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CODE OF CRIMINAL PROCEDURE, 1973

Preamble 1 - THE CODE OF CRIMINAL PROCEDURE, 1973

THE CODE OF CRIMINAL PROCEDURE, 1973

[Act No. 02 of 1974]

[25th January, 1974]

PREAMBLE

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

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

[←Commentary](#)

Section 1 - Short title, extent and commencement

(1) This Act may be called the Code of Criminal Procedure, 1973.

(2) It extends to the whole of India except the State of Jammu and Kashmir :

Provided that the provisions of this Code, other than those relating to Chapters VIII, X and XI thereof, shall not apply--

(a) to the State of Nagaland,

(b) to the tribal areas,

but the concerned State Government may, by notification apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications, as may be specified in the notification.

Explanation.-In this section, "tribal areas" means the territories which immediately before the 21st day of January, 1972, were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than those within the local limits of the municipality of Shillong.

(3) It shall come into force on the 1st day of April, 1974.

[STATE AMENDMENTS

[Assam

¹[In Section 1

(a) the Clause (ii) shall be substituted as follows .--

"(ii) It shall be deemed to have come into force on the date of expiration of the Code of Criminal Procedure (Assam Amendment) Ordinance 1983 (Assam, Ordinance No III of 1983)"

(b) after Clause (iii), the following shall be inserted as new Clause (iv), namely--

"(iv) It shall be in operation for a period of one year"

1. Substituted by Code of criminal procedure (assam amendment) act, 1984 (act no. 08 of 1984).

←Commentary

Section 2 - Definitions

In this Code, unless the context otherwise requires,-

- (a) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;
- (b) "charge" includes any head of charge when the charge contains more heads than one:
- (c) "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;
- (d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.
- Explanation.-A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;
- (e) "High Court" means,--
- (i) in relation to any State, the High Court for that State;
- (ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;
- (iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;
- (f) "India" means the territories to which this Code extends;
- (g) "inquiry" means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court;
- (h) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;
- (i) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;
- (j) "local jurisdiction", in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Code ¹ [and such local area may comprise the whole of the State, or any part of the State, as the State Government may, by notification, specify];
- (k) "metropolitan area" means the area declared, or deemed to be declared, under section 8, to be a metropolitan area;

(l) "non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

(m) "notification" means a notification published in the Official Gazette;

(n) "offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under [section 20](#) of the Cattle-trespass Act, 1871 (1 of 1871);

(o) "officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when, the State Government so directs, any other police officer so present;

(p) "place" includes a house, building, tent, vehicle and vessel;

(q) "pleader", when used with reference to any proceeding in any Court, means a person authorised by or under any law for the time being in force, to practice in such Court, and includes any other appointed with the permission of the Court to act in such proceeding;

(r) "police report" means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173;

(s) "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) "prescribed" means prescribed by rules made under this Code;

(u) "Public Prosecutor" means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor;

(v) "sub-division" means a sub-division of a district;

(w) "summons-case" means a case relating to an offence, and not being a warrant-case;

²[(wa) "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir]

(x) "warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(y) words and expressions used herein and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in that Code.

[STATE AMENDMENTS

[Assam

³[In Section 2

in clause (b), (iv), for the words "one year", the words "two years" shall be substituted.]]]

◀Commentary

1. Inserted by Act 45 of 1978, Section 2 (w.e.f. 18-12-1978).

2. Inserted by Code of Criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009.

3. Substituted by Code of Criminal Procedure (Third Assam Amendment) Act, 1984.

Section 3 - Construction of references

(1) In this Code,-

(a) any reference, without any qualifying words, to a Magistrate shall be construed, unless the context otherwise requires,-

(i) in relation to an area outside a metropolitan area, as a reference to a Judicial Magistrate;

(ii) in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;

(b) any reference to a Magistrate of the second class shall, in relation to an area outside a metropolitan area, be construed as a reference to a Judicial Magistrate of the second class, and, in relation to a Metropolitan area, as a reference to a Metropolitan Magistrate;

(c) any reference to a Magistrate of the first class shall,--

(i) in relation to a Metropolitan area, be construed as a reference to a Metropolitan Magistrate exercising jurisdiction in that area;

(ii) in relation to any other area, be construed as a reference to a Judicial Magistrate of the first class exercising jurisdiction in that area;

(d) any reference to the Chief Judicial Magistrate shall, in relation to a Metropolitan area, be construed as a reference to the Chief Metropolitan Magistrate exercising jurisdiction in that area.

