The Code of Criminal Procedure, 1898
2 of 1882. (Selected sections for information only)

2062

1. Short title Commencement - (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.

(2) It extends to "[the whole of India except "[State of Jammu and Kashmir]; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local 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, or shall apply to -

(a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;

(b) heads of villagers in [the State of Madras as it existed immediately before the Ist November, 1956]; or

(c) village police officers in [the State of Bombay as it existed immediately before the Ist November, 1956] :

Provided that the State Government may, if it thinks fir by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. Repeal of enactments, notifications, etc., under repealed Acts, Pending, cases. [Repeated by the Repealing and Amending Act, 1914 (X of 1914)]

3. References to Code of Criminal Procedure and other repealed enactments. - (1) In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of the Code of Criminal Procedure, Act XXV of 1861, or Act X of 1872, or Act X 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

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", Magistrate of the second class" and "Magistrate of the third class", the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-Divisional Magistrate"; the expression "Magistrate of the district" shall be deemed to mean "District Magistrate"; the expression "Magistrate of Police" shall be deemed to mean

"Presidency Magistrate" and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge."

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

(a) **"Advocate General"** - "Advocate General" includes also a Government Advocate or, where there is no Advocate General or Government Advocate, such officer as the State Government may, from time to to time, appoint in this behalf :

(b) ***"Bailable offence", "Non-bailable offence"***. - "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;

(c) ***"Charge"*** - "Charge" includes any head of charge when the charge contains more heads than one;

(d) ***[Repealed.]***

(e) ***"Clerk of the State"*** - ["Clerk of the State"] includes any officer specially appointed by the Chief Justice to discharge the function given by this Code to the [Clerk of the State]

(f) ***"Cognizable offence", Cognizable case"*** - "Cognizable offence" means an offence, for and "cognizable case" means a case in which a officer, within or without the presidency-towns may, in accordance with the Second Schedule, or under any law for the time being in force, arrest without warrant.

(g) ***"Commissioner of Police"*** - "Commissioner of Police" includes a Deputy Commissioner of Police;

(h) ***"Complaint"*** - "Complaint" means the allegation made orally or in writing to a Magistrate with a view to this 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;

(i) ***["High Court"*** in relation to the Andaman and Nicobar Islands means the High Court in Calcutta and in relation to any other local area, means the highest Court of criminal appeal for that area (other than the Supreme Court) or, where no such Court is established under any law for the time being in force, such officer as the State Government may appoint in this behalf];

(j) ***"India"*** means the territories to which this Code extends;

(k) ***"Inquiry"*** - "Inquiry" includes every inquiry other than a trial conducted under this Code by a magistrate or Court;

(l) ***"Investigation"*** - "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than Magistrate) who is authorized by a Magistrate in this behalf;

(m) ***"Judicial proceeding"*** - "Judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;

(n) ***"Non-cognizable offence," "Non-cognizable case."*** - "Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in which a police officer, within or without a presidency-town, may not arrest without warrant;

(o) ***"Offence"*** - "Offence" means any act or omission made punishable by any law for the time being in force;

(p) ***"Officer in charge of a police station"*** - "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 and is above the rank of constable or, when the State Government so directs, any other police officer so present;

(q) ***"Place"*** - "Place" includes also a house, building, tent and vessel;

(r) ***"Pleader"*** - "Pleader" used with reference to any proceeding in any Court, means a pleader or a mukhtar authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, vakil and an attorney of a High Court so authorized, and (2) any other person appointed with the permission of the Court to act in such proceedings;

(s) ***"Police station"*** - "Police station" means any post or place declared, generally or specially, by the State Government to be a police station, and includes any local area specified by the State Government in this behalf;

(t) ***"Public Prosecutor"*** - "Public Prosecutor" means any person appointed under Section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Government in any High Court in the exercise of its original criminal jurisdiction;

(u) ***"Sub-division"*** - "Sub-division" means a sub-division of a district;

(v) ***"Summons-case"*** - "Summons-case" means a case relating to an offence, and not being a warrant-case; and

(w) ***"Warrant case"*** - "Warrant case" means a case relating to an offence punishable with death, [imprisonment for life or imprisonment for a term exceeding one year].

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

Words to have same meaning as in Indian Penal Code.- All words and expressions used herein and not hereinabove defined shall be deemed to have the meanings respectively to them by that Code.

5. Trial of offence under Penal Code - (1) All offences under the Indian Penal Code shall be investigated, inquired into, tried otherwise dealt with according to the provisions hereinafter contained.

(2) All offences 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.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in [India], namely, -

I - Courts of Session.

II - Presidency Magistrates.

III - Magistrates of the first class.

IV - Magistrates of the second class.

V - Magistrates of the third class.

