

**THE CODE OF CRIMINAL PROCEDURE, 1898**  
**ACT NO. V OF 1898**

[22nd March, 1898]

**An Act to consolidate and amend the law relating to the  
Criminal Procedure.\***

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:

**PART I**  
**PRELIMINARY**  
**CHAPTER I**

**1.** (1) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July, 1898. Short title  
Commence-  
ment

(2) It extends to the whole of Bangladesh; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special <sup>1</sup>[\* \* \*] law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force. Extent

**2.** [Repealed by the Repealing and Amending Act, 1914 (Act No. X of 1914).]

**3.** (1) [Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.]

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\* Throughout this Code, the words "Bangladesh", "Government", "Taka" , "Penal Code" and "High Court Division" were substituted for the words "Pakistan" or "Each Province", "Central Government" or "Provincial Government" or "Central Government or a Provincial Government", "rupees", "Pakistan Penal Code" and "High Court" or "a High Court" or "any High Court" or "every High Court" or "each High Court" or "High Courts" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup> The words "or local" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Expressions  
in former  
Acts

(2) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class,"<sup>1</sup>[\*\*\*] the expression "Magistrate of the district" shall be deemed to mean "District Magistrate,"<sup>2</sup>[\*\*\*].

Definitions

4. (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

"Advocate"

<sup>3</sup>[(a) "advocate", used with reference to any proceeding in any Court, means an advocate or a mukhtar authorised under any law for the time being in force to practise in any such Court and includes any other person appointed with the permission of the Court to act in such proceeding;

<sup>1</sup> The words and inverted commas the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate" were omitted by section 2 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words and inverted commas "and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge" were omitted by section 2 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> Clauses (a) and (aa) were substituted for clause (a) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (aa) "Attorney-General" means the Attorney-General for Bangladesh, and includes also the Additional Attorney-General, the Deputy Attorney-General or the Assistant Attorney-General for Bangladesh, or, a Government advocate or such officer as the Government may, from time to time, appoint in this behalf:] "Attorney-General"
- (b) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence: "Bailable offence"  
"Non-bailable offence"
- (c) "charge" includes any head of charge when the charge contains more heads than one: "Charge"
- (d) [*Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1923 (Act No. XI of 1923).*]
- (e) Clerk of the State includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the State: "Clerk of the State"
- (f) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a Police-officer, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant:ssw "Cognizable offence"  
"Cognizable case"
- (g) [*Omitted by the Schedule of the Adaptation of Central Acts and Ordinances Order, 1949.*]

"Complaint"	(h) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person whether known or unknown, has committed an offence, but it does not include the report of a police-officer:
"Court of Session"	<sup>1</sup> [(hh) "Court of Session" includes a Metropolitan Court of Session;]
"High Court Division"	(i) [ <i>Omitted by the Schedule of the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).</i> ]  <sup>2</sup> [(j) "High Court Division" means the High Court Division for criminal appeal or revision: ]
"Inquiry"	(k) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court:
"Investigation"	(l) "investigation" includes all the proceedings under this Code for the Collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by Magistrate in this behalf:
"Judicial proceeding"	(m) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath:

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<sup>1</sup> Clause (hh) was inserted by the Code of Criminal Procedure (Amendment) Act, 2000 (Act No. XLI of 2000) section 2.

<sup>2</sup> Clause (j) was substituted for the former clause (j) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (n) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, may not arrest without warrant: "Non-cognizable offence"  
"Non-cognizable case"
- (o) "offence" means any act or omission made punishable by any law for the time being in force; "Offence"  
it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871:
- (p) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station house who is next in rank to such officer and is above the rank of constable or, when the Government so directs, any other police-officer so present: "Officer in charge of a police-station"
- (q) "place" includes also a house, building, tent and vessel: "Place"
- (r) [Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule]:
- (s) "police-station" means any post or place declared, generally or specially, by the Government to be a police-station, and includes any local area specified by the Government in this behalf: "Police-station"
- (t) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor<sup>1</sup>[\* \* \*]: "Public Prosecutor"
- <sup>2</sup>(u) "Upazila" means a Upazila as defined in the Upazila Parisad Act, 1998 (Act. No. XXIV of 1998): "Upazila"
- (v) and (w) [Omitted by section 2 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).]

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<sup>1</sup> The words and letter "and any person conducting a prosecution on behalf of the State in any High Court in the exercise of its original criminal jurisdiction" were omitted by section 3 and 2nd Schedule of Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> Clause (u) was substituted by section 3 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

"Words referring to acts"

(2) Words which refer to acts done, extend also to illegal omissions; and

Words to have same meaning as in Penal Code

all words and expressions used herein and defined in the Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

Construction of references

<sup>1</sup>[4A. (1) In this Code, unless the context otherwise requires, any reference-

- (a) without any qualifying word, to a Magistrate, shall be construed as a reference to a Judicial Magistrate;
- (b) with a qualifying word not being a word clearly indicating a Judicial magistrate shall be construed as a reference to a Magistrate as indicated in sub-section (2) (b);
- (c) to a Sub-divisional Magistrate shall be construed as a reference to-
  - (i) the District Magistrate if the functions exercisable are of the nature specified in clause (b) of sub-section (2); or
  - (ii) the Chief Judicial Magistrate or as the case may be, the Chief Metropolitan Magistrate, if the functions exercisable are of the nature specified in clause (a) of sub-section (2);
- (d) to an Assistant Sessions Judge, shall be construed as a reference to a joint Sessions Judge;
- (e) to any area which is included in a Metropolitan area, shall be construed as a reference to such Metropolitan area;

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<sup>1</sup> Section 4A was inserted by section 4 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

- (f) to any reference to a Magistrate of the first, second or third class in relation to an area which is included in a Metropolitan area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in that area;
- (g) to a Magistrate of the first, second or third class in relation to an area outside a Metropolitan Area, shall be construed as a reference to a Judicial Magistrate of the first, second or third class exercising jurisdiction in that area.

(2) Where, under any law for the time being in force other than this Code, the functions exercisable by a Magistrate relate to matters-

- (a) which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or other proceeding or would have the effect of sending him for trial before any Court, they shall subject to the provision of the Code, be exercisable by a judicial Magistrate; or
- (b) which are administrative or executive in nature, such as the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.]

**5.** (1) All offences under the Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

"Trial of offences under Penal Code"

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

"Trial of offences against other laws"

**PART II**  
**CONSTITUTION AND POWERS OF CRIMINAL**  
**COURTS AND OFFICES**

**CHAPTER II**

OF THE CONSTITUTION OF CRIMINAL  
 COURTS AND OFFICES

*A.—Classes of Criminal Courts*

Classes of  
Criminal  
Courts

<sup>1</sup>[6. (1) Besides the Supreme Court and the Courts constituted under any law for the time being in force, other than this Code, there shall be two classes of Criminal Courts in Bangladesh, namely:-

- (a) Courts of Sessions ; and
- (b) Courts of Magistrates.

(2) There shall be two classes of Magistrate, namely: -

- (a) Judicial Magistrate; and
- (b) Executive Magistrate.

(3) There shall be four classes of judicial Magistrate, namely: -

- (a) Chief Metropolitan Magistrate in Metropolitan Area and Chief judicial Magistrate to other areas;
- (b) Magistrate of the first class, who shall in Metropolitan area, be known as Metropolitan Magistrate;
- (c) Magistrate of the second class; and
- (d) Magistrate of the third class.

**Explanation:** For the purpose of this sub-section, the word "Chief Metropolitan Magistrate" and "Chief judicial Magistrate" shall include "Additional Chief Metropolitan Magistrate" and "Additional Chief judicial Magistrate" respectively.]

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<sup>1</sup> Section 6 was substituted by section 5 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009), (with effect from 1st November, 2007).



*B.—Territorial Divisions*

7. (1) Bangladesh shall consist of sessions divisions: and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Sessions divisions and districts

(2) The Government may alter the limits or the number of such divisions and districts.

Power to alter divisions and districts

(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Existing divisions and districts maintained till altered

<sup>1</sup>[(4)<sup>2</sup>[A] Metropolitan Area shall, for the purposes of this Code, be deemed to be a sessions division.]

<sup>3</sup>8. The Government may divide a district into Upazilas and, by notification in the official Gazette, fix or alter the limits of a Upazila or merge the areas of more than one Upazila into one Upazila and in so fixing, altering or merging, the Government shall ensure that the area of a Upazila is identical with the local area included in a Police Station.]

Power to divide districts into Upazilas etc.

*C.—Courts and Offices*

9. (1) The Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court <sup>4</sup>["; and the Court of Session for <sup>2</sup>[a] Metropolitan Area shall be called the Metropolitan Court of Session.]

Court of Session

<sup>1</sup> Sub-section (4) was added by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The letter "a" or "A" was substituted for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>3</sup> Section 8 was substituted by section 6 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The semi-colon and words "; and the Court of Session for the Dhaka Metropolitan Area shall be called the Metropolitan Court of Session" were added by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

(2) The Government may, by general or special order in the official Gazette, direct at what place or places the Court of Session shall hold its sitting; but, until such order is made, the Courts of Session shall hold their sittings as heretofore.

(3) The Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

<sup>1</sup>[\*\*\*

(3A) The members of the Bangladesh Judicial Service shall be appointed as Sessions Judge, Additional Sessions Judge and Joint Sessions Judge in accordance with the rules framed by the President under the proviso to Article 133 of the constitution to exercise jurisdiction in one or more of such areas.]

(4) A Sessions Judge of one sessions division may be appointed by the Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Government may direct.

(5) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

Executive  
Magistrates

<sup>2</sup>[10. (1) In every district and in every Metropolitan Area, the Government shall appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The Government may also appoint any Executive Magistrate to be an Additional District Magistrate, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force, as the Government may direct.

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<sup>1</sup> The proviso of sub-section (3) was omitted and thereafter sub-section (3A) was inserted by section 7 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Sections 10, 11 and 12 were substituted for sections 10, 11, 12, 13, 13A and 14 by section 8 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(3) Whenever in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive in the administration of the district, such officer shall pending the orders of the Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

(4) The Government may, or subject to the control of the Government, the District Magistrate may, from time to time, by order define local areas within which the Executive Magistrate may exercise all or any of the powers with which they may be invested under this Code and, except as otherwise provided by such definition, the jurisdiction and powers of every such Executive Magistrate shall extend throughout the district.

(5) The Government may, if it thinks expedient or necessary, appoint any persons employed in the Bangladesh Civil Service (Administration) to be an Executive Magistrate and confer the powers of an Executive Magistrate on any such member.

(6) Subject to the definition of the local areas under subsection (4) all persons appointed as Assistant Commissioners, Additional Deputy Commissioners or Upazila Nirbahi Officer in any District or Upazila shall be Executive Magistrates and may exercise the power of Executive Magistrate within their existing respective local areas.

(7) Nothing in this section shall preclude the Government from conferring, under any law for the time being in force, on a Commissioner of Police, all or any of the powers of an Executive Magistrate in relation to a Metropolitan area.

**11.** (1) In every district outside a Metropolitan area, the Chief Judicial Magistrates, Additional Chief Judicial Magistrates and other Judicial Magistrates shall be appointed from the persons employed in the Bangladesh Judicial service in accordance with the rules framed by the President under the proviso to Article 133 of the constitution.

Judicial  
Magistrates

(2) An Additional Chief Judicial Magistrate shall have all or any of the powers of the Chief Judicial Magistrate under this Code or any other law for the time being in force, as the Government may direct.

<sup>1</sup>[(2A) The Government may, by general or special order in the *Official Gazette*, direct at what place or places the Court of Chief Judicial Magistrate, Additional Chief Judicial Magistrate and other Judicial Magistrates shall hold its sitting.]

(3) The Government may, or subject to the general or special orders issued by the Government in consultation with the High Court Division, the Chief Judicial Magistrate may, from time to time, define local areas within which the Judicial Magistrates may exercise all or any of the powers with which they may be invested under this Code, and except as otherwise provided by such definition, the jurisdiction and the powers of every such Magistrate shall extend throughout the district.

(4) Notwithstanding anything contained in this section, the Government may require any Executive Magistrate to perform the functions of a Judicial Magistrate for a period to be determined in consultation with the High Court Division and during such period, the Magistrate shall not perform the functions of an Executive Magistrate.