(2) In this Code, unless the context otherwise requires, any reference to the Court of a Judicial Magistrate shall, in relation to a Metropolitan area, be construed as a reference to the Court of the Metropolitan Magistrate for that area.

(3) Unless the context otherwise requires, any reference in any enactment passed before the commencement of this Code.-

(a) to a Magistrate of the first class, shall be construed as a reference to a Judicial Magistrate of the first class;

(b) to a Magistrate of the second class or of the third class, shall be construed as a reference to a Judicial Magistrate of the second class;

(c) to a Presidency Magistrate or Chief Presidency Magistrate, shall be construed as a reference, respectively, to a Metropolitan magistrate or the Chief Metropolitan Magistrate;

(d) to any area which is included in a metropolitan area, as a reference to such metropolitan area, and any reference to a Magistrate of the first class or of the second class in relation to such area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in such area.

(4) Where, under any law, other than this Code, the functions exercisable by a Magistrate relate to matters--

(a) which involve the appreciation or shifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, they shall, subject to the provisions of this Code, be exercisable by a Judicial Magistrate; or

(b) which are administrative or executive in nature, such as, the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.

[STATE AMENDMENTS

¹[**Andaman and Nicobar Islands (U.T.)**

(1) After section 3, the following section shall be inserted, namely :--"3-A Special provision relating to Andaman and Nicobar islands.--(1) Reference in this Code to :

(a) The Chief Judicial Magistrate shall be construed as references to the District Magistrate or, where the State Government so directs, also to the Additional District Magistrate;

(b) a Magistrate or Magistrate of the first class or of the second class or Judicial Magistrate of the first class or of the second class, shall be construed as references to such Executive Magistrate as the State Government may, by notification in the Official Gazette, specify.

(2) The State Government may, if it is of opinion that adequate number of persons are available for appointment as Judicial Magistrate, by notification in the Official Gazette, declare that the provisions of this section shall, on and from such day as may be specified in the notification, cease to be in force and different dates may be specified for different islands.

(3) On the cesser of operation of the provisions of this section every inquiry or trial pending, immediately before such cesser, before the District Magistrate or Additional District Magistrate or any Executive Magistrate, as the case may be, shall stand transferred, and shall be dealt with, from the stage which was reached before, such cesser, by such Judicial Magistrate as the State Government may specify in this behalf.]

2[Arunachal Pradesh and Mizoram:

After Section 3 , sub-section (4), the following sub-section shall be inserted, namely:--

"(5) Notwithstanding anything contained in the foregoing provisions of this section,--

(i) any reference in such of the provisions of this Code, as applied to the Union territories of Arunachal Pradesh and Mizoram, to the Courts mentioned in Column (1) of the Table below shall, until the Courts of Session and Courts of Judicial Magistrate are constituted in the said Union territories be construed as references to the Court of Magistrate mentioned in the corresponding entry in Column (2) of that Table.

TABLE

1	2
Court of Session or Sessions Judge or Chief Judicial Magistrate.	District Magistrate.
Magistrate or Magistrate of the First Class or Judicial Magistrate of the First Class.	Executive Magistrate.

(ii) the functions mentioned in clause (a) of sub-section (4) shall be exercisable by an Executive Magistrate."

The Chief Commissioners and the Additional Deputy Commissioners, in the Union territory of Arunachal Pradesh, were appointed to be Executive Magistrate].

3[Nagaland:

'After Section 3 , sub-section (4), insert the following sub-section which shall be deemed always to have been so:--

"(5) Notwithstanding anything contained in the foregoing provisions of this section,--

(i) any reference in such of the provisions of this Code, as applied to the State of Nagaland to the Court and authority mentioned in Column (1) of the Table below shall, until the Courts of Session and Court of Judicial Magistrates are constituted in the said areas, be construed as references to the Court and authority mentioned in the corresponding entry in Column (2) of that Table.

TABLE

1	2
Court of Session or Session Judge or Chief Magistrate.	District Magistrate or Additional Judicial District Magistrate.
Magistrate or Magistrate of the first class or Judicial Magistrate of the first class.	Executive Magistrate.

