASURES

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non-Bailable	By what Court triable.
1	2	3	4	5	6
264	Fraudulent use of false instrument for weighing.	Imprisonment for 1 year, or fine, or both.	Non-cognizable.	Bailable	Any Magistrate.
265	Fraudulent use of false weight to measure.	Imprisonment for 1 year, or fine, or both.	Non-cognizable.	Bailable	Any Magistrate.
266	Being in possession of false weights or measures for fraudulent use.	Imprisonment for 1 year, or fine, or both.	Non-cognizable.	Bailable	Any Magistrate.
267	Making or selling false weights or measures for fraudulent use.	Imprisonment for 1 year, or fine, or both.	Cognizable	Non-Bailable	Any Magistrate.

#### CHAPTER XIV-OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non-Bailable	By what Court triable.
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1	2	3	4	5	6
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 6 months or fine, or both.,	Cognizable	Bailable	Any Magistrate
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable	Any Magistrate
271	Knowingly disobeying any quarantine rule.	Imprisonment for 6 months, or fine, or both.	Non-cognizable.	Bailable	Any Magistrate
272	Adulterating food or drink intended for sale so as to make the same noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	1[Non-bailable]	Any Magistrate
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	1[Bailable]	Any Magistrate
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate

#### STATE AMENDMENTS

**Uttar Pradesh:** For the existing entries against sections 272, 273, 274, 275 and 276 in the First Schedule, the following shall be substituted:-

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.
1	2	3	4	5	6
272	Adulterating food or drink intend for sale, so as to make the same noxious.	Imprisonment for life with or without fine.	Cognizable	Non-bailable	Court of session.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Imprisonment for life with or without fine.	Cognizable	Non-bailable	Court of session.
274	Adulterating any drug or medical prepararion intended for sale so as to lessen its efficacy or to change its operation or to make it noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate
276	Knowingly selling or issuing front a dispensary any drug or medical preparation as a different drug or medical preparation. [Vide U.P. act 47 of 1973, sec. 4 (w.e.f.15-9-1975)].	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	Any Magistrate

#### WEST BENGAL

For the existing entries against section 272, 273, 274, 275 and 276 in the First Schedule, the following shall be substituted.

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.

1	2	3	4	5	6
"272	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for life, with or without fine.	Cognizable	Non-bailable	Court of Session
273	Selling any food or drink, as food and drink, knowing the same to be noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Non-bailable	Court of Session
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Non-bailable	Court of Session
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Non-bailable	Court of Session
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as different drug or medical preparation.	Imprisonment for life, with or without fine.	Cognizable	Non-bailable	Court of Session
[Vide W.B. Act 34 of 1974, sec. 5 (w.e.f. 16-7-1974)].					
277	Defiling the water of a public spring or reservoir.	Imprisonment for 3 months, or fine of 500 rupees, or both	Cognizable	Bailable	Any Magistrate.
278	Taking atmosphere noxious to health.	Fine of 500 rupees	Non-cognizable	Bailable	Any Magistrate.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both	Cognizable	Bailable	Any Magistrate.
280.	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Bailable	Any Magistrate.
281.	Exhibition of a false light, mark or buoy	Imprisonment for 7 years or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
282.	Conveying for hire any person by water in a vessel in such a state or loaded, as to endanger his life.	Imprisonment for 6 months or fine of 1,000 rupees, or both	Cognizable	Bailable	Any Magistrate



283.	Causing danger, obstruction or, injury in any public way or line of navigation.	Fine of 200 rupees.	Cognizable	Bailable	Any Magistrate.
284.	Dealing with any poisonous substance so as to endanger human life, etc.	Imprisonment for 6 months or fine of 1,000 rupees or both	Cognizable	Bailable	Any Magistrate.
285.	Dealing with fire or any combustible matter so as to endanger human life, etc.	Imprisonment for 6 months or fine of 1,000 rupees or both	Cognizable	Bailable	Any Magistrate.
286.	So dealing with any explosive substance.	Imprisonment for 6 months or fine of 1,000 rupees or both	Cognizable	Bailable	Any Magistrate.
287.	So dealing with any machinery.	Imprisonment for 6 months or fine of 1,000 rupees or both	Non-cognizable	Bailable	Any Magistrate.
288.	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Imprisonment for 6 months or fine of 1,000 rupees or both	Non-cognizable	Bailable	Any Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	Imprisonment for 6 months, or fine of 1.000 rupees or both.	Cognizable	Bailable	Any Magistrate
290	Committing a public nuisance.	Fine of 200 rupees	Non-Cognizable	Bailable	Any Magistrate.
291	Continuance of nuisance after injection to discontinue.	Simple imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
292	Sale, etc., of obscene books, etc.	On first conviction, with imprisonment for 2 years and with fine of 2,000 rupees and in the event of second or subsequent conviction,	Cognizable	Bailable	Any Magistrate.



		with imprisonment for 5 years and with fine of 5000 rupees.			
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**STATE AMENDMENTS****Tamil Nadu:**

In the first Schedule, for the entries relating to Sections 292-A and 293, the following entries shall be substitutes, namely: –

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.
1	2	3	4	5	6
292A	Printing etc of grossly indecent or scurrilous matters or matter intended for blackmail.	Imprisonment of either description for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate
[Vide Tamil Nadu Act 30 of 1984].					
293	Sale etc. of obscence objects to young persons.	On first conviction with imprisonment for 3 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees.	Cognizable	Bailable	Any Magistrate

**1. Substituted by Code of Criminal Procedure (Amendment) Act, 2005.****CHAPTER XV- OFFENCES RELATING TO RELIGION**

Section	Offence	Punishment	Cognizable or Non-Cognizable	Bailable or Non Bailable	By what Court triable.
1	2	3	4	5	6
294	Obscene songs.	Imprisonment for 3 months, or fine, or both	Cognizable	Bailable	Any Magistrate
294A	Keeping a lottery office.	Imprisonment for 3 months, or fine, or	Non-cognizable	Bailable	Any Magistrate

		both.			
	Publishing proposals relating to lotteries.	Fine of 1,000 rupees.	Non-cognizable	Bailable	Any Magistrate
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	Imprisonment for 2 years of fine, or both.	Cognizable	Non-bailable	Any Magistrate.

## THE SECOND SCHEDULE

(See section 476)

### FORM NO. 1

Summons to an Accused Person

(See section 61)

To ..... (name accused ) of..... (address)

WHEREAS your attendance is necessary to answer to a charge of ..... (state shortly by the offence charged ), you are here by required to appear in person (or by pleader ,as the case may be) before the (Magistrate) of..... on the..... day of .....herein fail not.

Dated, this .....day of..... 20.....

(Signature)

(Seal of court)

### FORM NO. 2. Warrant of Arrest

#### FORM NO. 2

#### Warrant of Arrest

(See section 70)

To..... (name and designation of the person or persons who is or are to execute the warrant).