B-Territorial Divisions

7. (1) Sessions divisions and districts. - Every State (excluding the presidency towns) shall be a Sessions division, or shall consist of Sessions divisions; and every Sessions division shall, for the purposes of this Code, be a district or consist of districts.

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

Existing divisions and districts maintained till altered. (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.

Presidency town to be deemed district - (4) Every presidency town shall, for the purposes of this Code, be deemed to be a district.

8. (1) Power to divide districts into sub-divisions. - The State Government may divide any district outside the presidency towns into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division.

(2) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

= *C-Courts and Offices outside the Presidency-towns*

9. Court of Session. - (1) The State Government shall establish a Court of Session for every Sessions division and appoint a Judge of such Court.
(2) The State Government may, be general or special order in the official Gazette, direct at what place or place the Court of Session shall ordinarily hold its sitting; but if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sitting at any other place in the Sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.
(3) The State Government may also appoint Additional Sessions Judges and Assistant Sessions Judge to exercise jurisdiction in one or more such Courts.
(4) A Sessions Judge of one Sessions division may be appointed by the State 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 State Government may direct.
(5) All Courts of Sessions existing when this Code comes into force shall be deemed to have been established under this Act.
10. District Magistrate. - (1) In every district outside the presidency-towns the State Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.
(2) The State Government may appoint any Magistrate of the first class 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 State Government may direct.
(3) For the purposes of Section 192, sub-section (1), [* * *] and 528, sub-sections (2) and (3) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.
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14. Special Magistrates. - The State Government may confer upon any person who holds or has held any judicial post under the Union or a State or possesses such other qualifications as may in consultation with the High Court, be specified in this qualifications as may, Government by notification in the official Gazette] all or any of the powers conferred or conferable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency towns.
(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the State Government may, by general or special order, direct.

(3) The State Government may delegate, with such limitations as it thinks fit, to any officer under its control the powers conferred by sub-section (1).
(4) No powers shall be conferred under this section on any police officer below the grade of Assistant District Superintendent, and no powers shall be conferred on 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 their being brought 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.
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20. Local limits of jurisdiction - Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.
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61. Person arrested not to be detained more than twenty-four hours. - 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 :- 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 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.
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94. Summons to produce document or other thing. - (1) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, 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 proceedings, under this Code by or before such Court 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.
(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 thin to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be, deemed to affect the Indian 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.

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96. When search warrant may be issued. - 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 authorise any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Temporary orders in urgent cases of Nuisance or Apprehended Danger

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144. Power to issue order absolute at once in urgent cases of nuisance or apprehended danger. - In case where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Sub-Divisional Magistrate, or of any other Magistrate (not being a Magistrate of the third class) specially empowered by the State Government or the Chief Presidency Magistrate 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, 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 injury, or safety, or a disturbance of the public tranquillity, or a riot or any 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 a 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 t o the applicant an early opportunity of appealing 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.
(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 any affray, the State Government, by notification in the official Gazette, otherwise directs.
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154. Information in cognizable cases. - 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 he 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 the kept by such officer in such form as the State Government may prescribe in this behalf.
155. Information in non-cognizable cases. - (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.
(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 commit the same for trial, or of a Presidency Magistrate.
(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.
156. Investigation in to cognizable cases. - (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case within the limits of such station would have power to insure into or try under the provisions of Chapter XV relating to the place of inquiry or trial.
(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.
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161. Examination of witnesses by police. - (1) Any police officer making an investigation under this chapter or any police officer not below such rank as the State 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. Statements to police not to be signed; use of statements in evidence. - (1) No statement made by any person to a police in the course of an investigation under this chapter shall, if reduced into writing, by 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 :

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution to contradict such witness in the manner provided by Section 145 of the Indian Evidence Act, 1872 and 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.

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

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164. Power to record statement and confessions. - (1) Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government may, if any is not a police officer, record any statement or confession made to him in the course of an investigation under this chapter [or under any other law for the time being in force] 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.
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167. Procedure when investigation cannot be completed in twenty-four hours. - (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 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 nearest 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.
(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 authorise 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 commit 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 State Government shall authorise detention in the custody of the police.
(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.
(4) If such order is given by a Magistrate other than the District Magistrate or Sub-Divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.
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172. Diary of proceedings in investigations. - (1) Every police officer making an investigation under this chapter shall dry 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.

(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 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 then for the purpose of Contradicting such police, the provisions of the Indian Evidence Act, 1872, Section 161 or Section 145, as the case may be, shall apply.

173. Report or police officer. - (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 State 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 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 son, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the State 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.

(1) Where a superior officer of police has been appointed under Section 158, the report shall, in any case in which the State Government by general or special order 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.

(2) 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.