(ii) references mentioned in sub-section (3) to a Judicial Magistrate and functions mentioned in sub-section (4) exercisable by a Judicial Magistrate and Executive Magistrate shall be construed as references to, and exercised by, Deputy Commissioner and Additional Deputy Commissioner and Assistant to Deputy Commissioner appointed under any law in force:

Provide that an Assistant to Deputy Commissioner shall exercise such powers of a Judicial Magistrate as may be invested by the Governor.]

[Assam

⁴[In Section 3

the following Section shall be substituted, namely:--

"3. In the principal Act, for sub-section (3) of Section 197, the following sub-section shall be substituted, namely:--

"(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply--

(a) to such class or category of the members of the "Forces charged with the maintenance of public order, or

(b) to such class or category of other public servants charged with the maintenance of public order, as may be specified in the notification, wherever they may be serving, and thereupon the provisions of sub-section (2) shall apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted."]

⁵[In Section 3

in sub-section (2)(b), after the words "Indian Penal Code', the colon (:) shall be deleted and thereafter the following shall be inserted, namely--

"with imprisonment which may extend to three years or with fine or with both"]]

Commentary

1. Regulation 1 of 1974, Section 3 w.e.f. 30.3.1974.

2. Vide Notification No. Jud. 25/74, dated 02.04.1974.

3. Vide Nagaland Gazette, dated 19.06.1975.

4. Substituted Vibe Code of Criminal Procedure (Assam Amendment) Act, 1980.

5. Inserted by Code of criminal procedure (assam amendment) act, 1984 (act no. 08 of 1984).

Section 4 - Trial of offences under the Indian Penal Code and other laws

(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

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

◀Commentary

Section 5 - Saving

Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being 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.

[STATE AMENDMENTS

[Assam

¹[After Section 5

the following shall be inserted as a new Section 6, namely:--

"6. Repeal and Savings--

(1) The Code of Criminal Procedure (Assam Amendment) Ordinance, 1983 (Assam Ordinance No III of 1983) is hereby repealed.

(2) Notwithstanding such repeal--

(a) any action taken or any order passed or any proceedings commenced or anything whatsoever done under the Ordinance so repealed shall continue and be deemed to have continued and shall have effect as if taken, passed, commenced or done under the corresponding provisions of this Act

(b) Any action taken, order passed or other acts and things done by any officer acting or purporting to act under the Ordinance so repealed shall be valid and shall be deemed always to have been valid and shall not be called in question in any Court on the ground of incompetency of the Officer to act under the Ordinance so repealed."]]

1. Inserted by Code of criminal procedure (assam amendment) act, 1984 (act no. 08 of 1984).

Section 6 - Classes of Criminal Courts

Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:--

- (i) Courts of Session;
- (ii) Judicial Magistrate of the first class and, in any Metropolitan area, Metropolitan Magistrate;
- (iii) Judicial Magistrate of the second class; and
- (iv) Executive Magistrates.

◀Commentary

Section 7 - Territorial divisions

(1) Every State 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:

Provided that every metropolitan area shall, for the said purposes, be a separate sessions division and district.

(2) The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.

(3) The State Government may, after consultation with the High Court, divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.

(4) The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Code, shall be deemed to have been formed under this section.

[←Commentary](#)

Section 8 - Metropolitan areas

(1) The State Government may, by notification, declare that, as from such date as may be specified in the notification, any area in the State comprising a city or town whose population exceeds one million shall be a metropolitan area for the purposes of this Code.

(2) As from the commencement of this Code, each of the Presidency-towns of Bombay, Calcutta and Madras and the city of Ahmedabad shall be deemed to be declared under sub-section (1) to be a metropolitan area.

(3) The State Government may, by notification, extend, reduce or alter the limits of a metropolitan area but the reduction or alteration shall not be so made as to reduce the population of such area to less than one million.

(4) Where, after an area has been declared, or deemed to have been declared to be, a metropolitan area, the population of such area falls below one million, such area shall, on and from such date as the State Government may, by notification, specify in this behalf, cease to be a metropolitan area; but notwithstanding such cesser, any inquiry, trial or appeal pending immediately before such cesser before any Court or Magistrate in such area shall continue to be dealt with under this Code, as if such cesser had not taken place.