WHEREAS (name of accused) of (address) stands charged with the offence of ..... (state the offence), you are hereby directed to arrest the said ..... and to produce him before me. Here in fail not.

Dated, this..... .....day of .....20.....

(Signature)

(Seal of the court)



**(See section 71)****This warrant may be endorsed as follow: –**

If the said.....shall give bail himself in the sum of rupees..... with one surety in the sum of rupees. ....(or two sureties each in the sum of rupees.....) to attend before me on the.....day of..... and to continue so to attend until otherwise directed by me, he may be released.

Dated, this.....day of 20.....

(Seal of the court)

(Signature)

## FORM NO. 3. Bond and Bail-Bond after Arrest under a Warrant

**FORM NO. 3****Bond and Bail-Bond after Arrest under a Warrant****(See section 81)**

I..... (name), of..... being brought before the District Magistrate of..... (or as the case may be) under a warrant issued to compel my appearance to answer the charge of..... do hereby bind myself to attend in the court of..... on the day of.....next, to answer to the said charge, and to continue, so to attend until otherwise directed by the Court, and in case of my making default herein, I bind myself to forfeit, to Government, the sum of rupees.

Dated, this..... day of ..... 20...

(Seal of the court) (Signature)

I do hereby declare myself surety for the above-named..... of.....that he shall attend before .....in the court of .....on the day of..... next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the court; and, in case of his making default therein, I bind my self to forfeit, to Government, the sum of rupees.

Dated, this .....day of.....20.....

(Signature)

(Seal of the court))

## FORM NO.4. Proclamation Requiring the Appearance of a Person Accused

**FORM NO.4**

Proclamation Requiring the Appearance of a Person Accused

(See section 82)

WHEREAS complaint has been made before me that..... (name, description and address) has committed (or is suspected to have committed) the offence of..... punishable under section..... of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said.....(name) cannot be found, and whereas it has been shown to my satisfaction that the said.....(name) has absconded (or is concealing himself' to avoid the service of' the said warrant);

Proclamation is hereby made that the said.....of.....is required to appears at..... (Place) before this court (or before me) to answer the said complaint on the.....day of.....

Dated, this .....day of.....20.....

(Signature)

(Seal of the court)

## FORM NO. 5. Proclamation Requiring the Attendance of a Witness

### FORM NO. 5

Proclamation Requiring the Attendance of a Witness

(See section 82, 87 and 90)

WHEREAS complaint has been made before me that.....(name, description and address) has committed (or is suspected to have committed) the offence of..... (mention the offence concisely) and a warrant has been issued to compel the attendance of..... (name, description and address of the witness) before this court to be examined touching, the matter of the said complaint; and whereas it has been returned to the said warrant that the said .....(name of witness) cannot be served, and it has been shown to my satisfaction that he has absconded (or is concealing) himself to avoid the service of the said warrant);

Proclamation is hereby made that the said .....(name) is required to appear at.....(place) before the court of..... on the ..... any of..... next at.....O'clock, to be examined touching.....the offence complained of

Dated, this .....day of.....20.....

(Signature)

(Seal of the court)

## FORM NO. 6. Order of Attachment to Compel The Attendance of a Witness

### FORM NO. 6

Order of Attachment to Compel The Attendance of a Witness



(See section 83)

To the officer in charge of the Police Station at.....

WHEREAS complaint has been duly issued to compel the attendance of ..... (name, description and address) to testify, concerning a complaint pending before this court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (or is concealing himself to avoid the service of the said warrant); and thereupon a proclamation has been or is being duly, issued and published requiring the said.....to appear and give evidence at the time and place mentioned therein;

This is to authorize and require you to attach by seizure the movable property belonging the said.....to the value of rupees.....which you may find within the District of.....and to hold the said property under attachment pending the further order of his court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this .....day of..... 20.....

(Seal of the court)

(Signature)

## FORM NO. 7. Order of Attachment to Compel the Appearance of a Person Accused



### FORM NO. 7

Order of Attachment to Compel the Appearance of a Person Accused

(See section 83)

To ..... (name and designation of the person or persons who is or are to execute the warrant)

WHEREAS complaint has been made before me that .....(name, description and address) has committed (or is suspected to have committed) the offence of..... punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest there upon issued that the said.....(name) cannot be found; and whereas it has been shown to my satisfaction that the said. ....(name) has absconded (or is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said.....to appear to answer the said charge within ..... days; and whereas the said.....is possessed of the following property, other than land paying revenue to Government, in the village (or town), of ..... in the District of ....., viz .....and an order has been made for the attachment thereof;

You are hereby required to attach the said property in the manner specified in clause (a), or clause (c), or both\*, of subsection (2) of section 83, and to hold the same under attachment pending further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this .....day of..... 20.....

(Seal of the court)

(Signature)

**\*Strike out the one, which is not applicable, depending on the nature of the property to be attached.**

## FORM NO. 8. Order Authorizing an Attachment by the District Magistrate or Collector

### FORM NO. 8

#### Order Authorizing an Attachment by the District Magistrate or Collector (See section 83)

To the District Magistrate/ Collector of the District of.....

Whereas complaint has been made before me that.....(name, description and address) has committed (or is suspected to have committed) the offence of..... punishable under section..... of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said .....(name) cannot be found; and whereas it has been shown to my satisfaction that the said. ....(name) has absconded (or is concealing himself to avoid the service of the said warrant and thereupon a proclamation has been or is being duly, issued and published requiring the said ..... (name) to appear to answer the said charge within..... days; and whereas the said.....is possessed of certain land paying revenue to Government in the village (or town) of .....in the District of.....

You are hereby authorised and requested to cause the said land to be attached, in the manner specified in clause (a) or clause (c), or both\*, of sub-section (4) of section 83, and to be held under attachment pending order of this court, and to certify without delay what you may have done in pursuance of this order.

Dated, this .....day of..... 20.....

(Seal of the court)

(Signature)

**\*Strike out which is not desired.**

## FORM NO. 9. Warrant in the First Instance to Bring up a Witness

### FORM NO. 9

Warrant in the First Instance to Bring up a Witness

(See section 87)

To (name and designation of the Police Officer or other person or persons Who is or are to execute the warrant)

Whereas complaint has been made before me that ..... (name and description Of accused) of.....(address) has (or is suspected to have) committed the offence of..... (mention the offence concisely), and it appears likely that..... (name and description of witness) can give evidence concerning the said complaint and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said ..... (name of witness) and on the..... day of..... to bring him before this court, to be examined touching the offence complained of.

Dated, this .....day of..... 19.....

(Seal of the court)

(Signature)

## FORM NO. 10. Warrant to Search After Information of a Particular Offence

### FORM NO. 10

Warrant to Search After Information of a Particular Offence

(See section 93)

To.....(name and designation of 'the Police officer or other person or persons who is or are to execute the warrant)

Whereas information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of.....(mention the offence concisely), and it has been made to appear to me that the production of.....(specify the thing clearly) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorise and require you to search for the said .....(the thing specified in the .....(describe the house or place or part thereof to which the search is to be confined), and if found, to produce the same forthwith before this court ,returning this warrant , with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this .....day of..... 20.....