(3) After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, report forwarded under sub-section (1) and of the first information report thereof, on which the prosecution proposes to rely, including the statements and confessions, if any, recorded under Section 164 and the statements recorded

under sub-section (3) of Section 161 of all the persons whom the prosecution proposes to examine as its witnesses.
(4) Notwithstanding anything contained in sub-section (4), if the police officer is of opinion that any part of any statement recorded under sub-section (3) of Section 161 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, he shall exclude such part from the copy of the statement furnished to the accused and in such a case, he shall make a report to the Magistrate stating his reasons for excluding such part :
Provided that at the commencement of the inquiry or trial, the Magistrate shall, after perusing the part so excluded and considering the report of the police officer, pass such orders as he thinks fit and if he so directs, a copy of the part so excluded or such portion thereof, as he thinks proper, shall be furnished to the accused.
174. Police to inquire and report on suicide, etc. - (1) The officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf, on receiving information that a person-

(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 nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-Divisional 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 neighbourhood, shall make an investigations, 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 wat weapon or instrument (if any), such marks appear to have been inflicted.
(2) The report shall be signed by such police officer and other persons, or by so many of them as occur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-Divisional Magistrate.
(3) When there is any doubt regarding the cause of death, when for any other reason the police officer considers it expedient so, to do he shall, subject to such rules as the State Government may prescribe in the behalf, forward the body, with a view to its being examine to the nearest Civil Surgeon, or other qualified medical man a pointed in this behalf by the State Government if, the state of the weath and the distance admit of its being so

forwarded without risk of such putrefaction on the road as would render such examination useless.
(4) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorised to hold inquests.
(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, and any Magistrate, specially empowered in this behalf by the State Government or the District Magistrate.
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177. Ordinary place of inquiry and trial. - Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.
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180. Place of trial where act is offence by reason of relation to other offence. - 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.
188. Liability of citizen of India for offences committed out of India. - [When an offence is committed by-

(a) any citizen of India in any place without and beyond India; or

(b) any person on any ship or aircraft registered in India, wherever it may be]

he may be dealt with in respect of such offence as if it had been committed at any place within [India] at which he may be found :
Political Agents to certify fitness of inquiry into charge.
Political Agents to 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 [India] 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 inquried into in [India]; and, were there is no Political Agent, the sanction of the [State Government] shall be required :
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 [India] shall be a bar to further proceedings against him under [the Indian Extradition Act, 1903], in respect of the same offence in any territory beyond the limits of [India].
190. Cognizance of offence by Magistrate. - (1) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional

Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence -

(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.

(2) The [State Government], or the District Magistrate subject to the general or special orders of the [State Government], may empower any Magistrate to take cognizance under sub-section (1), clause (a) or clause (b), of offences for which he may try or commit for trial.

(3) The [State Government] may empower any Magistrate of the first or second class to take cognizance under sub-section (1), clause (c), of offences for which he may try or commit for trial.

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192. Transfer of cases by Magistrate. - (1) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for iqnuiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

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195. Prosecution for contempt of lawful authority of public servants. - [(1) No Court shall take cognizance-

(a) of any offence punishable under Sections 172 to 188 of the Indian 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 certain offences against public justice.

(b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 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 writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution for certain offences relation to documents given in evidence.

(c) of any offence described in Section 463 or punishable under Sections 471, 475 and 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 Indian Registration Act, 1877.

[(3) For the purposes of this section, a Court shall be deemed to be sub-ordinate 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.]

[(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 pubic servant, any authority to which such public servant is subordinate may order the withdrwal 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-A. Prosecution for certain classes of criminal conspiracy. - No Court shall take cognizance of the offence of criminal conspiracy punishable under Section 120-B of the Indian Penal Code.

(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 [State] Government or some officer em-powered by the [State] Government] in this behalf, 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, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, unless the [State Government], or a Chief Presidency Magistrate or District Magistrate empowred in this behalf by the [State 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.]

197. Prosecution of Judges and public servants. - "[(1) When any person who is a Judge within the meaning of Section 19 of the Indian 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 a [State Government] or [the Central Government], is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the [previous sanction-

[(a) in the case of a person employed in connection with the affairs of the Union, of the Central Government; and

(b) in the case of a person employed in connection with the affairs of a State, of the State Government].

Power of Central Government or State Government as to prosecution.

(2) The [Central Government or the State Government], as the case may be [* *] 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.

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199. Prosecution for adultery or enticing a married woman. - No Court shall take cognizance of an offence under Section 497 or Section 498 of the Indian 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 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 lunateic, 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 the Union] 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 authorised by the husband in accordance with the provisions of sub-section (1) of Section 199-B may, with the leave of the Court, make a complaint on his behalf.]

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202. Postponement for issues of process. - [(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

the 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 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 complainant has been examined on oath under the provisions of Section 200.]