(5) Where the State Government reduces or alters, under sub-section (3), the limits of any metropolitan area, such reduction or alteration shall not affect any inquiry, trial or appeal pending immediately before such reduction or alteration before any Court or Magistrate, and every such inquiry, trial or appeal shall continue to be dealt with under this Code as if such reduction or alteration had not taken place.

Explanation.—In this section, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

State Amendment

1 [Delhi:

In section 8.--

(a) in sub-section (1), for the words "a city or town", substitute the words "a city or town or part thereof";

(b) for sub-section (3), substitute the following sub-section, namely:--

"(3) The State Government may, by notification divide a metropolitan area into two or more such areas or extend or reduce or alter the limits of a metropolitan area:

Provided that--

(a) the division of metropolitan area shall not be so made as to result in the population of any of the areas into which it has been divided being less than one million; and

(b) the reduction or alteration of metropolitan area shall not be so made as to reduce the population of such area to less than one million.";

(c) after sub-section (4), the following sub-section shall be inserted, namely:--

"(4A) Where any metropolitan area is divided under sub-section (3), the High Court may issue such directions as it deems fit with respect to the disposal of the proceedings pending immediately before such division before any Magistrate or court having jurisdiction in respect of such area.".]

Commentary

1. Vide the Code of Criminal Procedure (Delhi Amendment) Act, 2011 (Delhi Act 09 of 2011), Section 2.

Section 9 - Court of Session

(1) The State Government shall establish a Court of Session for every sessions division.

(2) Every Court of Session shall be presided over by a Judge, to be appointed by the High Court.

(3) The High Court may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in a Court of Session.

(4) The Sessions Judge of one sessions division may be appointed by the High Court 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 the other division as the High Court may direct.

(5) Where the office of the Sessions Judge is vacant, the High Court may make arrangements for the disposal of any urgent application which is, or may be, made or pending before such Court of Session by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by a Chief Judicial Magistrate, in the sessions division; and every such Judge or Magistrate shall have jurisdiction to deal with any such application.

(6) The Court of Sessions shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; 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 sittings 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.

Explanation.-For the purposes of this Code, "appointment" does not include the first appointment, posting or promotion of a person by the Government to any Service, or post in connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by Government.

[STATE AMENDMENTS

⁴[**Orissa :-** In Section 9, sub-section (3), the following proviso shall be added namely:-

"Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a district or sub-division, other than the district or sub-division, by whatever name called, wherein the head quarters of the Sessions Judge are situated, exercising jurisdiction in a Court of Sessions shall have all the powers of the Sessions Judge under this Code, in respect of the cases and the proceedings in the Criminal Courts in that district or subdivision for the purpose of sub-section (7) of Section 116, Section 193 and 194, clause (a) of Section 209 and Section 409 and 449;

Provided further that the above powers shall not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Session Judge under this Code".]

⁵[In Section 9

The following provisos shall be added, namely

"Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a district or subdivision, other than the district or subdivision, by whatever name called, wherein the headquarters of the Session Judge are situated, exercising jurisdiction in a Court of Session shall have all the powers of the Sessions Judge under this Code, in respect of the cases and the proceedings in the Criminal Courts in that district or subdivision for the purposes of Sub-section (7) of Section 116, Sections 193 and 194, Clause (a) of Section 209 and Sections 409 and 449

Provided further that the above powers shall not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code ".]

¹[**Uttar Pradesh:**

In section 9 after sub-section (5), the following sub-section shall be inserted, namely:-

"(5-A) In the even of the death, resignation, removal or transfer of the Sessions Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from his place at which his Court is held, the senior most among the Additional Sessions Judges, and the Assistant Sessions Judges present at the place, and in their absence the Chief Judicial Magistrate shall without relinquishing his ordinary duties assume charge of the office of the Sessions Judge and continue in charge there of until the office is resumed by the sessions judge or assumed by an officer appointed thereto, and shall subject to the provision of this Code and any rules made by the High Court in this behalf, exercise any of the powers of the Sessions Judge.]

⁶[In Section 9

In sub-section (6), the following proviso shall be inserted, namely :

"Provided that the Court of Session may hold, or the High Court may direct the Court of Session to hold, its sitting in any particular case at any place in the sessions division, where it appears expedient to do so for considerations of internal security or public order, and in such cases, the consent of the prosecution and the accused shall not be necessary.".]