(Seal of the court)

(Signature)

## FORM NO. 11. Warrant to Search Suspected Place of Deposit

### FORM NO. 11

Warrant to Search Suspected Place of Deposit

(See section 94)



To ..... (name and designation of a police officer above the rank of a constable,).

WHEREAS information has been laid before me, and on due inquiry thereupon had, I have been led to believe that the .....(describe the house or other place) is used as a place for the deposit (or sale) of stolen property (or is for either of the other purposes expressed in the section, state the purpose in the words of the section);

This is to authorise and require you to enter the said house (or other place) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (or other place, or if the search is to be confined to a part, specify the part clearly), and to seize and take possession of any property (or documents, or stamps, or seals. or coins, or obscene objects, as the case may be) (add, when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false sells or counterfeit coins or counterfeit currency notes (as the case may be), and forthwith to bring before this court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this .....day of..... 20.....

(Seal of the court)

(Signature)

## FORM NO. 12. Bond to Keep the Peace

### FORM NO. 12

Bond to Keep the Peace

(See sections 106 and 107)

WHEREAS I..... (name) inhabitant of..... (place),have been called upon to enter into a bond to keep the peace for the term of.....or until the completion of the inquiry in the matter of.....now pending in the court of.....  
..... I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term or until the completion of the said inquiry and, in case of my making default therein; I hereby bind myself to forfeit to Government the sum of rupees.....

Dated, this ..... day of..... 20.....

(Signature)

## FORM NO. 13. Bond for Good Behaviour

### FORM NO. 13

Bond for Good Behaviour

(See sections 108, 109 and 110)

WHEREAS I.....(name, inhabitant of (place)..... have been called upon to enter, into a bond to be of good behaviour to Government and all the citizens of India for the term of .....(state the period) or until the completion of the inquiry in the matter of .....now pending in the court of ..... I hereby bind myself to be of good behaviour to Government and all the citizens of India during the said term or until the



completion of the said inquiry; and, in case of my making default therein, I hereby, myself to forfeit to Government the sum of rupees.....

Dated, this ..... day of..... 20.....

(Seal of the court) (Signature)

(Where a bond with sureties to be executed, add.....)

We do hereby declare ourselves sureties for the above-named..... that he will be of good behaviour to Government and all the citizens of India during the said term or until tile completion of the said inquiry; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Government the sum of rupees.....

Dated, this ..... day of..... 19.....

(Seal of the court)

(Signature)

## FORM NO. 14. Summons of Information of a Probably Breach of the Peace

FORM NO. 14

Summons of Information of a Probably Breach of the Peace

(See section 113)

To ..... of.....

WHEREAS it has made to appear to me by credible information that.....  
(state the substance of the information) and that you are likely to commit a breach of the peace (or by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (or by a duly authorised agent) at the office of the Magistrate of.....on the.....day of 20..... at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees .....  
[when sureties required, add and also to give security by the bond of one ( or two, as the case may be ) surety (or sureties in the sum of rupees (each if more than one) that You will keep the peace for the term of .....

Dated, this ..... day of..... 20.....

(Seal of the court)

(Signature)

## FORM NO.15. Warrant of commitment on Failure to Find Security to Keep the Peace

**FORM NO. 15**

**Warrant of commitment on Failure to Find Security to Keep the Peace**

**(See section 122)**



To the Officer in charge of the jail at.....

WHEREAS ..... (name and address) appeared before me in person (or by his Authorised agent) on the..... day of ..... in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees.....with one surety (or a bond with two sureties each in rupees ..... ) that be, the said

.....(name), would keep the peace for the period of.....months; and whereas an order was then made requiring the said ..... (name) to enter into and find such security (state the security ordered when it differs from that mentioned in the summons, and he has failed to comply with the said order,

This is to authorise and require you to receive the said ..... (name) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of..... (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this..... day of..... 20.....

(Seal of the court)

(Signature)

## FORM NO. 16. Warrant of Commitment on Failure to find Security for Good Behaviour

FORM NO. 16

Warrant of Commitment on Failure to find Security for Good Behaviour

(See section 122)

To the officer in charge of the jail at.....

Whereas it has been made to appear to me that.....(name and description) has been concealing his presence within the district of.....that there is to believe that he is doing so with a view to committing a cognizable offence.

or

Whereas evidence of the general character of ..... (name and description) has been adduced before me and recorded, from which it appears that he is an habitual robber (or house-breaker, etc., as the case may be),

And whereas an order has been recorded stating the same and requiring the said ..... (name) to furnish security for his good behaviour for the term of .....(state the period by entering into a bond with one surety (or two or more sureties, as the case may be), him self for rupees .....and the said surety (or each of the said sureties) or rupees..... ..and the said.....(name) has failed to comply with the said order and for such default has been adjudged imprisonment for .....(state the term) unless the said security by sooner furnished;

This is to authorise and require you to receive the said. ....(name) into your custody, together with this warrant and him safely to keep in the Jail, or if he already in prison, he detained there in for the aid period of .....(term of imprisonment)unless he shall in the meantime be lawfully ordered to be released. And to return this warrant with an endorsement certifying the manner of its execution

Dated, this..... day of..... 19.....

(Seal of the court)





(Signature)

## FORM NO. 17. Warrant to discharge a Person Imprisoned on Failure to Give Security

FORM NO. 17

Warrant to discharge a Person Imprisoned on Failure to Give Security

(See sections 122 and 123)

To the officer incharge of the jail at.....(or other officer in whose custody the person is).

WHEREAS. ....(name and description of prisoner) was committed to your custody under warrant of the court, dated the .....day of..... 20. ....and has since duly given security under section.....of the Code of Criminal Procedure, 1973.

or

WHEREAS (name and description of prisoner) was committed to your custody under warrant of the court, dated the..... day of..... 20 .....and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorised and require you forthwith to discharge the said..... (name) from your custody unless he is liable to be detained for some other cause.

Dated this..... day of .....20.....

(Seal of court)

(Signature)

## FORM NO. 18. Warrant of Imprisonment of Failure to Pay Maintenance

FORM NO. 18

Warrant of Imprisonment of Failure to Pay Maintenance

(See section 125)

To the officer in charge of the jail at.....

WHEREAS (name, description and address) has been proved before me to be possessed of sufficient means to maintain his wife..... (name) [or his child..... (name) or his father or mother..... (name), who is by reason of..... (state the reasons) unable to maintain here self (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said..... (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees.....and whereas it has been further proved that the said..... (name) in willful disregard of the said order has failed to pay rupees....., being the amount of the allowance for the month (or months) of.....