Special  
Magistrate

12. (1) The Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on an Executive Magistrate in respect of particular cases or a particular class or classes of cases, or in regard to cases generally in any local area outside a Metropolitan area:

Provided that no power shall be conferred under the sub-section on any police officer below the grade of an Assistant Superintendent of Police and no powers shall be conferred on such a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting apprehending and detaining offenders, in order to bring the offender before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

(2) The persons on whom the powers under sub-section (1) are conferred shall be called Special Executive Magistrates and

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<sup>1</sup> Sub-section (2A) was inserted by section 2 of the Code of Criminal Procedure, (Amendment) Act, 2012 (Act No. XXXVII of 2012).

shall be appointed for such term as the Government may by general or special order direct.

(3) The Government may, in consultation with the High Court Division confer upon any Magistrate all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate of the first, second or third class in respect of particular cases or a particular class or classes of cases or in regard to cases generally in any local area outside a Metropolitan area.

(4) The Magistrate on whom the powers under sub-section (3) are conferred shall be called Special Magistrates and shall be appointed for such term as the Government may, in consultation with the High Court Division, by general or special order direct.

(5) The Government may in consultation with the High Court Division confer upon any Metropolitan Magistrate all or any of the powers conferred or conferrable by or under this Code on Metropolitan Magistrate in respect of particular cases or a particular class or classes, or in regard to cases generally in any Metropolitan Area.

(6) The persons on whom the powers under sub-section (5) are conferred shall be called Special Metropolitan Magistrates and shall be appointed for such term as the Government may in consultation with High Court Division by general or special order direct.]

**15.** (1) The Government may direct any two or more Magistrates in any place <sup>1</sup>[outside <sup>2</sup>[a] Metropolitan Area] to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits, as the Government thinks fit.

Benches of  
Magistrates

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<sup>1</sup> The words "outside the Dacca Metropolitan Area" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The letter "a" was substituted for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

Powers exercisable by Bench in absence of special direction

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to frame rules for guidance of Benches

**16.** The Government may, or, subject to the control of the Government, the <sup>1</sup>[Chief Judicial Magistrate] may, from time to time, make rules consistent with this Code for the guidance of Magistrate's Benches in any district respecting the following subjects:—

- (a) the classes of cases to be tried;
- (b) the times and places of sitting;
- (c) the constitution of the Bench for conducting trials;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Executive, Judicial and Metropolitan Magistrates

<sup>2</sup>[**17.** (1) All Executive Magistrates appointed under section 10 and 12 (1) shall be subordinate to the District Magistrate who, from time to time, give special order consistent with this Code as to the distribution of business among such Magistrates.

(2) All Judicial Magistrates appointed under section 11 and 12 (3) and all Benches constituted under section 15 shall be subordinate to the Chief Judicial Magistrate who may, from time to time give special orders consistent with this Code and rules made by the Government under section 16 as to the distribution of business among such Magistrates and Benches.

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<sup>1</sup> The words "Chief Judicial Magistrate" were substituted for the words "District Magistrate" by section 9 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Sections 17 and 17A were substituted for section 17 by section 10 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(3) All Metropolitan Magistrates including Additional Chief Metropolitan Magistrate, and Special Metropolitan Magistrate appointed under section 12 (5) and Benches Constituted under section 19, shall be subordinate to the Chief Metropolitan Magistrate, who may, from time to time, give special orders consistent with this Code and rules made by the Government under section 16 as to the distribution of business among such Magistrates and Benches.

(4) All Judicial Magistrates including the Chief Judicial Magistrate shall be subordinate to the Sessions Judge and all Metropolitan Magistrates including the Chief Metropolitan Magistrate shall be subordinate to the Metropolitan Sessions Judge.

**17A.** (1) All Joint Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and the Sessions Judge may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such joint Sessions Judges.

Subordination  
of Joint  
Sessions  
Judges

(2) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Joint Sessions Judge and such Judge shall have jurisdiction to deal with any such application.]

*D.—Courts of<sup>1</sup>[Metropolitan] Magistrates*

<sup>1</sup>**[18.** <sup>2</sup>(1) In every Metropolitan Area, the Chief Metropolitan Magistrate, Additional Chief Metropolitan Magistrate and other Metropolitan Magistrates shall be appointed from among the persons employed in the Bangladesh Judicial Service.]

Appointment  
of Metropolitan  
Magistrates

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<sup>1</sup> The word "Metropolitan" was substituted for the word "Presidency" and after sub-heading D, sections 18, 19, 20 and 21 were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> Sub-section (1) was substituted by section 11(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(2) The Government may appoint one or more Additional Chief Metropolitan Magistrates, and such Additional Chief Metropolitan Magistrates shall have all or any of the powers of the Chief Metropolitan Magistrate under this Code or under any other law for the time being in force, as the Government may direct.

<sup>1</sup>[\*\*\*]

Benches

**19.** Any two or more of Metropolitan Magistrates may, subject to the rules made by the Chief Metropolitan Magistrate, sit together as Bench.

Local limits of jurisdiction

**20.** Every Metropolitan Magistrate shall exercise jurisdiction in all places within <sup>2</sup>[a] Metropolitan Area for which he is appointed.

Chief Metropolitan Magistrate

**21.** (1) The Chief Metropolitan Magistrate shall exercise within the local limits of his jurisdiction all the powers <sup>3</sup>[conferred on him or on a Metropolitan Magistrate under this Code, or under any law for the time being in force] and may, from time to time, with the previous sanction of the Government, make rules consistent with this Code to regulate—

- (a) the conduct and distribution of business and the practice in the Courts of Metropolitan Magistrates;
- (b) the constitution of Benches of Metropolitan Magistrates;
- (c) the times and places at which such Benches shall sit;
- (d) the mode of settling differences of opinion which may arise between Metropolitan Magistrates in session; and

<sup>1</sup> Sub-section (3) was omitted by section 11(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The letter “a” was substituted for the words “the Dacca” by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>3</sup> The words and comma “conferred on him or on a Metropolitan Magistrate under this Code, or under any law for the time being in force” were substituted for the words “conferred on him by this Code” by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).



- (e) any other matter which could be dealt with by a <sup>1</sup>[Chief Judicial Magistrate] under his general powers of control over the Magistrates subordinate to him.

<sup>2</sup>[\*\*\*]]

*E.—Justices of the Peace*

**22.** <sup>3</sup>[The Government] may, by notification in the official Gazette, appoint such persons resident within Bangladesh and not being the subjects of any foreign State as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification. Justices of the Peace for the mafassal

**23 and 24.** [*Repealed by section 4 of the Criminal Law Amendment Act, 1923 (Act No. XII of 1923).*]

**25.** In virtue of their respective offices, the Judges of the <sup>4</sup>[Supreme Court] are Justices of the Peace within and for of the whole of Bangladesh, Sessions Judges <sup>5</sup>[, <sup>6</sup>[Chief Judicial Magistrates] and Metropolitan Magistrates] are Justices of the Peace within <sup>7</sup>[their respective jurisdictions]]. Ex-officio Justices of the Peace

<sup>1</sup> The words “Chief Judicial Magistrate” were substituted for the words “District Magistrate” by section 12(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Sub-section (2) was omitted by section 12(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words "The Government" were substituted for the words and commas "A Provincial Government, so far as regards the territories subject to it, administration," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>4</sup> The words "Supreme Court" were substituted for the words "High Courts" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>5</sup> The comma and words ", District Magistrates and Metropolitan Magistrates" were substituted for the words "and District Magistrate" by section 2 and Schedule of the Code of Criminal Procedure (Amendment), 1976 (Ordinance No. LXXXVI of 1976).

<sup>6</sup> The words “Chief Judicial Magistrates” were substituted for the words “District Magistrate” by section 13 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>7</sup> The words "their respective jurisdictions" were substituted for the words "and for the whole of the territories administered by the Provincial Government under which they are serving" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

*F.— Suspension and Removal*

**26 and 27.** [*Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.*]

**CHAPTER III****POWERS OF COURTS***A.— Description of offences cognizable by each Court*

Offences under Penal Code      **28.** Subject to the other provisions of this Code any offence under the Penal Code may be tried—

- (a) by the High Court Division, or
- (b) by the Court of Session, or
- (c) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

*Illustration*

A is <sup>1</sup>[tried by] the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws      **29.** (1) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried <sup>2</sup>[\* \* \*] subject as aforesaid by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

**29A.** [*Omitted by the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).*]

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<sup>1</sup> The words "tried by" were substituted for the words "committed to" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> The words "by the High Court or" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup>[**29B.** Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried <sup>2</sup>[by <sup>3</sup>[Chief Judicial Magistrate] <sup>4</sup>[or the Chief Metropolitan Magistrate], or by any Magistrate specially empowered by the Government to exercise the powers conferred by <sup>5</sup>[or under any law] providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.]

Jurisdiction in the case of juveniles

<sup>6</sup>[**29C.** Notwithstanding anything contained in section 29, the Government may <sup>7</sup>[in consultation with the High Court Division]-

Offences not punishable with death

- (a) invest the <sup>8</sup>[Chief Metropolitan Magistrate,] <sup>9</sup>[Chief Judicial Magistrate or any Additional Chief Judicial Magistrate] with power to try as a Magistrate all offences not punishable with death;

<sup>1</sup> Section 29B was inserted by section 6 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act No. XVIII of 1923).

<sup>2</sup> This section shall cease to apply to the whole of the district of Dhaka, see section 78(3) of the Children Act, 1974 (Act No. XXXIX of 1974).

<sup>3</sup> The words "Chief Judicial Magistrate" were substituted for the words "a District Magistrate" by section 14 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The words "or the Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>5</sup> The words "or under any law" were substituted for the words and comma "section 8, subsection (1), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>6</sup> Section "29C" was substituted for section "29C" by section 3 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

<sup>7</sup> The words "in consultation with the High Court Division" were inserted by section 15(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>8</sup> The words and comma "Chief Metropolitan Magistrate," were inserted by section 2 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

<sup>9</sup> The words "Chief Judicial Magistrate or any Additional Chief Judicial Magistrate" were substituted for the words "District Magistrate or any Additional District Magistrate" by section 15(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

- (b) invest <sup>1</sup>[Metropolitan Magistrate or] any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death or with transportation or with imprisonment for a term exceeding ten years.]

**30.** [Omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).]

*B.—Sentences which may be passed by Courts of various Classes*

Sentences which High Court Division and Sessions Judges may pass

**31.** (1) <sup>2</sup>[The High Court Division] may pass any sentence authorized by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court Division.

(3) A <sup>3</sup>[Joint] Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding <sup>4</sup>[ten] years or of imprisonment for a term exceeding <sup>4</sup>[ten] years.

<sup>5</sup>[\*\*\*]

<sup>1</sup> The words “Metropolitan Magistrate or” were inserted by section 15(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words “The High Court Division” were substituted for the words “A High Court” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The word “Joint” was substituted for the word “Assistant” by section 16 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The word “ten” was substituted for the word “seven” by section 5 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>5</sup> Sub-section (4) was omitted by the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009), section 16 (with effect from 1st November, 2007).

<p><b>32.</b> (1) The Courts of Magistrates sentences namely:—</p>	<p>may pass the following</p>	<p>Sentences which</p>
<p>(a) Courts <sup>1</sup>[of Metropolitan Magistrates and] of Magistrates of the first class:</p>	<p>Imprisonment for a term not exceeding <sup>2</sup>[five years], including such solitary confinement as is authorized by law; Fine not exceeding <sup>3</sup>[ten thousand taka]; Whipping.</p>	<p>Magistrates may pass</p>
<p>(b) Courts of Magistrates of the second class :</p>	<p>Imprisonment for a term not exceeding <sup>4</sup>[three years], including such solitary confinement as is authorized by law; Fine not exceeding <sup>5</sup>[five thousand taka];</p>	
<p>(c) Courts of Magistrates of the third class:</p>	<p>Imprisonment for a term not exceeding <sup>6</sup>[two years]; Fine not exceeding <sup>7</sup>[two thousand taka].</p>	

<sup>1</sup> The words "of Metropolitan Magistrates and" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The words "five years" were substituted for the words "three years" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>3</sup> The words "ten thousand taka" were substituted for the words "five thousand taka" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>4</sup> The words "three years" were substituted for the words "two years" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>5</sup> The words "five thousand taka" were substituted for the words "two thousand taka" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>6</sup> The words "two years" were substituted for the words "one year" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>7</sup> The words "two thousand taka" were substituted for the words "one thousand taka" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

Power of Magistrates to sentence to imprisonment in default of fine  
 Proviso as to certain cases

**33.** (1) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default:

Provided that-

- (a) the term is not in excess of the Magistrate's powers under this Code;
- (b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Higher powers of certain Magistrates

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

<sup>1</sup>[**33A.** The Court of a Magistrate, specially empowered under section 29C, may pass any sentence authorized by law, except a sentence of death or of transportation or imprisonment for a term exceeding seven years.]