[(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]

200. Examination of complaint. - [* * *] A Magistrate taking congnizance of an offence on complaint shall at once [examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses], and also by the Magistrate :

Provided as follows :-

(a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under Section 192 :

[(aa) when the complaint is made in writing nothing herein contained shall be deemed to require the examination of a complainant 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;]

203. Dismissal of complaint. - 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 witnesses] 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.

204. Issue of process - (1) If an 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.
[(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 preceding instituted upon a complainant 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-fess 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.
206. Power to commit for trial - (1) [* * * *] Any Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, or any Magistrate [(not being a Magistrate of the third class)] empowered in this behalf by the [State Government], may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.
(2) But, save as herein otherwise provided no person triable by the Court of Session shall be committed for trial to the High Court.
207-A. Procedure to be adopted in proceedings instituted on police report. - (1) When, in any proceeding instituted on a police report, the Magistrate receives the report forwarded under Section 173, he shall, for the purpose of holding an inquiry under this section, fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate, for reasons to be recorded, fixes any later date.
(2) If, any any time before such date, the officer conducting the prosecution applies to the Magistrate to issue a process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.
(3) At the commencement of the inquiry, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that the documents referred to in Section 173 have been furnished to the accused and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be so furnished.
(4) The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also.

(5) The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4) and in such case, the prosecutor may re-examine them.
(6) When the evidence referred to in sub-section (4) has been taken and the Magistrate has considered all the documents referred to in Section 173 and has, if necessary, examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him and given the prosecution and the accused an opportunity of being heard, such Magistrate shall, if he is of opinion that such evidence and documents disclose no grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.
(7) When, upon such evidence being taken, such documents being considered, such examination (if any) being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that the accused should be committed for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.
(8) As soon as such charge has been framed, it shall be read and explained to the accused and a copy thereof shall be given to him free of cost.
(9) The accused shall be required at once to give in orally or in writing, a list of the persons, if any, whom he wishes to be summoned to give evidence on his trial :
Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial to the Clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.
(10) When the accused has given in any list of witnesses under sub-section (9) has declined to do so, or when he has given in such list, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session, as the case may be, and shall also record briefly the reasons for such commitment.
(11) When the accused has give in any list of witnesses under sub-section (9) and has been committed for trial, the Magistrate shall summon the witnesses included in the list to appear before the Court to which the accused has been committed :
Provided that where the accused has been committed to the High Court, the magistrate may, in this discretion, leave such witnesses to be summoned by the Clerk of the State and such witnesses may be summoned accordingly :
Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are

reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.
(12) Witnesses for the prosecution, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon by the Court of Session or High Court to give evidence.
(13) If any witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court as the case may be.
(14) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge; and shall send the charge, the record of the inquiry and any weapon or other thing which is t o be produced in evidence, to the Court to Session or where the commitment is made to the High Court, to the Clerk of the State or other officer appointed in this behalf by the High Court.
(15) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.
(16) Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody].
209. When accused person to be discharged. - (1) When the evidence referred to in Section 208, sub-sections (1) and (3) has been taken and he has (if necessary) examined the accused for the evidence of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.
(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.
210. When charge is to be framed. - (1) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for

trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished to accused.(2) As soon as [such charge] has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

213. Order of commitment. - (1) When the accused, on being required to give in a list under Section 211 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under Section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

[(2) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.]

221. Charge to state offence. - (1) Every charge under this Code shall state the offence with which the accused is charged.

Specific name of offence sufficient description. (2) If the law which creates the offence gives it may specific name, the offence may be described in the charge by that name only.

How stated where offence sufficient description.(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charge.(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

Language of charge.(6) In the presidency-towns the charge shall be written in English, elsewhere it shall be written either in English or in the language of the Court.

Previous conviction when to be set out. (7) If the accused *[having been previously convicted of any offence, is liable by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court maya think fit to award for the subsequent offence,] the fact, date and place of the previous conviction shall be stated in the charge. If such statement [has been omitted], the Court may add it at any time before sentence is passed.

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in Sections 299

and 300 of the Indian Penal Code; that it did not fall within any oft he general exceptions of the same Code; and that it did not fall within any of the five exceptions to Section 300, or that, if it did fail within Exception I, one or other of the three provisos to that exception applied to it.

(b) A is charged under Section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by Section 335 if the Indian Penal Code, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property, mark. The charge may state that A committed murder, or false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d) A is charged, under Section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

223. When manner of committing must be stated. - When the nature of the case is such that the particulars mentioned in Sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

225. Effect of errors. - No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

233. Separate charges for distinct offences. - For every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately, except in the cases mentioned in Sections 234, 235, 236 and 239.

235. Trial for more than one offence. - (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial, for, every such offence.