And thereupon an order was made adjudging him to undergo imprisonment in the said Jail for the period of.....

This is to authorize and require you to receive the said .....(name) into your custody in the said Jail, together with this warrant, and there carry said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this..... day of .....20.....

(Seal of court)

(Signature)

## FORM NO. 19. Warrant to Enforce the Payment of Maintenance by Attachment and Sale

FORM NO. 19

Warrant to Enforce the Payment of Maintenance by Attachment and Sale  
(See section 125)

To .....(name) and designation of the Police Officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring. ....(name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees..... and whereas the said. ....(name) in willful disregard of the said order has failed to pay rupees..... being the amount of the allowance for the month (or months) of.....

This is to authorize and require you to attach any movable property belonging to the said ..... (name) which may be found within the district of..... and if within.....(state the number of days of hours allowed) next after such attachment the said sum shall not be paid (or forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated this..... day of .....20.....

(Seal of the court)

(Signature)

## FORM NO. 20. Order for the Removal of Nuisances

FORM NO. 20

Order for the Removal of Nuisances  
(See section 133)

To ..... (name, description and address).

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway (or other public place) which, etc.,..... (describe the road or public), by, etc..... (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists;



or

WHEREAS it has been made to appear to me that you are carrying on, as owner, or manager, the trade or occupation of..... (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason..... (state briefly) in what manner the injurious effects are caused), and should be suppressed or removed to a different place.

or

WHEREAS it has been made to appear to me that you are the owner (or are in possession of or have the control over) a certain tank (or well or excavation), adjacent to the public way ..... (describe the thoroughfare), and that the safety of the public is endangered by reason of the said tank (or well or excavation) being without a fence (or insecurely fenced);

or

WHEREAS etc., etc., (as the case may be);

I do hereby direct and require you within .....(state the time allowed)..... (state what is required to be done to abate the irritation) or to appear at..... in the Court of..... on the.....day of ..... next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within..... (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc;

or

I do hereby direct and require you within ..... (state the time allowed) to put up a sufficient fence. ....(state the kind of fence and the part to be fenced); or to appear, etc;

I do hereby direct and require you, etc., etc., (as the case may be).

Dated this..... day of .....20....

(Seal of court)

(Signature)

## FORM NO. 21. Magistrate's Notice and Preemptory Order

### FORM NO. 21

Magistrate's Notice and Preemptory Order  
(See section 141)

To ..... (name, description and address).

I WHEREBY give you notice that it has been found that the order issued on the.....day of.....requiring you .....(state substantially the requisition in the order) is reasonable and proper. Such order has been made absolute, and I

hereby direct and require you to obey the said order within .....(state the time allowed), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Dated, this——day of ——-20——

(Seal of court)

(Signature)

## FORM NO. 22. Injunction to Provide Against Imminent Danger Pending Inquiry

### FORM NO. 22

Injunction to Provide Against Imminent Danger Pending Inquiry

(See section 142)

To..... (name, description and address).

WHEREAS the inquiry into the conditional order issued by me on the .....day of.....19....., is pending,, and it has been made to appear to me that the nuisance mentioned in the said order is attended with such imminent danger or injury of a serious kind to the public as to render necessary immediate measures to prevent such danger or injury, I do hereby , under the provisions of' section 142 of the Code of Criminal Procedure, 1973, direct and enjoin you forthwith to.....(state plainly what is required to be done as a temporary safeguard), pending the result of the inquiry.

Dated, this day of .....19.....

(Seal of the court)

(Signature)

## FORM NO. 23. Magistrate's Order Prohibiting the Repetition, etc., of a Nuisance

### FORM NO. 23

Magistrate's Order Prohibiting the Repetition, etc., of a Nuisance

(See section 143)

To..... (name, description and address)

WHEREAS it has been made to appear to me that, etc.,..... (state the proper recital, guided by Form No. 20 or Form No. 24, as the case may be);

I do hereby strictly order and enjoin you not to repeat or continue, the said nuisance.

Dated, this..... day of .....20.....

(Seal of court)

(Signature)

## FORM NO. 24. Magistrate's Order to Prevent Obstruction, Riot, etc.

FORM NO. 24

Magistrate's Order to Prevent Obstruction, Riot, etc.

(See section 144)

To ..... (name, description and address).

WHEREAS it has been made to appear to me that you are in possession (or have the management of.....(describe clearly the property), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug-up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road.

or

WHEREAS it has been made to appear to me that you and a number of other persons .....(mention the class of persons) are about to meet and proceed in a procession along the public street, etc., (as the case may be) and that such procession is likely to lead to a riot or any affray;

or

WHEREAS, etc., etc., (as the case may be);

I do hereby order you not to place or permit to be placed any of the earth or stones dug from 1 and on any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (or as the case recited may require).

Dated this..... day of .....20.....

(Seal of the court)

(Signature)

## FORM NO. 25. Magistrate's Order Declaring Party Entitled to Retain Possession of Land, Etc., in Dispute

**FORM NO. 25**

Magistrate's Order Declaring Party Entitled to Retain Possession of Land, Etc., in Dispute

(See section 145)

It appears to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between .....(describe the parties by name and residence, or residence only if the dispute be between bodies of villagers) concerning certain.....(state concisely the subject of dispute), situate within my local jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said .....(the

subject of dispute), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (name or names or description ) is true, I so decide and declare that he is (or they are ) possession of the said .....(the subject of dispute) and entitled to retain such possession until ousted by due Course of law, and do strictly forbid any disturbance of his (or their) possession in the meantime.

Dated this..... day of .....20.....

(Seal of the court)

(Signature)

## FORM NO. 26. Warrant of Attachment in the case of a Dispute as to the Possession of Land, etc.

### FORM NO. 26

Warrant of Attachment in the case of a Dispute as to the Possession of Land, etc.

(See section 146)

To the officer in charge of the Police Station at .....

(or, To the Collector of.....)

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between. ....(describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers) concerning certain ..... (state concisely the subject of dispute) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said.....(the subject of dispute), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said.....(the subject of dispute) (or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid);

This is to authorise and require you to attach the said ..... (the subject of dispute) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this..... day of .....19.....

(Seal of the court)

(Signature)

## FORM NO. 27. Magistrate's Order Prohibiting the Doing of Anything on Land or Water

### FORM NO. 27

Magistrate's Order Prohibiting the Doing of Anything on Land or Water

(See section 147)

A DISPUTE having arisen concerning the right of use of ..... (state concisely the subject of dispute) situate within my local jurisdiction, the possession of which land (or water) is claimed exclusively by..... (describe the person or persons), and it appears to me, on due inquiry into the same, that the said land (or water) has been open to the enjoyment of such use by the public (or if by individual or a class of him or them) and (if the use can be enjoyed throughout the year) that the said use has been enjoyed within three months of the institution of the said inquiry (or if the use is enjoyable only at a particular season say, "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said .....(the claimant or claimant of possession) or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession.