**34.** [*Omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).*]

**34A.** [*Omitted by Schedule of the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).*]

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<sup>1</sup> Section 33A was inserted by section 7 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

**35.** (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Penal Code sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

Sentence in cases of conviction of several offences at one trial

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows:—

Maximum term of punishment

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

(b) if the case is tried by a Magistrate <sup>1</sup>[\* \* \*], the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(3) For the purpose of appeal, the aggregate of consecutive sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

<sup>2</sup>[**35A.** (1) Except in the case of an offence punishable only with death, when any court finds an accused guilty of an offence and, upon conviction, sentences such accused to any term of imprisonment, simple or rigorous, it shall deduct from the sentence of imprisonment, the total period the accused may have been in custody in the meantime, in connection with that offence.

Deduction of imprisonment in cases where convicts may have been in custody

<sup>1</sup> The brackets, words and figure "(other than a Magistrate acting under section 34)" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> Section 35A was substituted for section 35A by section 2 of the Code of Criminal Procedure (Amendment) Act, 2003 (Act No. XIX of 2003).

(2) If the total period of custody prior to conviction referred to in sub-section (1) is longer than the period of imprisonment to which the accused is sentenced, the accused shall be deemed to have served out the sentence of imprisonment and shall be released at once, if in custody, unless required to be detained in connection with any other offence; and if the accused is also sentenced to pay any fine in addition to such sentence, the fine shall stand remitted.]

*C.—Ordinary and Additional Powers*

Ordinary  
powers of  
Magistrates

**36.** All <sup>1</sup>[Judicial and Executive Magistrate] have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

Additional  
powers  
conferrable on  
Magistrates

<sup>2</sup>[**37.** In addition to his ordinary powers, any Judicial or Executive Magistrate may be invested by the Government or the Chief Judicial Magistrate or the District Magistrate, as the case may be, with any powers specified in the schedule IV:

Provided that, the Government may authorize a District Magistrate to invest any Executive Magistrate subordinate to him with any of its powers specified in the schedule IV:

Provided further that any Judicial Magistrate may be invested with such additional powers in consultation with the High Court Division.]

Control of  
District  
Magistrates  
investing power

**38.** The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Government.

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<sup>1</sup> The words "Judicial and Executive Magistrate" were substituted for the words and commas "District Magistrates, Sub-divisional Magistrate and Magistrates of the first, second and third classes" by section 17 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Section 37 was substituted for section 37 by section 18 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).



*D.—Conferment, Continuance and Cancellation of Powers*

**39.** (1) In conferring powers under this Code the Government may by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

Mode of  
conferring  
powers

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

**40.** Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area <sup>1</sup>[\* \* \*], he shall, unless the Government otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

Powers of  
officers  
appointed

<sup>2</sup>[**41.** (1) The Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it:

Withdrawal of  
powers

Provided that where the conferring of a power is, under this code, required to be made in consultation with the High Court Division, the withdrawal thereof shall be made in consultation with that Court.

(2) Any powers conferred by the Chief Judicial Magistrate or the District Magistrate may be withdrawn by the chief Judicial Magistrate or the District Magistrate respectively.]

**PART III**  
**GENERAL PROVISIONS**  
**CHAPTER IV**

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE  
AND PERSONS MAKING ARRESTS

<sup>1</sup> The words "under the same Provincial Government" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> Section 41 was substituted for section 41 by section 19 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

Public when to assist Magistrates and police

**42.** Every person is bound to assist <sup>1</sup>[any Magistrate whether Judicial or Executive] or police officer reasonably demanding his aid,—

- (a) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorized to arrest;
- (b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant

**43.** When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences

**44.** (1) Every person, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

(2) For the purposes of this section the term "offence" includes any act committed at any place out of Bangladesh which would constitute an offence if committed in Bangladesh.

Village-headmen, accountants, landholders and others bound to report certain matters

**45.** (1) Every village-headman, village-accountant, village watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier in charge of the management of that land, and every officer employed in the collection of revenue or rent of land on the part of the Government or the Court of Wards, shall forthwith

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<sup>1</sup> The words "any Magistrate whether Judicial or Executive" were substituted for the words "a Magistrate" by section 20 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

communicate to the nearest Magistrate or to the officer in charge of the nearest police-station whichever is the nearer, any information which he may possess respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;
- (b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be a thug, robber, escaped convict or proclaimed offender;
- (c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147, or 148 of the Penal Code;
- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances; or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;
- (e) the commission of, or intention to commit, at any place out of Bangladesh near such village any act which, if committed in Bangladesh, would be an offence punishable under any of the following sections of the Penal Code, namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C, and 489D;
- (f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Government, has directed him to communicate information.

(2) In this section—

- (i) "village" includes village-lands; and
- (ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Government in any part of Bangladesh, in respect of any act which if committed in Bangladesh, would be punishable under any of the following sections of the Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

Appointment of village-headman by District Magistrate <sup>1</sup>[\*\*\*] in certain cases for purposes of this section

(3) Subject to rules in this behalf to be made by the Government, the District Magistrate <sup>2</sup>[\*\*\*] may from time to time appoint one or more persons with his or their consent to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.

#### CHAPTER V OF ARREST, ESCAPE AND RETAKING

##### *A.—Arrest generally*

Arrest how made

**46.(1)** In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest

(2) If such person forcibly resists the endeavor to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life.

<sup>1</sup> In the marginal heading the words "or Sub-divisional Magistrate" were omitted by section 21 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "or Sub-divisional Magistrate" were omitted by section 21 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

**47.** If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Search of place entered by person sought to be arrested

**48.** If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Procedure where ingress not obtainable

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Breaking open zanana

**49.** Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

Power to break open doors and windows for purposes of liberation

**50.** The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

No unnecessary restraint

**51.** Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

Search of arrested persons

Whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of  
searching  
women

**52.** Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Power to seize  
offensive  
weapons

**53.** The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

*B.—Arrest without Warrant*

When police  
may arrest  
without  
warrant

**54.** (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest-

*firstly*, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

*secondly*, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house breaking;

*thirdly*, any person who has been proclaimed as an offender either under this Code or by order of the Government;

*fourthly*, any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

*fifthly*, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

*sixthly*, any person reasonably suspected of being a deserter from the armed forces of Bangladesh <sup>1</sup>[\* \* \*];

*seventhly*, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of Bangladesh, which, if committed in Bangladesh, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in Bangladesh;

*eighthly*, any released convict committing a breach of any rule made under section 565, sub-section (3);

*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specified the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

**55.** (1) Any officer in Charge of a police-station may, in like manner, arrest or cause to be arrested—

Arrest of  
Vagabonds,  
habitual  
robbers, etc

- (a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view committing a cognizable offence; or

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<sup>1</sup> The words commas, figures and letter "or from any unit of forces of an Acceding State declared under the Extradition Act, 1903, to be a unit desertion from which is an extradition offence" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or
- (c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

Procedure when police-officer deposes subordinate to arrest without warrant

**56.** (1) When any officer in charge of a police-station or any police-officer making an investigation under Chapter XIV requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

Refusal to give name and residence

**57.** (1) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in Bangladesh, the bond shall be secured by a surety or sureties resident in Bangladesh.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.



**58.** A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in Bangladesh.

Pursuit of offenders into other jurisdictions

**59.** (1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.

Arrest by private persons and procedure on such arrest

(2) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

**60.** A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested to be taken before Magistrate or officer in charge of police-station

**61.** No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Person arrested not to be detained more than twenty-four hours

- Police to report apprehensions      **62.** Officers in charge of police-stations shall report <sup>1</sup>[in <sup>2</sup>[a] Metropolitan Area, to the Chief Metropolitan Magistrate, and in other areas, to the District Magistrate, <sup>3</sup>[and also to the Chief Judicial Magistrate], the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.
- Discharge of person apprehended      **63.** No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.
- Offence committed in Magistrate's presence      **64.** When any offence is committed in the presence of a Magistrate <sup>4</sup>[whether Executive or Judicial] within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail commit the offender to custody.
- Arrest by or in presence of Magistrate      **65.** Any Magistrate <sup>5</sup>[whether Executive or Judicial] may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

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<sup>1</sup> The words and commas "in the Dacca Metropolitan Area, to the Chief Metropolitan Magistrate, and in other areas, to the District Magistrate, or if the District Magistrate" were substituted for the words and commas "to the District Magistrate, or, if he" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The letter "a" was substituted for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>3</sup> The words "and also to the Chief Judicial Magistrate" were substituted for the words and comma "or if the District Magistrate so directs, to the Sub-divisional Magistrate" by section 22 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The words "whether Executive or Judicial" after the word "Magistrate" were inserted by section 23 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>5</sup> The words "whether Executive or Judicial" after the word "Magistrate" were inserted by section 24 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

**66.** If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in Bangladesh.

Power, on escape, to pursue and retake

**67.** The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66

**CHAPTER VI**  
**OF PROCESSES TO COMPEL APPEARANCE**  
*A.—Summons*

**68.** (1) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the <sup>1</sup>[Supreme Court] may, from time to time, by rule, direct.

Form of summons

(2) Such summons shall be served by a police-officer, or subject to such rules as the Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

Summons by whom served

**69.** (1) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Summons how served

(2) Every person on whom a summons is so served shall if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Signature of receipt for summons

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in Bangladesh. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

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<sup>1</sup> The words "Supreme Court" were substituted for the words "High Court" by section and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Service when person summoned cannot be found

**70.** Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

Procedure when service cannot be effected as before provided

**71.** If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Republic

**72.** (1) Where the person summoned is in the active service of the <sup>1</sup>[Republic], the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

Service of summons outside local limits

**73.** When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases and when serving officer not present

**74.** (1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be

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<sup>1</sup> The word "Republic" was substituted for the words "State or of a Railway Company" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

*B.—Warrant of Arrest*

**75.** (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench, and shall bear the seal of the Court. Form of warrant of arrest

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed. Continuance of warrant of arrest

**76.** (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody. Court may direct security to be taken

(2) The endorsement shall state-

- (a) the number of sureties;
- (b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and
- (c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court. Recognizance to be forwarded

**77.** (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, <sup>1</sup>[and, when issued by a Warrants to whom directed

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<sup>1</sup> The words, commas and semi-colon "and, when issued by a Metropolitan Magistrate, shall always be so directed; but any other Court" were substituted for the semi-colon and words "; but any Court" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

Metropolitan Magistrate, shall always be so directed; but any other Court] issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to several persons

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, etc.

**78.** (1) A <sup>1</sup>[Magistrate of the first class] may direct a warrant to any landholder, farmer or manager of land within his <sup>2</sup>[local jurisdiction] for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer

**79.** A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

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<sup>1</sup> The words “Magistrate of the first class” were substituted for the words “District Magistrate or Sub-divisional Magistrate” by section 25 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words “local jurisdiction” were substituted for the words “District or Sub-division” by section 25 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

**80.** The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so require, shall show him the warrant.

Notification of substance of warrant

**81.** The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Persons arrested to be brought before Court without delay

**82.** A warrant of arrest may be executed at any place in Bangladesh.

Where warrant may be executed

**83.** (1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any <sup>1</sup>[Executive Magistrate or District Superintendent of Police] <sup>2</sup>[or, the Police Commissioner in <sup>3</sup>[a Metropolitan Area]] within the local limits of whose jurisdiction it is to be executed.

Warrant forwarded for execution outside jurisdiction

(2) The Magistrate or District Superintendent <sup>4</sup>[or Police Commissioner] to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

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<sup>1</sup> The words "Executive Magistrate or District Superintendent of Police" were substituted for the words "Magistrate or District Superintendent" by section 26 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words and comma "or, the Police Commissioner in the Dacca Metropolitan Area" were inserted by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

<sup>3</sup> The letter and words "a Metropolitan Area" were substituted for the words "the Dhaka Metropolitan Area" by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).

<sup>4</sup> The words "or Police Commissioner" were inserted by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).