²[In section 9, in sub-section (6), insert the following proviso:--

"Provided that the Court of Sessions may hold, or the High Court may direct the Court of Session to hold its sitting in any particular case at any place in the Sessions Division, where it appears expedient to do so for considerations of internal security or public order, and in such cases, the consent of the prosecution and the accused shall not be necessary.]

³[**West Bengal:**

In section 9 , to sub-section (3) of section 9 the following provisos shall be added:--

"Provided that notwithstanding anything to the contrary contained in this Code. Additional Sessions Judge in a sub-division, other than the sub-division, by whatever name called, wherein the headquarters of the Sessions Judges are situated, exercising jurisdiction in a Court of Session, shall have all the powers of the Sessions Judge under this Code, in respect of the cases and proceedings in the Criminal Courts in that sub-division, for the purposes of sub-section (7) of session 116 sections 193 and, clause (a) of section 209 and sections 409, 439 and 449:

Provided further that the above powers shall not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code.]

◀Commentary

1. Vide U.P. Act 1 of 1984, Section 2 w.e.f 1.5.1984.

2. Vide U.P. Act 16 of 1976, Section 2 w.e.f. 28.11.1975.

3. Vide W.B. Act 24 of 1988, Section 3.
4. Vide Orissa Act 6 of 2004.
5. Added by Code of Criminal Procedure (Orissa Amendment) Act, 2001.
6. Inserted by Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 (16 of 1976).

Section 10 - Subordination of Assistant Sessions Judges

(1) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction.

(2) The Sessions Judges may, from time to time, make rules consistent with this Code, as to the distribution of business among such Assistant Sessions Judges.

(3) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional or Assistant Sessions Judge, or, if there be

no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and every such Judge or Magistrate shall be deemed to have jurisdiction to deal with any such application.

←Commentary

Section 11 - Courts of Judicial Magistrates

(1) In every district (not being a metropolitan area), there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the High Court, by notification, specify:

¹[Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrate of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.]

(2) The presiding officers of such Courts shall be appointed by the High Courts.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

[STATE AMENDMENTS

²[**Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep:**

In sub-section (3) of section 11, for the words "any member of the Judicial Service of the State functioning as a Judge in a Civil Court" the words "any person discharging the functions of a Civil Court", shall be substituted.]

³[**Bihar:**

In section, after sub-section (3) of Section 11 , the following sub-section shall be inserted, namely:--

"(4) The State Government may likewise establish for any local area one or more Courts of Judicial Magistrate of the first class or second class to try any particular cases of particular class or categories of cases."

⁹[In Section 11

After sub-section (3)

the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

"(4) The State Government may likewise establish for any local area one or more courts of Judicial Magistrate of the First Class or Second Class to try any particular cases or particular class or categories of cases.""]]

4[Haryana:

In section after sub-section (1) of Section 11 , the following sub-section shall be inserted:-

"(1-A) The State Government may likewise establish as many Courts of Judicial Magistrate of the first class and of the second class in respect to particular cases or particular class or classes of cases, or to cases generally in any local area."]

10[In Section 11

The following sub-section shall be inserted and shall always be deemed to have been inserted, namely:-

"(1 -A) The State Government may likewise establish as many Courts of Judicial Magistrates of the first class and of the second class in respect to particular cases or to particular class or classes of cases, or to cases generally in any local areas.".]

5[Kerala:

(1) In section 11 , after sub-section (1), the following sub-section shall be inserted, namely:--

"(1-A) The State Government may likewise establish as many special Courts of Judicial Magistrate of First 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.

(2) The amendments made by sub-section (1) shall be, and shall be deemed to have been, in force for the period commencing from the 2nd day of December, 1974 and ending with the 18th day of December, 1978.

Validation.--Any notification issued by the State Government on or after the 2nd day of December, 1974 and before the commencement of the Code of Criminal Procedure (Amendment) Act, 1978 (Central Act 45 of 1978) purporting to establish any special Court of the Judicial Magistrate of the first class having jurisdiction over more than one district shall be deemed to have been issued under section 11 of the said code as amended by this Act and accordingly such notification issued and any ac! or proceeding done or taken or purporting to have been done or taken by virtue of it shall be deemed to be and always to have been valid."]

11[In Section 11

The following sub-section shall be inserted, namely:

"(1A) The State Government may likewise establish as many special courts of Judicial Magistrates of First 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. ";

The amendments made by sub-section (1) shall be, and shall be deemed to have been, in force for the period commencing from the 2nd day of December, 1974 and ending with the 18th day of December, 1978.]