Dated this..... day of .....20.....

(Seal of the court)

(Signature)

## FORM NO. 28. Bond and Bail-Bond on a Preliminary Inquiry Before a Police Officer

FORM NO. 28

Bond and Bail-Bond on a Preliminary Inquiry Before a Police Officer

(See section 169)



I. ....(name), of....., being charged with the offence of ..... and after inquiry required to appear at before the Magistrate of.....

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at.....,in the court of.....on the..... day of ..... next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and in case of my making default therein, I bind myself to forfeit to Government, the sum of rupees.....

Dated, this.....day of .....20.....

(Seal of the court)

(Signature)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the above said ..... (name) that he shall attend at.....in the court of ..... on the..... day of..... Next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Government, the sum of rupees.....

Dated, this.....day of .....20.....

(Seal of the court)

(Signature)

## FORM NO. 29. Bond to Prosecute or Give Evidence

### FORM NO. 29

Bond to Prosecute or Give Evidence

(See section 170)

I, ..... (name), of..... (place) do hereby bind myself to attend at.....in the Court of.....at.....o'clock on the .....day of.....next and then and there to prosecute (or to prosecute and give evidence) (or to give evidence in the matter of a charge of..... against one A.B. and, in case of making default herein. I bind myself to forfeit to Government the sum of rupees.....

Dated, this.....day of..... 20.....

(Seal of the court)

(Signature)

## FORM NO. 30. Special Summons to a Person Accused of a Petty Offence

### FORM NO. 30

Special Summons to a Person Accused of a Petty Offence

(See section 206)

To.....(name of the accused)

of.....(address)

WHEREAS your attendance is necessary to answer a charge of a petty offence.....(state shortly the offence charged), you are hereby required to appear in person (or by pleader) before ..... (Magistrate) of..... on the..... day of ..... .19..... or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty in writing and the sum of ..... rupees as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader.

Herein fail not. Dated, this ..... day of..... 20.....

(Seal of the court)

(Signature)

(Note-The amount of fine specified in this summons shall not exceed one hundred rupees.)

## FORM NO. 31. Notice of Commitment by Magistrate to Public Prosecutor





**FORM NO. 31**

Notice of Commitment by Magistrate to Public Prosecutor

(See section 209)

The Magistrate of..... hereby gives notice that he has committed one.....for trial at the next Sessions; and the Magistrate hereby instructs the Public Prosecutor to conduct the prosecution of the said case.

The charge against the accused is that. ....etc. (state the offence as in the charge).

Dated, this ..... day of..... 20.....

(Seal of the court)

(Signature)

**FORM NO. 32. Charges****FORM NO. 32**

Charges

(See sections 211, 212 and 213)

**1. CHARGES WITH ONE-HEAD**

(1) (a) I..... (name and of office of magistrate, etc.), hereby charge you..... (name of accused person) as follows: –

(b) On section 121. -That you, on or about the .....day of....., at.....waged war against the Government of India and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of this court.

(c) And I hereby direct that you be tried by this court on the said charge.

(Signature and Seal of Magistrate)

[To be substituted for (b)]-

(2) On section 124. – That you, on or about the .....day of....., at.....with the intention of inducing the President of India [or, as the case may be, the Governor of ..... (name of State) to refrain from exercising a lawful power as Such President (or as the case may be, the Governor), assaulted President (or, as the case may be, Governor), and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of this court.

(3) On section 161. -That you being a public servant in the.....Department, directly accepted from.....(state the name) for another party..... (state the name) gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of this court.

(4) On section 166. -That you, on or about the.....day of....., at..... did (or omitted to do, as the case may be), such conduct being contrary to the provisions of ..... Act....., section.....and known by you to be prejudicial to.....and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of this court.

(5) On section 193. – That you, on or about the.....day of....., at.....in the Course of the trial of.....

before.....stated in evidence that "....." which statement you either knew or believed to be false, or did not believe to be true, and thereby committed all offence punishable under section 193 of the Indian Penal code, and within the cognizance of this Court.

(6) On section 304. – That you, on or about the day of.....at.....committed culpable homicide not amounting to murder, causing the death of ..... and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of this court.

(7) On section 306. –That you, on or about the day of..... at..... abetted the commission of suicide by A.B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance this court.

(8) On section 325. – What you, on or about the day of .....at.....voluntarily caused grievous hurt to..... and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of this court.

(9) On section 392. –That you, on or about the..... day of....., at.....robbed (state the name), and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of this court.

(10) On section 395. –That you, on or about the..... day of....., at.....committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of this court.



## II. CHARGES WITH TWO OR MORE HEADS

(1)(a) I.....(name and office of magistrate, etc.) hereby charge you ..... (name of accused person) as follows: –

(b) On section 241 First – That you, on or about the .....day of....., at..... knowing a coin to be Counterfeit, delivered the same to another person, by name, A.B. as genuine, and thereby, committed an offence punishable under section 241 of the Indian Penal code, and within the cognizance of the Court of Session.

Secondly – That you, on of about the .....day of....., at..... knowing a coin to be counterfeit attempted to induce another person, by name, A. B. to get it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

(c) And I hereby direct that you be tried by the said court on the said charge.

(Signature and seal of the magistrate)

[To be substituted for (b)]: –

(2) On sections 302 and 304 First. –That you, on or about the .....day of....., at..... committed murder by causing the death of and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the court of Session.

Secondly – That you on or about the .....day of.....at....., by Causing the death of committed culpable homicide not amounting to Murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3) On sections 379 and 382 First: -That you, on or about the.....day of.....,

at..... Committed theft, and thereby committed all offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly- That you on or about the ..... day of.....at.....

committed theft, having made preparation for causing death to a person in order to the committing of such theft and there by committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly – That you or about the ..... day of....., at.....

committed theft, having made preparation for, causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly – That you on or about the .....day of....., at..... committed theft having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session,

(4) Alternative charge on section 193. -That you, on or about the..... day of....., at..... in the course of the inquiry into ..... before..... stated in evidence that "....." and that you, on or about the.....day of..... at.....in the Course of the trial of ..... before ..... Stated in the evidence that "....." one of which statements you either knew or believed to be false or did not believe to be true, and thereby committed all offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

(In cases tried by Magistrate substitute "within my cognizance", for "within the cognizance of the Court of Session").

### III. CHARGES FOR THEFT AFTER PREVIOUS CONVICTION

I.....(name and office of Magistrate, etc,) hereby you.....(name of accused person) as follows: —

That you ,on or about the .....day of.....at.....committed

Theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code and within the cognizance of the Court of Session (or Magistrate as the case may be).

And you, the said .....(name of accused), stand further charged that you, before the committing of the said offence, that is to say, on the.....day of....., had been convicted by the .....(state court by which conviction was had ) at .....of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment or a term of three years, that is to say, the offence of house-breaking by night.....(describe the offence in the word used in the section under which the accused was convicted),which



convention is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct to you be tried, etc.