Offence falling within two definitions.(2) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts constituting one offence, but constituting when combined a different offence.(3) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.
(4) Nothing contained in this section shall affect the Indian Penal Code, Section 71

236. Where it is doubtful what offence has been committed. - If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

237. When a person is charged with one offence, he can be convicted of another. - (1) If, in the case mentioned in Section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.
(2) [* * * * * *]

239 - What persons may be charged jointly. - The following persons may be charged and tried together, namely :-

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of Section 234 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first named persons, or of abetment of or attempting to commit any such last named offence;

(f) persons accused of offences under Sections 411 and 414 of the India Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and

(g) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.]

241. Procedure in summons cases. - The following procedure shall be observed by Magistrates in the trial of summons-cases.

251-A. Procedure to be adopted in cases instituted on a police report. - (1) When, in any case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, such Magistrate shall satisfy himself that the documents referred to in Section 173 have been furnished to the accuse, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished.

(2) If, upon considerations of all the documents referred to in Sections 173 and making such examination, if any, of the accused as the Magistrate thinks being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge him.

(3) If, upon such documents, being considered, such examination, if any, being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(4) The charge shall then be read and explained to the accused and he shall be asked whether he is guilty or claims to be tried.

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

(6) If the accused refuses to plead, or does not plead , or claims to be tried, the Magistrate shall fix a date for the examination of witnesses.

(7) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution :

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

(8) The accused shall then be called upon to enter upon his defence and produce his evidence; and if the accused puts in any written statement, the Magistrate shall file it with the record.

(9) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, ort he production of any document or other thing, the Magistrate shall issue such process until he

considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such grounds shall be recorded by him in writing :
Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.
(10) The Magistrate may, before summoning any witness on such application under sub-section (9), require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in Court.
(11) If, in any case under this section in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.
(12) Where in any case under this section, the Magistrate does not proceed in accordance with the provisions of Sections 349 and 562, he shall, if he finds the accused guilty, pass sentence upon [him] according to law.
(13) In a case where a previous conviction is charged under the provisions of Section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under sub-section (5) or sub-section (12), take evidence in respect of the alleged previous conviction, and shall record a finding thereon.]
252. Evidence for prosecution. - (1) *[In any case instituted otherwise than on a police report, when the accused appears] or is brought before a Magistrate such Magistrate shall proceed to hear the complainant (if any) and taken all such evidence as may be produced in support of the prosecution :
[Provided that the Magistrate shall not be found to hear any person as complainant in any case in which the complainant has been made by a Court.]
(2) The Magistrate shall as certain, from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.
256. Defence. - (1) If the accused refuses to plead, or does not plead, or claims to be tried he shall be required to state, [at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith], whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be re-called and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-

examination (if any), they also shall be dis-charged. The accused shall then be called upon to enter upon his defence and produce his evidence.
(2) If the accused puts in any written statement, the Magistrate shall file it with the record.
271. Commencement of trial. - (1) when the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.
Plea of guilty. (2) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.
269. State Government may order trials before Court of Session to be jury. -
(1) State Government may order in the Official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may [* *] by order in the Official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may [* *] revoke or alter such order.
(2) The State Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.
(3) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and [by the Judge himself], for such of them as are not triable by jury.
(4) When, in respect of a trial in which the accused is charged with an offence triable by jury, it appears to the High Court, on an application made to it or otherwise, that having regard to the volume or complexity of the evidence in the case, the trial is not likely to be concluded within two weeks from its commencement, or that the case would involve consideration of evidence of a highly technical nature, which renders it undesirable that it should be tried by a jury, the High Court may, notwithstanding anything contained in any order made under sub-section (1), by order, direct that case shall be tried by the Judge himself without a jury and the Judge shall proceed to try the case accordingly.]
284. - Assessor how chosen [Omitted by the Code of Criminal Procedure) (Amendment) Act, 1955 (26 of 1955), Section 43. [1-1-1956].]
285. Procedure when assessor is unable to attend [Omitted by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), Section 43 [1-1-1956].]
286. Opening case for prosecution. -

(1) [In a case triable by jury, when the jurors have been chosen or, in any other case, when the Judge is ready to hear the case], the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

Examination of witnesses.(2) The prosecutor shall then examine his witnesses.

288. Evidence given at preliminary inquiry admissible. - The evidence of a witness [duly recorded in the presence of the accused under Chapter XVIII] may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case [for all purposes subject to the provisions of the Indian evidence Act, 1872].

297. - In case tried by jury when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided [and the charge to the jury shall, wherever practicable, be taken down in shorthand in the language in which it is delivered and a transcript thereof signed by the Judge shall form part of the record.]

298. Duty of Judge. - (1) In such cases it is the duty of the Judge -

(a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial;

306. Verdict in Court of Session when to prevail. - (1) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgement accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. Of the accused is convicted, the Judge shall, [unless he proceeds in accordance with the provisions of Section 562,] pass sentence on him accordance to law.