6[Punjab:

In sub-section (1) of section 11, insert the following new sub-section:--

"(1-A) The State Government may likewise establish as many Courts of Judicial Magistrate of the first class in respect to particular cases or to particular classes of cases, or in regard to cases generally, in any local area."]

7[Rajasthan:

In sub-section (1) of section 11, the following new sub-section shall be inserted, namely: - -

" (1-A) The State Government may likewise establish as many Courts of Judicial Magistrate of the first class and of the second 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."]

8[Uttar Pradesh:

In section 11, the following sub-section shall be inserted, namely:--

"(1A) The State Government may likewise establish as many Courts of Judicial Magistrate of the first class and of the second 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."]

14[In Section 11

After subsection (1) the following sub-section shall be inserted and be deemed always to have been inserted, namely:--

"(1-A) The State Government may like wise establish as many Courts of Judicial Magistrates of the first class and of the second 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.".]

◀Commentary

[Jharkhand**12[In Section 11**

The following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

"(4) The State Government may likewise establish for any local area one or more courts of Judicial Magistrate of the First Class or Second Class to try any particular cases or particular class or categories of cases."]

[Punjab**13[In Section 11**

After sub-section (1), the following sub-section shall be and shall always be deemed to have been inserted, namely:--

"(1-A) The State Government may likewise establish as many courts of Judicial Magistrates of the first class in respect to particular cases or to particular classes of cases or in regard to cases generally, in any local area.".]])

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1. Added by Act 45 of 1978, section 3 w.e.f. 18. 12 .1978.
 2. Vide Regulation 1 of 1974 section 4 w.e.f. 30.3.1974.
 3. Vide Bihar Act 8 of 1977, section 2 w.e.f. 10.1.1977.
 4. Vide Haryana Act 16 of 1976, section 2 w.e.f. 24.2.1976.
 5. Vide Kerala Act 21 of 1987 section 2.
 6. Vide Punjab Act 9 of 1978, section 2 w.e.f. 14.4.1978.
 7. Vide Rajasthan Act 10 of 1977, section 2 w.e.f. 13.9.1977.
 8. Vide Uttar Pradesh Act 16 of 1976, section 3 sw.e.f. 30.4.1976.
 9. Inserted Vide Code of Criminal Procedure (Bihar Amendment) Act, 1976.
 10. Inserted by Code of Criminal Procedure (Amendment) Amending Act, 2006.(Act No. 25 of 2006)(Haryana).
 11. Inserted by Code of Criminal Procedure (Kerala Amendment) Act, 1987.
 12. Inserted by Code of Criminal Procedure (Bihar Amendment) Act, 1976(Jharkhand).
 13. Inserted by Code of Criminal Procedure (Punjab Amendment) Act, 1978.
 14. Inserted by Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 (16 of 1976).

Section 12 - Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.

(1) In every district (not being a metropolitan area), the High Court shall appoint a Judicial Magistrate of the first class to the Chief Judicial Magistrate.

(2) The High Court may appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate, and such Magistrate shall have all or any of the powers of a Chief Judicial Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

(3) (a) The High Court may designate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

(b) Subject to the general control of the Chief Judicial Magistrate, every Sub-divisional Judicial Magistrate shall also have and exercise, such powers of supervision and control over the work of the Judicial Magistrates (other than Additional Chief Judicial Magistrates) in the sub-division as the High Court may, by general or special order, specify in this behalf.

[STATE AMENDMENTS**1[Nagaland:**

In section 12, in sub-sections (1), (2) and (3) the words "High Court" shall be substituted by the words "State Government" wherever they occur.]

2[Uttar Pradesh:

In section 12, after sub-section (3), the following sub-section shall be inserted, namely:--

"(4) Where the office of the Chief Judicial Magistrate is vacant or he is incapacitated by illness, absence or otherwise for the performance of his duties, the senior-most among the Additional Chief Judicial Magistrate and other judicial Magistrates present at the place, and in their absence the district magistrate and in his absence the senior-most Executive Magistrate shall dispose of the urgent work of the Chief Judicial Magistrate,]"

1. Vide Notification Law 170/74 Leg., dated 03.07.1975.
2. Vide Uttar Pradesh Act 1 of 1984, Section 3 w.e.f. 1.5.1984.

Section 13 - Special Judicial Magistrates

(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate ¹[of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area, not being a metropolitan area]:

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

[2](#) [(3) The High Court may empower a Special Judicial Magistrate to exercise the powers of a Metropolitan Magistrate in relation to any metropolitan area outside his local jurisdiction.]