## FORM NO. 33. Summons to Witness

### FORM NO. 33

Summons to Witness

(See sections 61 and 244)

To.....of.....

WHEREAS complaint has been made before me that.....(name of the accused) of .....(address) has (or is suspected to have) committed the offence of .....(state the offence concisely with time and place), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this court on the .....day of.. .....next at ten o'clock in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Dated this .....day of.....20.....

(Seal of the court)

(Signature)



## FORM NO. 34. Warrant of Commitment on a Sentence of Imprisonment or Fine if Passed by A Court

### FORM NO. 34

Warrant of Commitment on a Sentence of Imprisonment or Fine if Passed by A <sup>1</sup>[court]

<sup>2</sup>[See sections 235, 248 and 255)]

To the Officer in charge of the Jail at.....

WHEREAS on the..... day of.....(name of prisoner) the (1st, 2nd, 3rd as the case may be) prisoner incase No .....of the Calendar for 19.....was convicted before me .....(name and official designation) of the offence of..... (mention the offence or offences concisely) under section ..... (or sections) of' the Indian Penal Code (or of..... Act.....), and was sentenced to ..... (state the punishment fully distinctly);

This is to authorise and require you to receive the said.....(prisoner's name) into your custody in the said Jail, together with this warrant, and thereby carry the aforesaid sentence into execution according to law.

Dated this .....day of.....20.....

(Seal of the Court)

(Signature)

**1. Subs. by Act 45 of 1978, sec. 35, for "Magistrate" (w.e.f 18-12-1978).**

**2. Subs. by Act 45 of 1978, sec. 35, for "See sections 248 and 255" (w.e.f.18-12-1978).**

## FORM NO. 35. Warrant of Imprisonment on Failure to Pay Compensation

### FORM NO. 35

Warrant of Imprisonment on Failure to Pay Compensation  
(See section 250)

To the Officer in charge of the Jail at .....

WHEREAS.....(name and description) has brought against.....  
(name and description of the accused person) the complaint that..... (mention it concisely) and the same has been dismissed on the ground that there was no reasonable ground for making the accusation against the said..... (name) and the order of dismissal awards payment by the said..... (name of complaint) of the sum of rupees .....as compensation; and whereas the said sum has not been paid and an order has been made for his simple imprisonment in Jail for the period of.....days, unless the aforesaid sum be sooner paid.

This is to authorise and require you to receive the said .....(name) into your custody, together this warrant, and him safely to keep in the said Jail for the said period of..... (term of imprisonment), subject to the provisions of section 69 of the Indian Penal Code unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this .....day of..... 20.....

(Seal of the Court)

(Signature)

## FORM NO. 36. Order Requiring Production in Court of Person in Prison for Answering to Charge of Offence

### FORM NO. 36

Order Requiring Production in Court of Person in Prison for Answering to Charge of Offence

(See section 267)

To the Officer in charge of the Jail at.....

WHEREAS the attendance of.....(name of prisoner) at present confined/detained in the above-mentioned prison, is required in this court to answer to a charge of ..... (state

shortly the offence charged) or for the purpose of a proceeding (state shortly the particulars of the proceeding);

You are hereby required to produce the said .....under safe and sure conduct before this court .....on the .....day of ....., 19..... by .....A. M. there to answer to the said charge, or for the purpose of the said proceeding, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of this order and deliver to him the attached copy thereof.

Dated, this .....day of..... 20.....

(Seal of the Court)

(Signature)

## FORM NO. 37. Order Requiring Production in Court of Person in Prison for Giving Evidence

### FORM NO. 37

#### Order Requiring Production in Court of Person in Prison for Giving Evidence (See section 267)

To the Officer in charge of the Jail at.....

WHEREAS complaint has been made before the court that ..... (name of the accused) of.....has committed the offence of ..... (state offence concisely with time and place) and it appears that.....(name of prisoner) at present confined/detained in the above-mentioned prison, is likely to give material evidence for the prosecution/defence;

You are hereby required to produce the said .....under safe and sure conduct before this court at .....on the..... day of..... 19..... by..... A.M. there to give evidence in the matter now pending before this court this court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of this order and deliver to him the attached copy thereof.

Dated, this ... ..... day of .....19.....

(Seal of the Court)

(Signature)

Countersigned

(Seal)

(Signature)

## FORM No. 38 WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT

### FORM No. 38

## WHEN A FINE IS IMPOSED

**(See section 345)**

To the Officer in charge of the Jail at .

WHEREAS at a Court held before me on this day (name and description of the offender) in the presence (or view) of the Court committed wilful contempt ;

And whereas for such contempt the said (name of the offender) has

been adjudged by the Court to pay a fine of rupees, or in default

1088J

(The Second Schedule.)

to suffer simple imprisonment for the period of (state the number of months or days) ;

This is to authorise and require you to receive the said (name of offender) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of, 19.

(Seal of the Court)

(Signature)

## FORM NO. 39. Magistrate's or Judge's Warrant of Commitment of Witness Refusing to answer or to Produce Document

**FORM NO. 39**

Magistrate's or Judge's Warrant of Commitment of Witness Refusing to answer or to Produce Document

(See section 349)

To .....(name and designation of officer of court).

WHEREAS ..... (name and description), being summoned (or brought before this court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, or having been called upon to produce any document has refused to produce such document, without alleging any just excuse for such refusal, and for his refusal has been ordered to be detained in custody for.....(term of detention adjudged);

This is to authorise and require you to take the said .....(name) into custody, and him safely to keep in your custody for the period .....of days, unless in the meantime he shall consent



to be examined and to answer the questions asked of him, or to produce the document called for from him, and on the last of the said days, or forthwith on such consent being known, to bring him before this court to be dealt with according to law returning this warrant with an endorsement certifying the manner of its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

## FORM NO. 40. Warrant of Commitment under Sentence of Death

FORM NO. 40

Warrant of Commitment under Sentence of Death

(See section 366)

To the officer in the in charge of the Jail at .....

WHEREAS at the Session held before me on the.....day of.....20.....(name of prisoner) the (1st,2nd,3rd, as the case may be) prisoner in case No..... of the Calendar for 20.....at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section..... of the Indian Penal Code , and sentenced to death subject to the confirmation of the said sentence by the.....court of.....;

This is to authorise and require you to receive the said .....(prisoner's name) into your custody in the said Jail, together with this warrant, and him there safety to keep until you shall receive the further warrant or order of this court, carrying into effect the order of the said..... court.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

## FORM NO. 41. Warrant After a Commutation of a Sentence

FORM NO. 41

### Warrant After a Commutation of a Sentence

<sup>1</sup>[See sections 386, 413 and 416]

To the Officer in change of the Jail at.....