307. Procedure where Sessions Judge disagrees with verdict. - (1) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which *[any accused person] has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case [in respect of such accused person] to the High Court, he shall submit the case accordingly, recording the grounds of

his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed, [and in such case, if the accused is further charged under the provisions of Section 310, shall proceed to try him on such charge as if such verdict had been one of conviction.]

[(A) If, in any such case, the jurors are equally divided in opinion on all or any of the charges on which any accused person has been tried, the Judge shall submit the case in respect of such accused person to the High Court recording his opinion on such charge or charges and the grounds of his opinion, and in such case, if the accused is further charged under the provisions of Section 310, he shall proceed to try him on such charge as if the verdict of the jury had been one of conviction.]

(2) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which [such accused] has been tried, but he may either remand [such accused] to custody or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict [such accused] of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

308. Re-trail of accused after discharge of jury. - Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

309. Judgment in cases tried by the Judge himself. - (1) When, in a case tried by the Judge himself, the case for the defence and the prosecutor's reply (if any) are concluded, the Judge shall give a judgment in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of Section 562, pass sentence on him accordance to law.

337. Tender of pardon to accomplice. - [(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment [which may extend to seven years], or any offence under any of the following sections of the Indian Penal code, namely, sections [161, 165, 165-A] 216A, 369, 401, 435 and 477-A, the District magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to

the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof :
Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District magistrate has been obtained to the exercise thereof.
(1A) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record :
Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fir to furnish it free of cost.]
(2) Every person accepting a tender under this section shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial if any.]
[(2A) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be].
[(2B) In every case where the offence is punishable under Section 161 or Section 165 or Section 165-A of the Indian Penal Code or sub-section (2) of Section 5 of the Prevention of Corruption Act, 1947, and where a person has accepted a tender of pardon and has been examined under sub-section (2), then, notwithstanding anything contained in sub-section (2A), a Magistrate shall, without making any further inquiry, send the case for trial to the Court of the Special Judge appointed under the Criminal Law Amendment Act, 1952].
(3) Such person, [unless he is already on bail], shall be detained in custody until the termination of the trial [* * *].
(4) [* * * * *]
338. Power to direct tender of pardon. - At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any prson supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.
340. Right of person against whom proceedings are instituted to be defended and his competency to be a witness. - (1) Any person accused of an offence before a Criminal Court, or against whom proceedings

are instituted under this Code in any such Court, may of right be defended by a pleader.
(2) Any person against whom proceedings are instituted in any such Court under Section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under Section 552, may offer himself as a witness in such proceedings.]

342. Power to examine the accused.

(1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.
(2) The accused shall not render himself liable to punishment by refusing to answer such questions or by giving false answers to them, but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.
(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.
[(4) No oath shall be administered to the accused when he is examined under sub-section (1).]

347. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed. - (1) If in any inquiry before a Magistrate, or in any trial before a Magistrate, before signing judgment, it appears to him at stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowwred to commit for trial, he shall [* * *] commit the accused under the provisions hereinbefore contained.
(2) If such Magistrate is not empowered to commit for trial, he shall proceed under Section 346.

350. Conviction or commitment on evidence partly recorded by one magistrate and partly by another. - (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in any inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; [* * *].
[Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any

such witness and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged"].
(2) Nothing in this section applies to cases in which proceedings have been stayed under Section 346 "[or in which proceedings have been submitted to a superior Magistrate under Section 349].
[(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (1).]

367. Language of judgement, Contents of judgment. - (1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court [or from the dictation of such presiding officer] in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it [and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him.]
(2) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

Judgment in alternative. (3) When the conviction is under the Indian Penal Code and it is doubtful under which of two sections or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.
(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.
(5) In trials by jury, the Court need not writ a judgment, but the Court of Session shall record the heads of the charge to the jury;
Provided that it shall no be necessary to record such heads of the charge in case where the charge has been delivered in English and taken down in short hand.]
(6) For the purposes of this section, an order under Section 118 or Section 128, sub-section (3), shall be deemed to be a judgement.

376. Power of High Court to confirm sentence or annul conviction. - In any case submitted under Section 374 [* * *] the High Court -

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

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

(c) may acquit the accused person :

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

374. Sentence of death to be submitted by Court of Session. - When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court an the sentence shall not be executed unless it is confirmed by the High Court.

388. Suspension of execution of sentence of imprisonment. - [(1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may -

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bound, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment,]

378. Procedure in case of difference of opinion. - When any such case is heard before a bench of Judges and such Judges are equally divided in opinion, the case with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgement or order shall follow such opinion.

411-A. Appeal from sentence of High Court. - (1) [* * *] Any person convicted on atrial held be High Court in the exercise of its original criminal jurisdiction may, notwithstanding anything contained in Section 418 or Section 423, sub-section (2) or [in the Letters Patent or law by which the High Court is constituted], appeal to the High Court -

(a) against he conviction on any ground of appal which involves a matter of law only;

(b) with the leave of the appellate Court, or upon the certificate of the Judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other grounds which appears to the appellate Court to be a sufficient ground of appeal; and

(c) with the leave of the appellate Court, against the sentence passed unless the sentence is one fixed by law.