Warrant directed to police-officer for execution outside jurisdiction

**84.** (1) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to <sup>1</sup>[an Executive Magistrate] or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

Procedure on arrest of person against whom warrant issued

**85.** When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than <sup>2</sup>[the Executive Magistrate] or District Superintendent of Police <sup>3</sup>[or the Police Commissioner in <sup>4</sup>[a Metropolitan Area]] within the local limits of whose

<sup>1</sup> The words "an Executive Magistrate" were substituted for the words "a Magistrate" by section 27 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "the Executive Magistrate" were substituted for the words "the Magistrate" by section 28 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words "or the Police Commissioner in the Dacca Metropolitan Area" were inserted by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

<sup>4</sup> The letter and words "a Metropolitan Area" were substituted for the words "the Dacca Metropolitan Area" by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).



jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate <sup>1</sup>[or <sup>2</sup>[Police Commissioner or District Superintendent of Police].

**86.** (1) <sup>3</sup>[Such Executive Magistrate or] <sup>4</sup>[District Superintendent of Police] <sup>5</sup>[or Police Commissioner] shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Procedure by Magistrate before whom person arrested is brought

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, <sup>4</sup>[District Superintendent of Police] <sup>5</sup>[or Police Commissioner] or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction the Magistrate, <sup>4</sup>[District Superintendent of Police] <sup>5</sup>[or Police Commissioner] shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant<sup>6</sup> :

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- <sup>1</sup> The words "or Police Commissioner" were inserted by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).
- <sup>2</sup> The words "Police Commissioner or District Superintendent of Police" were substituted for the words "Police Commissioner or District Superintendent" by section 28 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).
- <sup>3</sup> The words "Such Executive Magistrate or" were substituted for the words "Such Magistrate of" by section 29(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).
- <sup>4</sup> The words "District Superintendent of Police" were substituted for the words "District Superintendent" by section 29(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).
- <sup>5</sup> The words "or Police Commissioner" were inserted by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).
- <sup>6</sup> The colon (: ) was substituted for the full stop (.) at the end of sub-section (1) and thereafter the 2nd proviso was added by section 29(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

Provided further that, if the offence is a non-bailable offence or no direction has been endorsed under section 76 on the warrant, the Sessions Judge or the Metropolitan Sessions Judge, the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or a Magistrate of the first class specially empowered in this behalf, in whose local jurisdiction the person is arrested, may, subject to the provisions of section 497 and for reasons to be recorded in writing, release the person on an interim bail on such bond or security as the Judge or the Magistrate thinks fit and direct the person to appear by a specified date before the Court which issued the warrant and forward the bond to that Court.]

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

*C.—Proclamation and Attachment*

Proclamation  
for person  
absconding

**87.** (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:-

- (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; and
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

**88.** (1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

Attachment of  
property of  
person  
absconding

(2) Such order shall authorize the attachment of any property belonging to such person within the <sup>1</sup>[local area] in which it is made; and it shall authorize the attachment of any property belonging to such person without such <sup>1</sup>[local area] when endorsed by the District Magistrate <sup>2</sup>[Chief Judicial Magistrate] <sup>3</sup>[or Chief Metropolitan Magistrate] within whose <sup>1</sup>[Local area] such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made—

- (a) by seizure; or
- (b) by the appointment of a receiver; or
- (c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or
- (d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the Government, be made through the Collector of the district in which the land is situate, and in all other cases—

- (e) by taking possession; or
- (f) by the appointment of a receiver; or

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<sup>1</sup> The words “local area” were substituted for the word “District” by section 30(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words “Chief Judicial Magistrate” after the words “District Magistrate” were inserted by section 30(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words "or Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

- (g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or
- (h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under <sup>1</sup>[Order XL of the First Schedule to the Code of Civil Procedure, 1908].

(6A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under sub-section (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of

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<sup>1</sup> The words, comma and figures "Order XL of the First Schedule to the Code of Civil Procedure, 1908" were substituted for the words and figure "Chapter XXXVI of the Code of Civil Procedure" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

property attached under an order endorsed by a District Magistrate <sup>1</sup>[Chief Judicial Magistrate] <sup>2</sup>[or Chief Metropolitan Magistrate] in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a <sup>3</sup>[Chief Judicial Magistrate] <sup>2</sup>[or Chief Metropolitan Magistrate] such Magistrate may make it over for disposal to any Magistrate <sup>4</sup>[\*\*\*] <sup>5</sup>[or to any Metropolitan Magistrate, as the case may be] subordinate to him.

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of the Government, but it

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<sup>1</sup> The words "Chief Judicial Magistrate" were inserted by section 30(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "or Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>3</sup> The words "Chief Judicial Magistrate" were substituted for the words "District Magistrate" by section 30(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The words "of the first or second class" were omitted by section 30(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>5</sup> The words and comma "or to any Metropolitan Magistrate, as the case may be" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of  
attached  
property

**89.** If, within two years from the date of the attachment any person whose property is or has been at the disposal of the Government, under sub-section (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

*D.—Other Rules regarding Processes*

Issue of warrant  
in lieu of, or in  
addition to  
summons

**90.** A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person <sup>1</sup>[\* \* \*] issue, after recording its reasons in writing, a warrant for his arrest—

- (a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or
- (b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

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<sup>1</sup> The words and letter "other than a juror or assessor" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

**91.** When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Power to take bond for appearance

**92.** When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court, may issue a warrant directing that such person be arrested and produced before him.

Arrest by breach of bond for appearance

**93.** The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

Provisions of this Chapter generally applicable to summonses and warrants of arrest

<sup>1</sup>*[E.—Special Rules regarding processes issued for service or execution outside Bangladesh and processes received from outside Bangladesh for service or execution within Bangladesh.*

**93A.** (1) Where a Court in Bangladesh desires that a summons issued by it to an accused person shall be served at any place outside Bangladesh within the local limits of the jurisdiction of a Court established or continued by the authority of the Government in exercise of its foreign jurisdiction, it shall send such summons, in duplicate, by post or otherwise, to the presiding officer of that Court to be served.

Sending of summons for service outside Bangladesh

(2) The provisions of section 74 shall apply in the case of a summons sent for service under this section as if the presiding officer of the Court to whom it was sent were a Magistrate in Bangladesh.

**93B.** Notwithstanding anything contained in section 82, where a Court in Bangladesh desires that a warrant issued by it for the arrest of an accused person shall be executed at any place outside Bangladesh within the local limits of the jurisdiction of a

Sending of warrants for execution outside Bangladesh

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<sup>1</sup> Heading E and sections 93A to 93C were inserted by section 2 of the Code of Criminal Procedure (Amendment) Act, 1941 (Act No. XIV of 1941).

Court established or continued by the authority of the Government in exercise of its foreign jurisdiction, it may send such warrant, by post or otherwise, to the presiding officer of that Court to be executed.

Service and execution in Bangladesh of processes received from outside Bangladesh

**93C.** (1) Where a Court has received for service or execution a summons to, or a warrant for the arrest of, an accused person issued by a Court established or continued by the authority of the Government in exercise of its foreign jurisdiction, outside Bangladesh it shall cause the same to be served or executed as if it were a summons or warrant received by it from a Court in Bangladesh for service or execution within the local limits of its jurisdiction.

(2) Where any warrant of arrest has been so executed the person arrested shall so far as possible be dealt with in accordance with the procedure prescribed by sections 85 and 86.]

#### CHAPTER-VII

#### OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED

##### *A.-Summons to produce*

Summons to produce document or other thing

**94.** (1) Whenever any Court, or any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order:

Provided that no such officer shall issue any such order requiring the production of any document or other thing which is in the custody of a bank or banker as defined in the Bankers' Books Evidence Act, 1891 (Act No. XVIII of 1891), and relates, or might disclose any information which relates, to the bank account of any person except,-



- (a) for the purpose of investigating an offence under sections 403, 406, 408 and 409 and sections 421 to 424 (both inclusive) and sections 465 to 477A (both inclusive) of the Penal Code, with the prior permission in writing of a Sessions Judge; and
- (b) in other cases, with the prior permission in writing of the High Court Division.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Evidence Act, 1872, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

**95.** (1) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, <sup>1</sup>[Chief Judicial Magistrate] <sup>2</sup>[Chief Metropolitan Magistrate] High Court Division or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

Procedure as to letters and telegrams

(2) If any such document, parcel or thing is, in the opinion of any <sup>3</sup>[other Magistrate, whether Executive or Judicial],

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<sup>1</sup> The words "Chief Judicial Magistrate" were inserted by section 31(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>3</sup> The words and comma "other Magistrate, whether Executive or Judicial" were substituted for the words "other Magistrate" by section 31(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>1</sup>[Police Commissioner] or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate <sup>2</sup>[Chief Judicial Magistrate], <sup>3</sup>[Chief Metropolitan Magistrate] or Court.

*B.—Search-warrants*

When search warrant may be issued

**96.** (1) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate <sup>4</sup>[Chief Judicial Magistrate, as the case may be] <sup>5</sup>[or Chief Metropolitan Magistrate] to grant a

<sup>1</sup> The words "Police Commissioner" were inserted by the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976), Schedule.

<sup>2</sup> The words "Chief Judicial Magistrate" were inserted by section 31(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words "Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>4</sup> The words and comma "Chief Judicial Magistrate, as the case may be" were inserted by section 32 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>5</sup> The words "or Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

**97.** The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified. Power to restrict warrant

**98.** (1) If a District Magistrate, <sup>1</sup>[or an Executive Magistrate specially empowered by the Government in this behalf,] upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, Search of house suspected to contain stolen property, forged documents, etc.

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

or, if a District Magistrate, <sup>2</sup>[or an Executive Magistrate specially empowered by the Government in this behalf,] upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is

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<sup>1</sup> The words and comma “or an Executive Magistrate specially empowered by the Government in this behalf,” were substituted for the words and comma “sub-divisional Magistrate, Metropolitan Magistrate or Magistrate of the first class” by section 33(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009), (with effect from 1st November, 2007).

<sup>2</sup> The words “or an Executive Magistrate specially empowered by the Government in this behalf,” were substituted for the words “sub-divisional Magistrate or a Metropolitan Magistrate” by section 33(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

referred to in section 292 of the Penal Code or that any such obscene objects are kept or deposited in any place; he may by his warrant authorize any police-officer above the rank of a constable—

- (a) to enter, with such assistance as may be required, such place, and
- (b) to search the same in manner specified in the warrant, and
- (c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials or of any such obscene objects as aforesaid, and
- (d) to convey such property, documents, seals, stamps, coins, instruments or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and
- (e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials or such obscene objects knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported.

(2) The provisions of this section with respect to—

- (a) counterfeit coin,
- (b) coin suspected to be counterfeit, and
- (c) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

- (a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into Bangladesh in contravention of any notification for the time being in force under <sup>1</sup>[section 16 of the Customs Act, 1969],
- (b) pieces of metal suspected to have been so made or to have been so brought into Bangladesh or to be intended to be issued in contravention of the former of those Acts, and
- (c) instruments or materials for making pieces of metal in contravention of that Act.

**99.** When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

Disposal of things found in search beyond jurisdiction

<sup>2</sup><sup>3</sup>**99A.** (1) Where any newspaper or book or any document, wherever printed, appears to the Government to contain—

- (a) any matter the publication of which is punishable under section 123A or section 124A or section 153A or section 292 or section 295A or section 505 or section 505A of the Penal Code (Act XLV of 1860), or

Power to declare certain publications forfeited and to issue search warrants for the same

<sup>1</sup> The words, figures and comma "section 16 of the Customs Act, 1969" were substituted for the words, figures and comma "section 19 of the Sea Customs Act, 1878" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> Sections 99A to 99G were inserted by Schedule III of the Press Law Repeal and Amending Act, 1922 (Act No. XIV of 1922).

<sup>3</sup> Section 99A was substituted for the former section 99A by section 3 of the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991).

- (b) any matter which is defamatory of the President of Bangladesh, <sup>1</sup>[\*\*\*], the Prime Minister of the Government, the Speaker of Parliament or the Chief Justice of Bangladesh, or
- (c) any matter which is grossly indecent or is scurrilous or obscene, or
- (d) any words or visible representations which incite, or which are likely to incite, any person or class of persons to commit any cognizable offence,

the Government may, by notification in the official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, words or visible representations, and every copy of such book or other document to be forfeited to Government, and thereupon any police-officer may seize the same wherever found in Bangladesh and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1), "newspaper", "book" and "document" have the same meaning as in the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973).]

Application to High Court Division to set aside order of forfeiture

**99B.** Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court Division to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain <sup>2</sup>[any such matter, word or visible representation] as is referred to in sub-section (1) of section 99A.