WHEREAS at a Session held on the.....day of..... 20...(name of prisoner) the (1st, 2nd, 3rd,as the case may be) prisoner in case No .....of the calendar for 20.....at said Session, was convicted of the offence of.....punishable under section..... of the Indian Penal Code, and sentenced to.....and was thereupon committed to your custody; and whereas by the order of the.....Court of .....(a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence of commuted to the punishment of imprisonment for life;



This is to authorize and require you safely to keep the said.....(prisoner's name) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the project authority and custody for the purpose of his undergoing the punishment of imprisonment for under the said order.

or

if the mitigated sentence is one of imprisonment, say ,after the words "custody in the said jail", and there to carry into execution the Punishment of imprisonment under the said order according to law".

Dated, this.....day of.....,20....

(Seal of the Court)

(Signature)

**1. Subs. by act 45 of 1978, sec. 35, for "(See section 396)" (w.e.f. 18-12-1978).**

## FORM NO. 42. Warrant of execution of a sentence of death

### FORM NO. 42

Warrant of execution of a sentence of death

<sup>1</sup>[See sections 413 and 414]

To the Officer in charge of the Jail at.....

WHEREAS.....(name of the prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner incase No.....of the Calendar for 20.....at the Session held before me on the.....day of.....20.....has been by a warrant of the court, dated the day .....of.....committed to your, custody under sentence of death.....and whereas the order of the High Court at.....confirming the said sentence has been received by this court;

This is to authorise and require to carry the said sentence into causing the said ..... to be hanged by neck until he be dead, at..... (time and place of execution) and to return this to the court with an endorsement certifying that the sentence has been executed.

Dated, this ..... day of.....20.....

(Seal of the Court)

(Signature)

**1. Subs. by Act 45 of 1978, sec. 35, for "(See section 414)" (w.e.f. 18-12-1978).**

## FORM NO. 43. Warrant to Levy a Fine by Attachment and Sale

### FORM NO. 43

Warrant to Levy a Fine by Attachment and Sale

(See section 42)



To ..... (name and designation of the police officer or other person or person's who is or are to execute the warrant).

WHEREAS .....(name and description of the offender) was on the.....day of.....20.....convicted before me of the offence of..... (mention the offence concisely), and sentenced to pay a fine of rupees .....and whereas the said..... (name), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorise and require you to attach any movable property, belonging to the said. ....(name) which may be found within the district of.....; and if within.....(state the number of days or hours allowed) next after such attachment the said sum shall not be paid or (forthwith) to sell the movable property attached or so much thereof as shall be sufficient to satisfied the said fine, returning this warrant, with an endorsement certifying that you have done under it, immediately upon its execution.

Dated, this ... ..... day of .....20.....

(Seal of the Court)

(Signature)

## FORM NO. 44. Warrant for Recovery of Fine

### FORM NO. 44

Warrant for Recovery of Fine

(See section 421)

To the collector of the district of.....

WHEREAS. ....(name, address and description of the offender) was on the .....day of....., 19..... convicted before me on the offence of.....(mention the offence concisely), and sentenced to pay a fine of rupees.....; and

whereas the said.....(name), although required to pay, the said fine has not paid the same or any part thereof;

You are hereby authorised and requested to realise the amount of the said fine as arrears of land revenue from the movable of immovable property, or both, of the said. .... (name) and to certify without delay what you may have done in pursuance of this order.

Dated, this ... ..... day of .....20.....

(Seal of the Court)

(Signature)

## FORM NO. 44A. Bond for Appearance of Offender Released Pending Realization of Fine

<sup>1</sup>[FORM NO. 44A]

Bond for Appearance of Offender Released Pending Realization of Fine

[See section 424(1)(b)]

WHEREAS I.....(name), inhabitant of.....(place) have been sentenced to pay a fine of rupees. ....and in default of payment thereof to undergo imprisonment for.....and whereas the court has been pleased to order my release on condition of my executing a bond for my appearance on the following date (or dates), namely: –

I hereby bind myself to appear before the court of .....at..... o'clock on the following date or dates namely: –

and in case of making, default therein, I bind myself to forfeit to government the sum of rupees.....

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

#### **WHERE A BOND WITH SURETIES IS TO BE EXECUTED, ADD-**

We do hereby declare ourselves sureties for the above named that he will appear before the court of..... on the following date (or dates) namely: –

and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to Government the sum of rupees.....

(Signature)

#### **1. Ins. by Act 45 of 1979, sec.35 (w.e.f. 18-12-1978).**

## **FORM NO. 45. Bond and Bail-Bond for Attendance Before Officer in Charge of Police Station or Court**

### **FORM NO. 45**

Bond and Bail-Bond for Attendance Before Officer in Charge of Police Station or Court

[See sections 436, 437, 438 (3) and 441]

I.....(name), of.....(place) having been arrested or detained without warrant by the officer in charge of .....police station (or having been brought before the court of.....) charged with the offence of....., and required to give security for my attendance before such officer or court on condition that I shall attend such officer or court on every day on which any investigation or trial is held with regard to such charge, and in case of my making default herein, I bind myself to forfeit to Government the sum of rupees.....

Dated, this ... day of .....19.....

(Signature)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the above said..... (name) that he shall attend the officer in charge of..... police station or the court of.....on every day on which any investigation into the charge is made or any trial (on such charge is held that he shall be, and

appear before such officer or court or the purpose of such investigation or to answer the charge against him (as the case may be), and, in case of his making default herein. I hereby bind myself (or we hereby hire ourselves) to forfeit to Government the sum of rupees.....

Dated, this ... day of .....19.....

(Seal of the Court)

(Signature)

## FORM NO. 46. Warrant to Discharge a Person Imprisoned on Failure to Give Security

### FORM NO. 46

Warrant to Discharge a Person Imprisoned on Failure to Give Security

(See section 442)

To the officer in charge of the Jail at..... (or other officer in whose custody the person is )

WHEREAS. ....(name and description of prisoner) was committed to your Custody under warrant of this court, dated ,the.....,day of .....and has since with his surety (or sureties) duly executed a bond under section 441 of the Code of Criminal Procedure.

This is to authorize and require you forthwith to discharge the said..... (name) from your custody), unless he is liable to be detained for some other matter.

Dated, this ... day of .....19.....

(Seal of the Court)

(Signature)

## FORM NO. 47. Warrant of Attachment to Enforce a Bon

<sup>1</sup>[FORM NO. 47]

Warrant of Attachment to Enforce a Bon

(See section 446)

To the Police officer in charge of tile police station at.....

WHEREAS. ....(name, description and address of person) has failed to appear .....on (mention the occasion) pursuant to his recognizance, and thus by default forfeited to Government the sum of rupees .....(the penalty in the bond); and whereas the said ..... (name of person) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him.