(2) Notwithstanding anything contained in Section 417, the [State] Government may direct the Public Prosecutor to present an appeal to the High Court from any order of acquittal passed by the High Court in the exercise of its original criminal jurisdiction, and such appeal may, notwithstanding anything contained in Section 418, or Section 423, sub-section (2) or [in the Letters Patent or law by which the High Court is constituted or continued], but subject to the restrictions imposed by clause (b) and clause (c) of sub-section (1) of this section on an appeal against a conviction, lie on a matter of fact a s well as a matter of law.

(3) Notwithstanding anything elsewhere contained in any Act or Regulation and appeal under this section shall be heard by a Division Court of the High Court composed of not less than two Judges, being Judges other than the Judge or Judges by whom the original trial was held; and if the constitution of such a Division Court is impracticable, the High Court shall report the circumstances to the [State] Government which shall take action with a view to the transfer of the appeal under Section 527 to another High Court.

(4) Subject to such rules as may from time to time be made by [the Supreme Court] in this behalf, and to such conditions as the High Court may establish or require, an appeal shall lie to [the Supreme Court] from any order made on appeal under sub-section (1) by a Division Court of the High Court in respect of which order the High Court [certifies that the case] is a fit one for such appeal].]

417. Appeal in case of acquittal. - (1) Subject to the provisions of sub-section (5), the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police establishment Act, 1946, the Central Government may also direct the Public Prosecutor to present an appeal to the High Court from the order of acquittal.

(3) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(4) No application under sub-section (3) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of sixty days from the date of that order of acquittal.
(5) If, in any case, the application under sub-section (3) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1).]

403. Person once convicted or acquitted not to be tried for same offence. - (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under Section 236, or for which he might have been convicted under Section 237.
(2) A person acquitted or convicted or any offence may be afterwards tried for any district offence for which a separate charge might have been made against him on the former trial under Section 235, sub-section (1).
(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.
(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.
(5) Nothing in this section shall affect the provisions of Section 26 of the General Clauses Act, 1897, or Section 188 of this Code.
Explanation - The dismissal of a complaint, the stopping of proceedings under Section 249, the discharge of the accused or any entry made upon a charge under Section 273, is not an acquittal for the purposes of this section.

421. Summary dismissal of appeal. - Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily :
Provided that no appeal presented under Section 419 shall be dismissed unless the appellant or his pleader had a reasonable opportunity of being heard in support of the same.
(2) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

423. Powers of Appellate Court in disposing of appeal. - (1) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant

or his pleader, if he appears, and, the Public Prosecutor, if he appears, and, in case of an appeal under [section 411-A, sub-section (2), or section 417], the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may -

(a) in an appeal from an order of acquittal, reverse such order and direct the further iqnuiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law.

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or, (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of Section 106, sub-section (3), not so as to enhance the same;

(c) in an appeal from any other order, alter or reverse such order;

(d) make any amendment or any consequential or incidental order that may be just or proper.

[(1A) Where an appeal from a conviction lies to the High Court, it may enhance the sentence, notwithstanding anything inconsistent therewith contained in clause (b) of sub-section (1) :
Provided that the sentence shall not be so enhanced, unless the accused has had an opportunity of showing cause against such enhancement.]
(2) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.
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429. Procedure where Judges of Court of Appeal are equally divided. - When the Judges composing the Court of Appeal are equally divided in opinion the case with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his option, and the judgment or order shall follow such opinion.

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

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.
(3) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurous* [* *].
(4) The taking of evidence under this section shall be subject to th e provisions of Chapter XXV, as if it were an inquiry.
430. Finality of orders an appeal. - Judgment and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in Section 417 and Chapter XXXII.
435. Power to call for records of inferior Courts. - (1) The High Court or any Sessions Judge or District magistrate, or any Sub-divisional Magistrate empowered by the [State Government] in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court [and may, when calling for such record, direct that the execution of any sentence [or order] be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.
Explanation - All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes oft his sub-section and of Section 437.]
(2) If any Sub-divisional Magistrate acting under sub-section (1) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.
[(3) * * * * * * *]
(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.
436. Power to order inquiry. - On examining any record under Section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under Section 203 or sub-section (3) of Section 204 or into the case of any [person accused of an offence] who has been discharged :
[Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such

person has had an opportunity of showing cause why such direction should not be made.]

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

(2) If the Magistrate or Court considers the accused *[*] to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of Sections 464 or 465, as the case may be, [and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of Section 466.]