<sup>1</sup> The words "the Vice President of Bangladesh" were omitted by section 34 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words and commas "any such matter, word or visible representation," were substituted for the words "any treasonable or seditious or other matter of such a nature" by section 4 of the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991).

**99C.** Every such application shall be heard and determined by a Special Bench of the High Court Division composed of three Judges. Hearing by  
Special Bench

**99D.** (1) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained <sup>1</sup>[any such matter, word or visible representation] as is referred to in sub-section (1) of section 99A, set aside the order of forfeiture. Order of  
Special Bench  
setting aside  
forfeiture

(2) Where there is a difference of opinion among the judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges.

**99E.** On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid or the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made. Evidence to  
prove nature or  
tendency of  
newspapers

**99F.** <sup>2</sup>[The Supreme Court] shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications. Procedure in  
High Court  
Division

**99G.** No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions of section 99B.] Jurisdiction  
barred

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<sup>1</sup> The words and commas "any such matter, word or visible representation" were substituted for the words "treasonable or seditious or other matter of such a nature" by section 4 of the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991).

<sup>2</sup> The words "The Supreme Court" were substituted for the words "Every High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

*C.—Discovery of Persons wrongfully confined*

Search for  
persons  
wrongfully  
confined

**100.** If any <sup>1</sup>[Metropolitan Magistrate], Magistrate of the first class or <sup>2</sup>[or an Executive Magistrate] has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

*D.—General Provisions relating to Searches*

Direction, etc.  
of search-  
warrants

**101.** The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply, to all search-warrants issued under section 96, section 98, section 99A or section 100.

Persons in  
charge of  
closed place to  
allow search

**102.** (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

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<sup>1</sup> The words "Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The words "or an Executive Magistrate" were substituted for the words "sub-divisional Magistrate" by section 35 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).



**103.** (1) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.

Search to be made in presence of witnesses

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

Occupant of place searched may attend

(4) When any person is searched under section 102, subsection (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Penal Code.

*E.—Miscellaneous*

**104.** Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Power to impound document, etc., produced

Magistrate may direct search in his presence **105.** <sup>1</sup>[Any Magistrate, whether Executive or Judicial] may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

**PART IV**  
PREVENTION OF  
OFFENCES

**CHAPTER VIII**  
OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD  
BEHAVIOUR

*A.—Security for keeping the Peace on conviction.*

Security for keeping the peace on conviction

**106.** (1) Whenever any person accused of any offence punishable under Chapter VIII of the Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before High Court Division, a Court of Session, or the Court of <sup>2</sup>[a Metropolitan Magistrate], <sup>3</sup>[\*\*\*] or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

<sup>1</sup> The words and comma “Any Magistrate, whether Executive or Judicial” were substituted for the words “Any Magistrate” by section 36 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The letter and words "a Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>3</sup> The words and comma “a District Magistrate, a sub-divisional Magistrate” were omitted by section 37(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(3) An order under this section may also be made by an Appellate Court <sup>1</sup>[\*\*\*] or by the High Court Division when exercising its powers of revision.

*B.—Security for keeping the Peace in other Cases  
and security for Good Behavior.*

**107.** (1) Whenever <sup>2</sup>[a District Magistrate or any other Executive Magistrate] is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

Security for  
keeping the  
peace in other  
cases

(2) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, <sup>3</sup>[other than the <sup>4</sup>[\*\*\*]] District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

<sup>1</sup> The words, letter and number “including a Court hearing appeals under section 407” were omitted by section 37(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The letter and words “a District Magistrate or any other Executive Magistrate” were substituted for the words and commas “a Metropolitan Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class” by section 38(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words “other than the Chief Metropolitan or” were substituted for the words and letter “other than a” by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>4</sup> The words “Chief Metropolitan or” were omitted by section 38(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

Procedures of Magistrate not empowered to act under sub-section (1)

(3) When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter.

Security for good behaviour from persons disseminating seditious matter

**108.** <sup>1</sup>[Whenever the <sup>2</sup>[District Magistrate, or any other Executive Magistrate]] specially empowered by the Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of,-

- (a) any seditious matter, that is to say, any matter the publication of which is punishable under section 123A or section 124A of the Penal Code, or
- (b) any matter the publication of which is punishable under section 153A of the Penal Code, or
- (c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Penal Code,

<sup>1</sup> The words, comma and letter "Whenever the Chief Metropolitan or District Magistrate, or a Metropolitan Magistrate or" were substituted for the words and comma "Whenever a District Magistrate, or a" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The words and comma "District Magistrate, or any other Executive Magistrate" were substituted for the words and comma "Chief Metropolitan or District Magistrate, or a Metropolitan Magistrate or Magistrate of the first class" by section 39 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the <sup>1</sup>[provisions of the Printing Presses and Publications (Declaration and Registration) Act, 1973], with reference to any matters contained in such publication except by the order or under the authority of the Government or some officer empowered by the Government in this behalf.

**109.** Whenever <sup>2</sup>[District Magistrate, or an Executive Magistrate] receive information—

- (a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or
- (b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

Security for good behaviour from vagrants and suspected persons

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

<sup>1</sup> The words, brackets, comma and figure "provisions of the Printing Presses and Publications (Declaration and Registration) Act, 1973" were substituted for the words and comma "rules laid down in the Press and Registration of Books Act, 1867" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The words and comma "District Magistrate, or an Executive Magistrate" were substituted for the words and commas "a Metropolitan Magistrate, District Magistrate, or Sub-divisional Magistrate or Magistrate of the first class" by section 40 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

Security for  
good behaviour  
from habitual  
offenders

**110.** Whenever a <sup>1</sup>[District Magistrate, or any other Executive Magistrate] specially empowered in this behalf by the Government receives information that any person within the local limits of his jurisdiction—

- (a) is by habit a robber, house-breaker, thief, or forger, or
- (b) is by habit a receiver of stolen property knowing the same to have been stolen, or
- (c) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or
- (d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or
- (e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
- (f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

**111.** [*Repealed by the Criminal Law Amendment Act, 1923 (Act No. XII of 1923), section 8.*]

Order to be  
made

**112.** When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for

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<sup>1</sup> The words and comma “District Magistrate, or any other Executive Magistrate” were substituted for the words, commas and letter “Metropolitan Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class” by section 41 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

which it is to be in force, and the number, character and class of sureties (if any) required.

**113.** If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Procedures in respect of person present in Court

**114.** If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court:

Summons or warrant in case of person not so present

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

**115.** Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

Copy of order under section 112 to accompany summons or warrant

**116.** The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Power to dispense with personal attendance

**117.** (1) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

Inquiry as to truth of information

(2) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and where the order requires security for good behaviour in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(3) Pending the completion of the inquiry under subsection (1) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that:—

- (a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and
- (b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112.

(4) for the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give security

**118.** (1) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour,



as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties the Magistrate shall make an order accordingly:

Provided—

*firstly*, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112:

*secondly*, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

*thirdly*, that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

**119.** If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Discharge of person informed against

*C.—Proceedings in all Cases subsequent to Order to furnish Security.*

**120.** (1) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment the period for which such security is required shall commence on the expiration of such sentence.

Commencement of period for which security is required

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

**121.** The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the later case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Contents of bond

Power to reject sureties

**122.** (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond:

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

Imprisonment in default of security

**123.** (1) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before High Court Division or Court of Sessions

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge; and the proceedings shall be laid, as soon as conveniently may be, before such Judge.

(3) The Sessions Judge, after examining such proceedings and requiring from the Magistrate any further information or evidence which he thinks necessary, may pass such order on the case as he thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(3A) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessions Judge or <sup>1</sup>[Joint] Sessions Judge and upon such transfer, such Additional Sessions Judge or <sup>2</sup>[Joint] Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(4) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

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<sup>1</sup> The word "Joint" was substituted for the word "Assistant" by section 42 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The word "Joint" was substituted for the word "Assistant" by section 42 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

Kind of imprisonment

(5) Imprisonment for failure to give security for keeping the peace shall be simple.

(6) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 108 be simple and, where the proceedings have been taken under section 109 or section 110, be rigorous or simple as the Court or Magistrate in each case directs.

Power to release persons imprisoned for failing to give security

**124.** (1) Whenever the District Magistrate <sup>1</sup>[\*\*\*] is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the <sup>2</sup>[\*\*\*] District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The Government may prescribe the conditions upon which a conditional discharge may be made.

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<sup>1</sup> The words “or Chief Metropolitan Magistrate” were omitted by section 43(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words “Chief Metropolitan or” were omitted by section 43(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate <sup>1</sup>[\*\*\*], by whom the order of discharge was made or of his successor, nor fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate <sup>2</sup>[\*\*\*].

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate <sup>2</sup>[\* \* \*], may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

**125.** The <sup>3</sup>[\*\*\*] District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour

<sup>1</sup> The words “or Chief Metropolitan Magistrate” were omitted by section 43(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words “or Chief Metropolitan Magistrate” were omitted by section 43(d) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words “Chief Metropolitan or” were omitted by section 44 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

Discharge of sureties

**126.** (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a <sup>1</sup>[District Magistrate or any other Executive Magistrate] to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

Security for unexpired period of bond

<sup>2</sup>[**126A.**] When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

## CHAPTER IX

### UNLAWFUL ASSEMBLIES

Assembly to disperse on command of Magistrate or police-officer

**127.** (1) Any <sup>3</sup>[Executive Magistrate] or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

<sup>1</sup> The words "District Magistrate or any other Executive Magistrate" were substituted for the words and commas "Metropolitan Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" by section 45 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Sub-section (3) of section 126 was re-numbered as section 126A by section 23 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act XVIII of 1923).

<sup>3</sup> The words "Executive Magistrate" were substituted for the word "Magistrate" by section 46 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(2) [Omitted by the Adaptation of Central Acts and Ordinances Order, 1949, Schedule.]

**128.** If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any <sup>1</sup>[Executive Magistrate] or officer in charge of a police-station, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, soldier, sailor or airman in the armed forces of Bangladesh <sup>2</sup>[\*\*\*] for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Use of civil  
force to  
disperse

**129.** If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the <sup>3</sup>[Executive Magistrate] of the highest rank who is present <sup>4</sup>[or the Police Commissioner in <sup>5</sup>[a Metropolitan Area]] may cause it to be dispersed by military force.

Use of military  
force

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<sup>1</sup> The words "Executive Magistrate" were substituted for the word "Magistrate" by section 47 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words, letter, commas and figure "or a volunteer enrolled under the Indian Volunteers Act, 1869, and acting as such," were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The words "Executive Magistrate" were substituted for the word "Magistrate" by section 48 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The words "or the Police Commissioner in the Dacca Metropolitan Area" were inserted by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

<sup>5</sup> The letter and words "a Metropolitan Area" were substituted for the words "the Dacca Metropolitan Area" by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).

Duty of officer commanding troops required by Magistrate to disperse assembly

**130.** (1) When <sup>1</sup>[an Executive Magistrate] <sup>2</sup>[or the Police Commissioner] determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in the Bangladesh Army <sup>3</sup>[\* \* \*] to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate <sup>2</sup>[or the Police Commissioner] may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly

**131.** When the public security is manifestly endangered by any such assembly, and when <sup>4</sup>[no Executive Magistrate] can be communicated with, any commissioned officer of the Bangladesh Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with <sup>5</sup>[an Executive Magistrate], he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

<sup>1</sup> The words "an Executive Magistrate" were substituted for the letter and word "a Magistrate" by section 49 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "or the Police Commissioner" were inserted by Schedule of the Dhaka Metropolitan Police (Amendment) Ordinance, 1976" (Ordinance No. LXIX of 1976).

<sup>3</sup> The words, commas and figure "or of any Volunteers enrolled under the Indian Volunteers Act, 1869," were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>4</sup> The words "no Executive Magistrate" were substituted for the words "no Magistrate" by section 50 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>5</sup> The words "an Executive Magistrate" were substituted for the letter and word "a Magistrate" by section 50 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).



**132.** No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the Government; and—

Protection against prosecution for acts done under this Chapter

- (a) no Magistrate or police-officer acting under this Chapter in good faith,
- (b) no officer acting under section 131 in good faith,
- (c) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and
- (d) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence:

Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in the Bangladesh Army except with the sanction of the Government.

#### CHAPTER X PUBLIC NUISANCES

<sup>1</sup>[**132A.** The provisions of this Chapter shall not apply to <sup>2</sup>[a Metropolitan Area].]