This is to authorise and require you to attach any movable property of the said. .... (name) that you may find within the district of by seizure, and detention, and, if the said

amount be not paid within. ....days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

**1. Ins. by Act 45 of 1978, sec. 35 (w.e.f. 18-12-1978).**

## FORM NO. 48. Notice to Surety in Breach of a Bond

<sup>1</sup>[FORM NO. 48

Notice to Surety in Breach of a Bond

(See section 446)

To ..... of.....

WHEREAS on the.....day of.....20 .....you became surety for. ....(name) of.....(place) that he should appear before this court on the .....day of..... and bound yourself in default thereof to forfeit the sum of rupees.....to Government; whereas the said .....(name) has failed to appear before this court and by reason of such..... default you have forfeited the aforesaid sum of rupees.....

You are hereby required to pay the said penalty or show cause, within..... days from this date, payment of the said sum should not be enforced against you.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).

## FORM NO. 49. Notice to Surety of Forfeiture of Bond for Good Behaviour

<sup>1</sup>[FORM NO. 49

Notice to Surety of Forfeiture of Bond for Good Behaviour

(See section 446)

To.....of.....

WHEREAS on the .....day of..... 20...you become surety by a bond for ..... (name) of .....(place) that he would be of good behaviour for the period of. ....and bound yourself in default thereof forfeit the sum of rupees ..... to Government; and whereas the said .....(name) has been convicted of the offence of.....(mention the offence concisely) committed since you became surety whereby your security bond become forfeited;

You are hereby required to pay the said penalty of rupees. ....or to show cause within .....days it should not be paid.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).**

## FORM NO. 50. Warrant of Attachment Against a Surety

<sup>1</sup>[FORM NO. 50

Warrant of Attachment Against a Surety

(See section 446)

To of.....

WHEREAS. ....(name, description and address) has bound himself as surety for the appearance of..... (mention the condition of the bond) and the said..... (name) has made default, and thereby forfeited to Government the sum of rupees ..... (the penalty in the bond.)

This is to authorise and require you to attach any movable property of the said. .... (name) which you may find within the district of ..... less by seizure and detentions; and, if the said amount be not paid within. ....days, to sell the property so attached, or so much of it as be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).**

## FORM NO. 51. Warrant of Commitment of the Surety of an Accused Person Admitted to Bail

<sup>1</sup>[FORM NO. 51

Warrant of Commitment of the Surety of an Accused Person Admitted to Bail

(See section 446)

To the Superintendent (or keeper) of the Jail at.....

WHEREAS. ....(name and description of surety) has bound himself as a surety for the appearance of.....(state the condition of the bond) and the said .....(name) has there in made default whereby the penalty mentioned in the said bond has been forfeited to Government; and whereas the said..... (name of surety) has, on due notice to him failed to pay the said sum or show any sufficient cause why payment should not be enforced against

him, and the same cannot be recovered by attachment and sale of his movable property, and an order has been made for his imprisonment in the Civil Jail for. ....(specify the period);

This is to authorise and require you, the said Superintendent (or Keeper) to receive the said .....(name) into your custody with this warrant and to keep him safely in the said Jail for the said .....(term of imprisonment) and to return the warrant with an endorsement certifying the manner of its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)]

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).**

## FORM NO. 52. Notice to the Principal of Forfeiture of Bond to Keep the Peace

<sup>1</sup>[FORM NO. 52

Notice to the Principal of Forfeiture of Bond to Keep the Peace

(See section 446)

To..... (name, description and address)

WHEREAS on the.....day of..... 20 .....you entered into a bond not to commit, etc. (as in the bond), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay, the said penalty of rupees..... or to show cause before me within. ....days why payment of the same should not be enforced against you.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)]

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).**

## FORM NO. 53. Warrant to Attach the Property of the Principal on Breach of a Bond to Keep the Peace

<sup>1</sup>[FORM NO. 53

Warrant to Attach the Property of the Principal on Breach of a Bond to Keep the Peace

(See section 446)

To ..... (name and designation of police officer) at the police station of.....

WHEREAS ..... (name and description) did, on the..... day of .....20... enter into a bond for the sum of rupees..... binding himself not to commit a breach of the peace, etc. (as in the bond), and proof of the forfeiture of the said bond

has been given before me and duly recorded; and whereas notice has been given to the said..... (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise require you to attach by movable property belonging to the said. .... (name) to the value of rupees..... which you may find within the district of....., and, if the said be not paid within ....., to sell the property so attached, or so much of it as may be sufficient to realise the same and to make return of what you have done under this immediately upon its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)]

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).**

## FORM NO. 54. Warrant of Imprisonment on Breach of a Bond to Keep the Peace

<sup>1</sup>[FORM NO. 54

Warrant of Imprisonment on Breach of a Bond to Keep the Peace  
(See section 446)

To the Superintendent (or Keeper) of the Civil at.....

WHEREAS proof has been given before me and duly recorded that. ....(name and description) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Government the sum of rupees.....and whereas the said. ....(name) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said .....(name) in the civil Jail for the period of ..... (term of imprisonment);

This is to authorise and require you, the said Superintendent (or Keeper) of the said Civil Jail to receive the said. ....(name) into your Custody, together with this warrant and to keep him safely in the said jail for the said period of .....(term of imprisonment) and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)]

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978).**

## FORM NO. 55. Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour

<sup>1</sup>[FORM NO. 55

Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour



(See section 446)

To the police officer in charge of the police station at.....

WHEREAS. ....(name), description and address) did, on the..... day of..... 20..... give security by bond in the sum of rupees..... for the good behaviour of..... (name etc., of the principal), and proof has been given before me and duly recorded of the commission by the said. ....(name) of the offence of. ....whereby the said bond has been forfeited: and whereas notice has been given to the said ..... (name) calling upon him to show cause why the aid sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said ..... (name) to the value of' rupees ..... which you may find within the district of..... and, if the said sum be not paid within .....to sell the property so attached , or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this ... day of .....20.....

(Seal of the Court)

(Signature)]

# **1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978)**

## **FORM NO. 56. Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour**

<sup>1</sup>[FORM NO. 56

Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour

(See section 446)

To the Superintendent (or keeper) of the Civil at.....

WHEREAS ..... (name description and address) did, on the ..... day of .....19... give security by bond in the sum of rupees..... for the good behavior of. .... (name, etc., of the principal) and proof of the breach of the said bond has been given before me and duly recorded, whereby said .....(name) has forfeited to Government the sum of rupees.....and whereas he has failed to pay the said sum of to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property and an order has been made for the imprisonment of the said.....(name) in the Civil Jail for the period of.....(term of imprisonment ).

This is to authorise and require you, the Superintendent (or keeper) to receive the said..... (name) into your custody, together with this warrant, and to keep him safely in the said Jail for the period of. ....(term of imprisonment), returning this warrant with and endorsement certifying the manner of its execution.

Dated, this ... day of .....20.....

(Seal of the Court)



(Signature)]

**1. Ins. by Act 45 of 1978, sec.35 (w.e.f. 18-12-1978)**