488. Order for maintenance of wifes and children - (1) If any person having sufficient mans neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding [five hundred rupees] in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

(3) If any person so ordered [fails without sufficient cause] to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying fines, and may sentence such person, unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

[If a husband has contracted marriage with another wife or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him:]

[Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due].

(4) No wife shall be entitled to receive an allowance from her husband under this section due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.
(6) All evidence under this chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the cause of summons-cases :
Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case ex parte. Any order so made may be set aside for good cause shown, on application made within three months from the date thereof.
(7) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.
(8) Proceedings under this section may be taken against any person in any district where he resides or is or where he last resided with his wife, or a the case may be, the mother of the illegitimate child.
437. Power to order commitment. - When, on examining the record of any case under Section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :
Provided as follows :-

(a) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made;

(b) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

476-B - Appeals. - Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under Section 476 or Section 476-A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of Section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under Section 476, and if it makes such complaint the provisions of that section shall apply accordingly.]
439. High Court's powers of revision. - (1) In the case of any proceeding the record of which has been called for by itself or which has been reported

for orders, or which otherwise comes to its knowledge, the High Court may, in it s discretion, exercise any of the powers conferred on a Court of Appeal by section [* *] 423, 426, 427 and 428 or on a Court by Section 338, and may enhance the sentence; and when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by Section 429.

(2) No order under this section shall be made to the prejudice oft he accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under Section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(4) Nothing in this section applies to an entry made under Section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

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

(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.]

441. Statement by Presidency Magistrate of grounds of his decision to be considered by High Court. - When the record of any proceeding of any Presidency Magistrate is called for by the High Court under Section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statements before overruling or setting aside the said decision or order.

494. Effect of with-drawal from prosecution - Any Public Prosecution may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person [either generally or in respect of any one or more offences for which he is tried; and, upon such withdrawal, -

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

(b) if is made after a charger has been framed, or when under this Code no charge is required, he shall be acquitted [in respect of such offence or offences.]

521. Destruction of libellous and other matter - (1) On a conviction under the Indian Penal Code (45 of 1860), Section 292, Section 293, Section 501 or Section 502, the Court may a order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under the Indian Penal Code (45 of 1860), Section 272, Section 273, Section 274, or Section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

510. Report of Chemical Examiner - Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, [or the Chief Inspector of Explosive or the Director of Finder-Print Bureau or an Officer of the Mint], upon any matter of thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, shall, on the application of the prosecution or the accused, summon and examine any such person as to subject-matter of his report.

510-A. Evidence on affidavits - (1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in this affidavit.

527. Power of Supreme Court to transfer cases and appeals - (1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from one High Court to another High Court or from a criminal Court subordinate to one High Court to another criminal Court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion which shall, except when the applicant is the Attorney-General of India or the Advocate-General, be supported by affidavit or affirmation.

(3) The Court to which such case is transferred may act on the evidence already, recorded or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and recommence the inquiry or trial :

Provided that in any case so transferred the person accused may, when the Court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be resummoned and re-heard.
(4) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.]

533. Non-compliance with provisions of Section 164 or 364 - (1) If any Court before which a confession or other statement of an accused person recorded or purporting to be recorded under Section 164 or Section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and notwithstanding anything contained in the Indian Evidence Act, 1872(1) of 1872), Section 91, such statement shall be admitted, if the error has not injured the accused as to his defence on the merits.
(2) The provisions of this section apply to Courts of Appeal, Reference and Revision.

535. Effect of omission to prepare charge - (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was was framed, unless, in the opinion of the Court of Appeal or Revision, a failure of justice has in fact been occasioned thereby.
(2) If the Court of Appeal or Revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

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

536. Trial without jury of offences triable by jury - If an offence triable by a jury is tried without a jury, the trial shall not on that ground only be invalid, unless the objection is taken before the Court proceeds to record evidence in the case.]

522. Power to restore possession of immovable property - (1) Whenever a person is convicted of an offence attended by criminal force [or show of force or by criminal intimidation] and it appears to the Court that by such force [or show of force or criminal intimidation] any person has been dispossessed of any immovable property, the Court may, if it thinks fit, [when convicting such person or at any time within one month from the date

of the conviction] order [the person dispossessed] to be restored to the possession of the same.

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

[(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision.

537. Finding or sentence when reversible by reason of error or omission in charge or other proceedings - Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account -

(a) of any error, omission or irregularity in the complaint, summons, warrant, [***] proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or]

[(b) of any error, omission or irregularity in the charge, including any misjoinder or charges, or]

(c) of the omission to revise any list of jurors [***] in accordance with Section 324, or

(d) of any misdirection in any charge to a jury unless such error,omission, irregularity, [***] or misdirection has in fact occasioned a failure of justice.

Explanation - In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

561. Saving of inherent power of High Court - Nothing in this Code shall be deemed to limit or effect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.]