Application

**133.** (1) Whenever a District Magistrate, <sup>3</sup>[or any other Executive Magistrate] considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

Conditional order for removal of nuisance

<sup>1</sup> Section 132A was inserted by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

<sup>2</sup> The letter and words "a Metropolitan Area" were substituted for the words "the Dacca Metropolitan Area" by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).

<sup>3</sup> The words "or any other Executive Magistrate" were substituted for the words "a Sub-divisional Magistrate or a Magistrate the first class" by section 51 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other <sup>1</sup>[Executive Magistrate] at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

**Explanation**—A "public place" includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

**134.** (1) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons. Service or notification of order

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<sup>1</sup> The words "Executive Magistrate" were substituted for the words "Magistrate of the first class or second class" by section 51 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim jury

**135.** The person against whom such order is made shall-

- (a) perform, within the time and in the manner specified in the order, the act directed thereby; or
- <sup>1</sup>[(b) appear in accordance with such order and show cause against the same.]

Consequence of his failing to do so

**136.** If such person does not perform such act or appear and show cause <sup>2</sup>[\* \* \*], he shall be liable to the penalty prescribed in that behalf in section 188 of the Penal Code, and the order shall be made absolute.

Procedure where he appears to show cause

**137.** (1) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter <sup>3</sup>[in the manner provided in Chapter XX].

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

**138 and 139.** [Omitted by the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978), Schedule.]

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<sup>1</sup> Clause (b) was substituted for clause (b) by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> The words, letter and figure "or apply for the appointment of a jury as required by section 135" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> The words "in the manner provided in Chapter XX" were substituted for the words "as in a summons case" by section 8 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>1</sup>[**139A.** (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of anyway, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 137 <sup>2</sup>[\* \* \*], inquire into the matter.

Procedure where existence of public right is denied

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 <sup>3</sup>[\* \* \*].

(3) A person who has on being questioned by the Magistrate under sub-section (1) failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial <sup>4</sup>[\* \* \*].]

**140.** (1) When an order has been made absolute under section 136 <sup>5</sup>[or section 137], the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Penal Code.

Procedure on order being made absolute

<sup>1</sup> Section 139A was inserted by section 26 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act No. XVIII of 1923).

<sup>2</sup> The words and figure "or section 138" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> The words, figure and comma "or section 138, as the case may require" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>4</sup> The comma, words and figure ", nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>5</sup> The words and figure "or section 137" were substituted for the comma, words and figures ", section 137 or section 139" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

Consequences  
of disobedience  
to order

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

**141.** [Omitted by the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978), section 2 and Schedule.]

Injunction  
pending  
inquiry

**142.** (1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may <sup>1</sup>[\* \* \*] issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may  
prohibit  
repetition or  
continuance of  
public nuisance

**143.** A District Magistrate or <sup>2</sup>[any other Executive Magistrate] empowered by the Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Penal Code or any special <sup>3</sup>[\* \* \*] law.

<sup>1</sup> The commas and words ", whether a jury to be, or has been, appointed or not," were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> The words "any other Executive Magistrate" were substituted for the words and comma "Sub-divisional Magistrate, or any other Magistrate" by section 52 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> The words "or local" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

## CHAPTER XI

### TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

**144.** (1) In cases where, in the opinion of a District Magistrate,<sup>1</sup>[or any other Executive Magistrate] specially empowered by the Government or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed, *ex parte*.

(3) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(4) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

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<sup>1</sup> The words “or any other Executive Magistrate” were substituted for the words, commas and brackets “Sub-divisional Magistrate, or of other Magistrate (not being a Magistrate of the third class)” by section 53 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(6) No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Government, by notification in the official Gazette, otherwise directs.

<sup>1</sup>[(7) The provisions of this section shall not apply to <sup>2</sup>[a Metropolitan Area].]

## CHAPTER XII

### DISPUTES AS TO IMMOVABLE PROPERTY

Procedure where dispute concerning land, etc., is likely to cause breach of peace

**145.** (1) Whenever <sup>3</sup>[a <sup>4</sup>[District Magistrate or an Executive Magistrate specially empowered by the Government in this behalf] is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

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<sup>1</sup> Sub-section (7) was added by Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

<sup>2</sup> The letter and words "a Metropolitan Area" were substituted for the words "the Dacca Metropolitan Area" by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).

<sup>3</sup> The letter, words and comma "a Metropolitan Magistrate, District Magistrate" were substituted for the words and comma "the Chief Metropolitan Magistrate, a District Magistrate" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>4</sup> The words "District Magistrate or an Executive Magistrate specially empowered by the Government in this behalf" were substituted for the words and commas "Metropolitan Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" by section 54 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).



(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject: Inquiry as to possession

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also, that if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) If the Magistrate decides that one of the parties was or should under the first proviso to sub-section (4) be treated as being in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed. Party in possession to retain possession until legally evicted

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.

Power to attach  
subject of  
dispute

**146.** (1) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof:

Provided that <sup>1</sup>[such Magistrate] may withdraw the attachment at any time if he is satisfied that there is no longer

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<sup>1</sup> The words “such Magistrate” were substituted for the words “the Metropolitan Magistrate or the District Magistrate or the Magistrate who has attached the subject of dispute” by section 55 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

any likelihood of a breach of the peace in regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the <sup>1</sup>[Code of Civil Procedure, 1908]:

Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.

**147.** (1) Whenever, <sup>2</sup>[any <sup>3</sup>[District Magistrate, or Executive Magistrate specially empowered by the Government in this behalf] is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) (whether such rights be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as

Disputes concerning rights of use of immovable property, etc.

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<sup>1</sup> The words, comma and figure "Code of Civil Procedure, 1908" were substituted for the words "Code of Civil Procedure" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The words and comma "any Metropolitan Magistrate," were substituted for the words "the chief Metropolitan Magistrate or any" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>3</sup> The words and comma "District Magistrate, or Executive Magistrate specially empowered by the Government in this behalf" were substituted for the words and commas "Metropolitan Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" by section 56 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

may be, be applicable in the case of such inquiry.

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.

Local inquiry

**148.** (1) Whenever a local inquiry is necessary for the purposes of this Chapter, <sup>1</sup>[\* \* \*] any District Magistrate <sup>2</sup>[\*\*\*] may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

Order as to costs

(3) When any costs have been incurred by any party to a proceeding under this Chapter the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or

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<sup>1</sup> The words "the Chief Metropolitan Magistrate or" were omitted by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>2</sup> The words "or Sub-divisional Magistrate" were omitted by section 57 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

proportion. Such costs may include any expenses incurred in respect of witnesses, and of <sup>1</sup>[advocate] fees, which the Court may consider reasonable.

### CHAPTER XIII

#### PREVENTIVE ACTION OF THE POLICE

**149.** Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence. Police to prevent cognizable offences

**150.** Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence. Information of design to commit such offences

**151.** A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented. Arrest to prevent such offences

**152.** A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation. Prevention of injury to public property

**153.** (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false. Inspection of weights and measures

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<sup>1</sup> The word "advocate" was substituted for the word "pleaders" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

## PART V

### INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

#### CHAPTER XIV

Information in cognizable cases

**154.** Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Government may prescribe in this behalf.

Information in non-cognizable cases

**155.** (1) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investigation into non-cognizable cases

(2) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or <sup>1</sup>[send] the same for trial <sup>2</sup>[\*\*\*].

(3) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

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<sup>1</sup> The word "send" was substituted for the word "commit" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> The comma, words and letter ", or of a Presidency Magistrate" were omitted by section 3 and Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

**156.** (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

Investigation  
into  
cognizable  
cases

(2) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.

**157.** (1) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the Government may, by general or special order, prescribe in this behalf to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Procedure  
where  
cognizable  
offence  
suspected

Provided as follows:—

- (a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;
- (b) if it appears to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

Where local  
investigation  
dispensed  
with

Where police  
officer in  
charge sees  
no sufficient  
ground for  
investigation

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police-

station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Government, the fact that he will not investigate the case or cause it to be investigated.

Reports under section 157 how submitted

**158.** (1) Every report sent to a Magistrate under section 157 shall, if the Government so directs, be submitted through such superior officer of police as the Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation of preliminary inquiry

**159.** Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-officer's power to require attendance of witnesses

**160.** Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Examination of witnesses by police

**161.** (1) Any police-officer making an investigation under this Chapter or any police-officer not below such rank as the Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.



(3) The police-officer may reduce into writing any statement made to him in the course of an examination under this section, and if he does so he shall make a separate record of the statement, of each such person whose statement he records.

**162.** (1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Statements to police not to be signed; use of such statements in evidence

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination:

Provided, further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Evidence Act, 1872 or to affect the provisions of section 27 of that Act.

**163.** (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Evidence Act, 1872, section 24.

No inducement to be offered

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

Power to  
record  
statements and  
confessions

**164.** (1) <sup>1</sup>[Any Metropolitan Magistrate, any Magistrate of the first class] and any Magistrate of the second class specially empowered in this behalf by the Government may, if he is not a police-officer record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect:-

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

*(Signed) A.B.,  
Magistrate."*

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<sup>1</sup> The words and comma "Any Metropolitan Magistrate, any Magistrate of the first class" were substituted for the comma and words", any Magistrate of the first class" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

**Explanation**– It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

**165.** (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorized to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station:

Search by  
police-officer

Provided that no such officer shall search, or cause search to be made, for anything which is in the custody of a bank or banker as defined in the Bankers' Books Evidence Act, 1891 (XVIII of 1891), and relates, or might disclose any information which relates, to the bank account of any person except,-

- (a) for the purpose of investigating an offence under sections 403, 406, 408 and 409 and section 421 to 424 both inclusive and sections 465 to 477A (both inclusive) of the Penal Code with the prior permission in writing of a Sessions Judge; and
- (b) in other cases, with the prior permission in writing of the High Court Division.

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may after recording in writing his reasons for so doing require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing specifying the place to be searched and, so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search-warrants and the general provisions as to searches contained in section 102 and section 103 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

When officer in charge of police-station may require another to issue search warrant

**166.** (1) An officer in charge of a police-station or a police-officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if

any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

**167.** (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of sub-inspector shall forthwith transmit to the <sup>1</sup>[nearest Judicial Magistrate] a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

Procedure  
when  
investigation  
cannot be  
completed in  
twenty four  
hours

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or <sup>2</sup>[send] it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Government shall authorize detention in the custody of the police.

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<sup>1</sup> The words "nearest Judicial Magistrate" were substituted for the words "nearest Magistrate" by section 58(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The word "send" was substituted for the word "commit" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance XLIX of 1978).

(3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

<sup>1</sup>[(4) If such order is given by a Magistrate other than the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, he shall forward a copy of his order, with his reasons for making it to the Chief Metropolitan Magistrate or to the Chief Judicial Magistrate to whom he is subordinate.]

<sup>2</sup>[(4A) If such order is given by a Chief Metropolitan Magistrate or a Chief Judicial Magistrate, he shall forward a copy of his order, with reasons for making it to the Chief Metropolitan Sessions Judge or to the Sessions Judge to whom he is subordinate.]

<sup>3</sup><sup>4</sup>[(5) If the investigation is not concluded within one hundred and twenty days from the date of receipt of the information relating to the commission of the offence or the order of the Magistrate for such investigation—

- (a) the Magistrate empowered to take cognizance of such offence or making the order for investigation may, if the offence to which the investigation relates is not punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail to the satisfaction of such Magistrate; and
- (b) the Court of Session may, if the offence to which the investigation relates is punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail to the satisfaction of such Court:

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<sup>1</sup> Sub-section (4) was substituted for sub-section (4) by section 58(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Sub-section (4A) was inserted by section 58(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> Sub-sections (5), (6), (7) and (8) were inserted by section 9 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>4</sup> Sub-section (5) was substituted for sub-section (5) by section 2 of the Code of Criminal Procedure (Second Amendment) Act, 1992 (Act No. XLII of 1992).

Provided that if an accused is not released on bail under this sub-section, the Magistrate or, as the case may be, the Court of Session shall record the reasons for it:

Provided further that in cases in which sanction of appropriate authority is required to be obtained under the provisions of the relevant law for prosecution of the accused, the time taken for obtaining such sanction shall be excluded from the period specified in this sub-section.

**Explanation**— The time taken for obtaining sanction shall commence from the day the case, with all necessary documents, is submitted for consideration of the appropriate authority and be deemed to end on the day of the receipt of the sanction order of the authority.]

(6) - (7A). [*Omitted by the Criminal Procedure (Second Amendment) Act, 1992 (Act No. XLII of 1992), section 2.*]

(8) The provisions of sub-section (5) shall not apply to the investigation of an offence under section 400 or section 401 of the Penal Code, 1860 (Act XLV of 1860).]

**168.** When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Report of investigation by subordinate police officer.

**169.** If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station or to the police-officer making the investigation that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or <sup>1</sup>[send] him for trial.

Release of accused when evidence deficient.

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<sup>1</sup> The word "send" was substituted for the word "commit" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

Case to be sent to Magistrate when evidence is sufficient

**170.**(1) If, upon an investigation under this Chapter, it appears to the officer-in-charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or <sup>1</sup>[send] him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer-in-charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the <sup>2</sup>[Chief Metropolitan Magistrate,] <sup>3</sup>[or the Chief Judicial Magistrate] is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

<sup>4</sup>[\* \* \*]

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

<sup>1</sup> The word "send" was substituted for the word "commit" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> The words and comma "Chief Metropolitan Magistrate," were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>3</sup> The words "or the Chief Judicial Magistrate" were substituted for the words "District Magistrate or Sub-divisional Magistrate" by section 59 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> Sub-Section (4) was omitted by section 2 of the Code of Criminal Procedure (Amendment) Act, 1926 (Act No. II of 1926).



**171.** <sup>1</sup>[(1)] No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be required to accompany police-officer

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Complainants and witnesses not to be subjected to restraint

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Recusant complainant or witness may be forwarded in custody

<sup>2</sup>[(2) Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the police-officer to ensure that the complainant or the witness appears before the Court at the time of hearing of the case.]

**172.** (1) Every police-officers making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Diary of proceedings in investigation

(2) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court and may use such diaries, not as evidence in the case, but to aid it in such inquiry

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<sup>1</sup> Section 171 was renumbered as sub-section (1) of that section by section 10 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>2</sup> Sub-section (2) was added by section 10 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them, to refresh his memory or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

Report of  
police-officer

**173.** (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

- (a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and
- (b) communicate, in such manner as may be prescribed by the Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.

(2) Where a superior officer of police has been appointed under section 158, the report shall in any cases in which the Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer-in-charge of the police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

<sup>1</sup>[(3A) When such report is in respect of a case to which section 170 applies, the police-officer shall forward to the Magistrate along with the report—

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<sup>1</sup> Sub-sections (3A) and (3B) were inserted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

- (a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
- (b) the statements recorded under sub-section (3) of section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(3B) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (1) has been forwarded to the Magistrate and, whereupon such investigation, the officer in charge of the police-station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-section (1) to (3A) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (1).]

(4) a copy of any report forwarded under this section shall on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

**174.** (1) The officer in charge of a police-station or some other police-officer specially empowered by the Government in that behalf, on receiving information that a person— Police to inquire and report on suicide, etc.

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the <sup>1</sup>[nearest Executive Magistrate] empowered to hold inquests, and, unless

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<sup>1</sup> The words “nearest Executive Magistrate” were substituted for the words “nearest Magistrate” by section 60(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

otherwise directed by any rule prescribed by the Government, or by any general or special order <sup>1</sup>[of the District Magistrate], shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighborhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted:

Provided that, unless the Government otherwise directs, it shall not be necessary under this sub-section, in any case where the death or any person has been caused by enemy action, to make any investigation or to draw up any report or to send any intimation to a Magistrate empowered to hold inquests.

(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to <sup>2</sup>[the District Magistrate].

(3) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

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<sup>1</sup> The words “of the District Magistrate” were substituted for the words and comma “the Chief Metropolitan Magistrate, the District Magistrate or Sub-divisional Magistrate” by section 60(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words “the District Magistrate” were substituted for the words and comma “the Chief Metropolitan Magistrate, the District Magistrate or Sub-divisional Magistrate” by section 60(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(4) [Omitted by Adaptation of Central Acts and Ordinances Order, 1949, Schedule.]

<sup>1</sup>[(5) The following Magistrates are empowered to hold inquest, namely, any District Magistrate or any other Executive Magistrate specially empowered in this behalf by the Government or the District Magistrate.]

**175.** (1) A police-officer proceeding under section 174 may, by order in writing summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

Power to  
summon  
persons

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

**176.** (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c) of sub-section (1), any Magistrate so empowered may

Inquiry by  
Magistrate into  
cause of death

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<sup>1</sup> Sub-section (5) was substituted for sub-section (5) by section 60(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may, cause the body to be disinterred and examined.

## PART VI

### PROCEEDINGS IN PROSECUTIONS

#### CHAPTER XV

#### OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

##### *A.—Place of Inquiry or Trial*

Ordinary place of inquiry and trial

**177.** Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions

**178.** Notwithstanding anything contained in section 177, the Government may direct that any cases or class of cases <sup>1</sup>[sent] for trial in any district may be tried in any sessions division:

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<sup>1</sup> The word "sent" was substituted for the word "committed" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>1</sup>[\* \* \*]

**179.** When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Accused triable in district where act is done or where consequence ensues

*Illustrations*

- (a) A is wounded within the local limits of the jurisdictions of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z.
- (b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y, or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.
- (c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.
- (d) A is wounded in <sup>2</sup>[Dhaka], and dies of his wounds in <sup>3</sup>[Chittagong]. The offence of causing A's death may be inquired into and tried in <sup>3</sup>[Chittagong].

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<sup>1</sup> The proviso was omitted by section 5 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

<sup>2</sup> The word "Dhaka" was substituted for the words "the State of Junagadh" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The word "Chittagong" was substituted for the words "Karachi" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Place of trial where act is offence by reason of relation to other offence

**180.** When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

*Illustrations*

- (a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the court within the local limits of whose jurisdiction the offence abetted was committed.
- (b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.
- (c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

**181.** (1) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust

(2) The offence of Criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.



(3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

Theft

(4) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Kidnapping  
and abduction

**182.** When it is uncertain in which of several local areas an offence was committed, or

Place of inquiry  
or trial where  
scene of offence  
is uncertain or  
not in one  
district only or  
where offence is  
continuing or  
consists of  
several acts

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

**183.** An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offence  
committed on a  
journey

**184.** [*Repealed by section 3 and 2nd Schedule of the Federal Laws (Revision and Declaration) Act, 1951 (Act No. XXVI of 1951).*]

High Court Division to decide, in case of doubt, district where inquiry or trial shall take place

**185.** (1) Whenever a question arises as to which of two or more Courts subordinate to <sup>1</sup>[\* \* \*] High Court Division ought to inquire into or try any offence, it shall be decided by <sup>2</sup>[the] High Court Division.

(2). [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

Power to issue summons of warrant for offence committed beyond local jurisdiction

**186.** (1) When <sup>3</sup>[a Metropolitan Magistrate] <sup>4</sup>[or a Magistrate of the first class], sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without) Bangladesh, an offence which cannot, under the provisions of sections 177 to <sup>5</sup>[183] (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in Bangladesh, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

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<sup>1</sup> The words "the same" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The word "the" was substituted for the word "that" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The words "a Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>4</sup> The words "or a Magistrate of the first class" were substituted for the words and commas "a District Magistrate, Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the Government, a Magistrate of the first class" by section 61 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>5</sup> The figure "183" was substituted for the figure "184" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court Division.

Magistrate's  
procedure on  
arrest

**187.** (1) If the person has been arrested under a warrant issued under section 186 by a Magistrate <sup>1</sup>[such Magistrate shall send the person arrested to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate] to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

Procedure  
where warrant  
issued by  
subordinate  
Magistrate

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186 such Magistrate shall send such person to such Court.

**188.** When a citizen of Bangladesh commits an offence at any place without and beyond the limits of Bangladesh, or

<sup>2</sup>[\* \* \*]

Liability for  
offence  
committed  
outside  
Bangladesh

When any person commits an offence on any ship or aircraft registered in Bangladesh wherever it may be,

he may be dealt with in respect of such offence as if it had been committed at any place within Bangladesh at which he may be found:

<sup>1</sup> The words “such Magistrate shall send the person arrested to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate” were substituted for the words and comma “other than a Metropolitan Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate” by section 62 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> Second paragraph of section 188 was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Political Agents of certify fitness of inquiry into charge

Provided that notwithstanding anything in any of the preceding sections of this Chapter no charge as to any such offence shall be inquired into in Bangladesh <sup>1</sup>[except with the sanction of the Government]:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in Bangladesh shall be a bar to further proceedings against him under <sup>2</sup>[the Extradition Act, 1974], in respect of the same offence in any territory beyond the limits of Bangladesh.

Power to direct copies of depositions and exhibits to be received in evidence

**189.** Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before <sup>3</sup>[\* \* \*] a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

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<sup>1</sup> The words "except with the sanction of the Government" were substituted for the words and commas "unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in Pakistan; and, where there is no Political Agent, the sanction of the Provincial Government shall be required" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The words, comma and figure "the Extradition Act, 1974" were substituted for the words, comma and figure "the Extradition Act, 1903" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> The words "the political Agent or" omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

*B.—Conditions requisite for Initiation of Proceedings*

**190.** (1) Except as hereinafter provided, any <sup>1</sup>[Chief Metropolitan Magistrate], <sup>2</sup>[Metropolitan Magistrate], <sup>3</sup>[Chief Judicial Magistrate, Magistrate of the first class and any other Magistrate specially empowered in this behalf under sub-section (2) or (3)] may take cognizance of any offence—

Cognizance  
of offences  
by  
Magistrates

- (a) upon receiving a complaint of facts which constitute such offence;
- (b) upon a report in writing of such facts made by any police-officer;
- (c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

<sup>4</sup>[(2) the Government may, and subject to any general or special order issued in this behalf by the High Court Division, the Chief Judicial Magistrate may empower any Magistrate of the second or third class to take cognizance under sub-section (1) clause (a) or clause (b) of offences which he may try or send for trial]

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<sup>1</sup> The words and comma “Chief Metropolitan Magistrate,” were inserted by section 63(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>3</sup> The words, comma, brackets and figures “Chief Judicial Magistrate, Magistrate of the first class and any other Magistrate specially empowered in this behalf under sub-section (2) or (3)” were substituted for the words and comma “District Magistrate or Sub-divisional Magistrate and any other Magistrate specially empowered in this behalf” by section 63(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> Sub-section (2) was substituted for sub-section (2) by section 63(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(3) The Government may empower any Magistrate of the <sup>1</sup>[\*\*\*] second class to take cognizance under sub-section (1), clause (c), of offences for which he may try or <sup>2</sup>[send] for trial.

<sup>3</sup>(4) Notwithstanding anything contained to the contrary in this section or elsewhere in this Code, the Government may, by an order specifying the reasons and period stated therein, empower any Executive Magistrate to take cognizance under clause (a), (b) or (c) of sub-section (1), of offences and the Executive Magistrate shall send it for trial to the court of competent jurisdiction.]

Transfer <sup>4</sup>[\*\*\*]  
on application  
of accused

**191.** When a Magistrate takes cognizance of an offence under sub-section (1), clause (c), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be <sup>5</sup>[sent] to the Court of Session or transferred to another Magistrate.

Transfer of  
cases by  
Magistrates

**192.** (1) <sup>6</sup>[<sup>7</sup>[The Chief Metropolitan Magistrate], or <sup>8</sup>[any Chief Judicial Magistrate] may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

<sup>1</sup> The words "first or" were omitted by section 63(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words "send" was substituted for the word "commit" by section 2 and schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> Sub-section (4) was added by section 63(d) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> In the marginal heading the words "or commitment" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>5</sup> The word "sent" was substituted for the word "committed" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>6</sup> The words and comma "The Metropolitan Magistrate, or any" were substituted for the word and comma "Any," by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>7</sup> The words "The Chief Metropolitan Magistrate" were substituted for the words "the Metropolitan Magistrate" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

<sup>8</sup> The words "any Chief Judicial Magistrate" were substituted for the words "any District Magistrate or Sub-divisional Magistrate" by section 64(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(2) Any <sup>1</sup>[Chief Judicial Magistrate] may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try accused or <sup>2</sup>[send] him for trial; and such Magistrate may dispose of the case accordingly.

**193.** (1) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been <sup>3</sup>[sent] to it by a Magistrate duly empowered in that behalf.

Cognizance of offences by Courts of Session

(2) Additional Sessions Judges and <sup>4</sup>[Joint] Sessions Judges shall try such cases only as the Government by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.

**194.** [Omitted by the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978), section 2 and Schedule.]

**195.** (1) No Court shall take cognizance:—

(a) of any offence punishable under sections 172 to 188 of the Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate;

Prosecution for contempt of lawful authority of public servants

(b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in

Prosecution for certain offences against public justice

<sup>1</sup> The words “Chief Judicial Magistrate” were substituted for the words “District Magistrate” by section 64(b) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The word "send" was substituted for the word "commit" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> The word "sent" was substituted for the word "committed" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>4</sup> The word “Joint” was substituted for the word “Assistant” by section 65 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

- writing of such Court or of some other Court to which such Court is subordinate; or
- Prosecution for certain offences relating to documents given in evidence
- (c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.

(2) In clauses (b) and (c) of sub-section (1), the term "Court" includes a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the <sup>1</sup>[Registration Act, 1908].

(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate:

Provided that—

- (a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such court shall be deemed to be subordinate; and
- (b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

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<sup>1</sup> The words, comma and figure "Registration Act, 1908" were substituted for the words, comma and figure "Indian Registration Act, 1877" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).



(4) The provisions of sub-section (1), with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abetment of such offences, and attempts to commit them.

(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.

**196.** No Court shall take cognizance of any offence punishable under Chapter VI or IXA of the Penal Code (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 295A or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the <sup>1</sup>[Government, or some officer empowered in this behalf by the Government].

Prosecution for offences against the State

<sup>2</sup>[**196A.** No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Penal Code,

Prosecution for certain classes of criminal conspiracy

- (1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from the <sup>1</sup>[Government, or some officer empowered in this behalf by the Government], or.
- (2) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, unless

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<sup>1</sup> The words and comma "Government, or some officer empowered in this behalf by the Government" were substituted for the words and comma "Central Government or the Provincial Government concerned, or some officer empowered in this behalf by either of the two Governments" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> Section 196A was inserted by section 5 of the Criminal Law Amendment Act, 1913 (No. VIII of 1913).

the <sup>1</sup>[Government, <sup>2</sup>[\*\*\*], or a] District Magistrate empowered in this behalf by the Government, has, by order in writing consented to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of sub-section (4) of section 195 apply no such consent shall be necessary.]

Preliminary inquiry in certain cases

<sup>3</sup>[**196B.** In the case of any offence in respect of which the provisions of section 196 or section 196A apply, <sup>4</sup>[ <sup>5</sup>[\*\*\*] a District Magistrate] may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (3).]

Prosecution of Judges and public servants

**197.** (1) When any person who is a Judge within the meaning of section 19 of the Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his

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<sup>1</sup> The words, commas and letter "Government, or the Chief Metropolitan Magistrate, or a" were substituted for the words, comma and letter "Government, or a" by the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976) section 2 and Schedule.

<sup>2</sup> The words "or the Chief Metropolitan Magistrate" were omitted by section 66 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>3</sup> Section 196B was inserted by section 49 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act No. XVIII of 1923).

<sup>4</sup> The words and letter "the Chief Metropolitan Magistrate or a District Magistrate" were substituted for the letter and words "a District Magistrate" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance LXXXVI of 1976).

<sup>5</sup> The words "the Chief Metropolitan Magistrate or" were omitted by section 67 of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

official duty, no Court shall take cognizance of such offence except with the <sup>1</sup>[previous sanction of the Government]-

<sup>2</sup>[\* \* \*]

(2) <sup>3</sup>[The Government] may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Power of Government as to prosecution

**198.** No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence:

Prosecution for breach of contract, defamation and offences against marriage

Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf:

Provided further that where the husband aggrieved by an offence under section 494 of the said code is serving in any of the armed forces of Bangladesh under conditions which are certified by the Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other persons authorized by the husband in accordance with the provisions of sub-section (1) of section 199B may, with the leave of the Court, make a complaint on his behalf.

<sup>1</sup> The words "previous sanction of the Government" were substituted for the words "previous sanction" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, (Act No. VIII of 1973).

<sup>2</sup> Clauses (a) and (b) were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The words "The Government" were substituted for the words and commas "The President or Governor, as the case may be," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Prosecution for adultery or enticing a married woman

**199.** No Court shall take cognizance of an offence under section 497 or section 498 of the Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, made with the leave of the Court by some person who had care of such woman on his behalf at the time when such offence was committed:

Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf:

Provided further that where such husband is serving in any of the armed forces of Bangladesh under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorized by the husband in accordance with the provisions of sub-section (1) of section 199B may, with the leave of the Court, make a complaint on his behalf.

Objection by lawful guardian to complaint by person other than aggrieved person

<sup>1</sup>[**199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.]

Form of authorization under second proviso to section 198 or 199

<sup>2</sup>[**199B.** (1) The authorization of a husband given to another person to make a complaint on his behalf under the second proviso to section 198 or the second proviso to section 199 shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been

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<sup>1</sup> Section 199A was inserted by section 53 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act No. XVIII of 1923).

<sup>2</sup> Section 199B was inserted by section 4 of the Code of Criminal Procedure (Second Amendment) Act, 1943 (Act No. XXVIII of 1943).

informed of the allegations upon which the complaint is to be founded, shall be countersigned by the Officer referred to in the said provisos, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(2) Any document purporting to be such an authorization and complying with the provisions of sub-section (1), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine, and shall be received in evidence.]

## CHAPTER XVI

### OF COMPLAINTS TO MAGISTRATES

**200.** A Magistrate taking cognizance of an offence on complaint shall at once examine <sup>1</sup>[upon oath the complainant and as such of the witnesses present, if any, as he may consider necessary,] and the substance of the examination shall be reduced to writing and shall be signed <sup>2</sup>[by the complainant or witness so examined], and also by the Magistrate: Examination of complainant

Provided as follows:—

- (a) when the complaint is made in writing, nothing herein contained shall be deemed to require <sup>3</sup>[such examination] before transferring the case under section 192;

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<sup>1</sup> The words and commas "upon oath the complainant and such of the witnesses present, if any, as he may consider necessary," were substituted for the words and commas "the complainant and the witnesses present, if any, upon oath," by section 11 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>2</sup> The words "by the complainant or witness so examined" were substituted for the words "by the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> The words "such examination" were substituted for the letter and words "a Magistrate to examine the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

(aa) when the complaint is made in writing nothing herein contained shall be deemed to require <sup>1</sup>[such examination] in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;

<sup>2</sup>[\* \* \*]

(c) when the case has been transferred under section 192 and the Magistrate so transferring it has already <sup>3</sup>[examined the complainant and witness if any,] the Magistrate to whom it is so transferred shall not be bound to <sup>4</sup>[re-examine them].

Procedure by  
Magistrate not  
competent to  
take cognizance  
of the case

**201.** (1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement  
for issue of  
process

**202.** (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorized to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other

<sup>1</sup> The words "such examination" were substituted for the words and letter ""the examination of a complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> Clause (b) was omitted by Schedule of the Adaptation of Central Acts and Ordinances Order, 1949.

<sup>3</sup> The words and commas "examined the complainant and witness, if any," were substituted for the words "examined the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>4</sup> The words "re-examine them" were substituted for the words "re-examine the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint:

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the <sup>1</sup>[provisions of section 200 have been complied with] <sup>2</sup>[:

<sup>3</sup>[\* \* \*]]

<sup>4</sup>[Provided further that where it appears to the Magistrate that the offence complained of is triable exclusively by a Court of Session, the Magistrate may postpone the issue of process for compelling the attendance of the person complained against and may make or cause to be made an inquiry or investigation as mentioned in this sub-section for the purpose of ascertaining the truth or falsehood of the complaint.]

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(2A) Any Magistrate inquiring into a case under this section may, if he thinks, fit, take evidence of witnesses on oath <sup>5</sup>[:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.]

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<sup>1</sup> The words and figure "provisions of section 200 have been complied with" were substituted for the words and figures "complainant has been examined on oath under the provisions of section 200" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> A colon (:) was substituted for the full-stop (.) and thereafter a proviso was added by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>3</sup> Second proviso was omitted by section 4 of the Code of Criminal Procedure (Second Amendment) Act, 1980 (Act No. XXX of 1980).

<sup>4</sup> Proviso was added by section 12 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>5</sup> A colon (:) was substituted for the full-stop (.) and thereafter the proviso was added by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>1</sup>[(2B) Where the police submits the final report, the Magistrate shall be competent to accept such report and discharge the accused.]

Dismissal of  
complaint

**203.** The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if after considering the statement on oath (if any) of the complainant and the result of the investigation or inquiry (if any) under section 202; there is in his judgment no sufficient ground for proceeding. In such cases he shall briefly record his reasons for so doing.

#### CHAPTER XVII

##### OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

Issue of  
process

**204.** (1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

<sup>2</sup>[(1A) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(1B) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.]

(2) Nothing in this section shall be deemed to affect the provisions of section 90.

(3) When by any law for the time being in force any process fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

<sup>1</sup> Sub-section (2B) was added by section 12 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

<sup>2</sup> Sub-sections (1A) and (1B) were inserted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).



**205.** (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

Magistrate may dispense with personal attendance of accused

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

<sup>1</sup>[**205A** and **205B.** *[Omitted by the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982), section 13.]*

**205C.** When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

Transfer of case of Court of Session when offence is triable exclusively by it

- (a) send the case to the Court of Session;
- (b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;
- (c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;
- (d) notify the Public Prosecutor of the transfer of the case to the Court of Session.

<sup>2</sup>[**205CC.** (1) When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate

Transfer of case to

<sup>1</sup> Sections 205A, 205B, 205C and 205D were inserted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIV of 1978).

<sup>2</sup> Section 205CC was inserted by section 6 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

<sup>1</sup>[Chief Metropolitan Magistrate, Chief Judicial Magistrate],  
etc

and it appears to the Magistrate that the offence is triable exclusively by the <sup>2</sup>[Chief Metropolitan Magistrate,] <sup>3</sup>[or Chief Judicial Magistrate], he shall—

- (a) send the case to the <sup>4</sup>[Chief Metropolitan Magistrate or, as the case may be, <sup>5</sup>[Chief Judicial Magistrate]];
- (b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;
- (c) send to the <sup>6</sup>[Chief Metropolitan Magistrate or, as the case may be, <sup>7</sup>[Chief Judicial Magistrate]] the record of the case and the documents and articles, if any, which are to be produced in evidence.

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<sup>1</sup> The words and comma in the Marginal heading “Chief Metropolitan Magistrate, Chief Judicial Magistrate” were substituted for the words “District Magistrate” by section 68(a) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words and comma "Chief Metropolitan Magistrate," were inserted by section 4 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

<sup>3</sup> The words “or Chief Judicial Magistrate” were substituted for the words “District Magistrate or the Additional District Magistrate” by section 68(b)(i) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>4</sup> The words and commas "Chief Metropolitan Magistrate or, as the case may be, District Magistrate" were substituted for the words "District Magistrate" by section 4 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

<sup>5</sup> The words “Chief Judicial Magistrate” were substituted for the words “District Magistrate” by section 68(b)(ii) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>6</sup> The words and commas "Chief Metropolitan Magistrate or, as the case may be, District Magistrate" were substituted for the words "District Magistrate" by section 4 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

<sup>7</sup> The words “Chief Judicial Magistrate” were substituted for the words “District Magistrate” by section 68(b)(iii) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

(2) The <sup>1</sup>[Chief Judicial Magistrate or the Chief Metropolitan Magistrate] may direct that any case received by him under sub-section (1) or any class of such cases shall be heard by any <sup>2</sup>[Additional Chief Metropolitan Magistrate or, Additional Chief Judicial Magistrate] subordinate to him.]

**205D.** (1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police-officer conducting the investigation.

Procedure to be followed when there is a complaint case and police investigation in respect of the same offence

(2) If a report is made by the investigating police-officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.]

**CHAPTER XVIII.** (Section 206-220) [*Omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).*]

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<sup>1</sup> The words “Chief Judicial Magistrate or the Chief Metropolitan Magistrate” were substituted for the words “District Magistrate” by section 68(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).

<sup>2</sup> The words and comma “Additional Chief Metropolitan Magistrate or, Additional Chief Judicial Magistrate” were substituted for the words “Additional District Magistrate” by section 68(c) of the Code of Criminal Procedure (Amendment) Act, 2009 (Act No. XXXII of 2009) (with effect from 1st November, 2007).