[STATE AMENDMENTS

[3](#)[**Andhra Pradesh:**

In sub-section (2) of section 13, for the words "not exceeding one year at a time" the words "not exceeding two years at a time" shall be substituted and to the said sub-section the following proviso shall be added, namely:-

"Provided that any person who is holding the office of Special Judicial Magistrate at the commencement of the Code of Criminal Procedure (Andhra Pradesh Amendment) Act, 1992 and has not completed sixty-five years of age shall continue to hold office for a term of two years from the date of his appointment."

[4](#)[**Bihar:**

In section 13

for the words "in any district", the words "in any local area" shall be substituted.]

[9](#)[In Section 13

the word "in any district" the words "in any local area" shall be substituted and shall be deemed to have been always substituted.]]]

[5](#)[**Haryana:**

In section 13

In sub-section (1) for the words "second class", the words "first class or second class" and for the words "in any district", the words "in any local area" shall be substituted.]

[10](#)[In Section 13

(a) for the words "second class", the words "first class or second class" shall be substituted and shall always be deemed to have been substituted;

(b) for the words "in any district", the words "in any local area" shall be substituted and shall always be deemed to have been substituted.]

[6](#)[**Himachal Pradesh:**

In section 13 for the words "in any district" the words "in any local area" shall be substituted.]

[7](#)[**Punjab:**

In section 13 of the principal Act, in sub-section (1) for the words "second class" the words "first class or second class" and for the words "in any district", the words "in any local area" shall be substituted.]

[8](#)[**Uttar Pradesh:**

In section 13 of the principal Act, in sub-section (1) for the words "second class" the words "first class or second class" and for the words "in any district", the word "in any local area" shall be substituted.]

[13](#)[In Section 13

The words "second class", the words "first or second class" shall be substituted and for the words "in any district", the words "in any local area" shall be substituted.]

[Jharkhand

[11](#)[In Section 13

The word "in any district" the words "in any local area" shall be substituted and shall be deemed to have been always substituted.]

[Commentary](#)

[Punjab

[12](#)[In Section 13

In section 13 of the said Code, in sub-section (1), for the words "second class", the words "first class or second class" and for the words "in any district", the words "in any local area" shall be substituted.]]]

1. Substituted by Act 45 of 1978 Section 4(1), for certain words w.e.f. 18.12.1978.
2. Inserted by Act 45 of 1978, Section 4 w.e.f. 18.12.1978.
3. Vide Andhra Pradesh Act 2 of 1992.
4. Vide Bihar Act 8 of 1977, Section w.e.f. 10.1.1977.
5. Vide Haryana Act 16 of 1976, Section 3 w.e.f. 24.2.1976.
6. Vide Himachal Pradesh Act 40 of 1976 w.e.f. 13.11.1976.
7. Vide Punjab Act 9 of 1978, Section 3 w.e.f. 14.4.1978.
8. Vide Uttar Pradesh Act 16 of 1976, Section 4 w.e.f. 5.1.1976.
9. Substituted Vibe Code of Criminal Procedure (Bihar Amendment) Act, 1976.
10. Substituted by Code of Criminal Procedure (Amendment) Amending Act, 2006, (Act No. 25 of 2006)(Haryana).
11. Substituted by Code of Criminal Procedure (Bihar Amendment) Act, 1976(jharkhand).
12. Substituted by Code of Criminal Procedure (Punjab Amendment) Act, 1978.
13. Substituted by Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 (16 of 1976).

Section 14 - Local Jurisdiction of Judicial Magistrates

(1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this Code:

¹[Provided that the Court of a Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established].

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

²[(3) Where the local jurisdiction of a Magistrate, appointed under section 11 or section 13 or section 18 , extends to an area beyond the district, or the metropolitan area, as the case may be, in which he ordinarily holds Court, any reference in this Code to the Court of Session, Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session, Chief Judicial Magistrate, or Chief Metropolitan Magistrate, as the case may be, exercising jurisdiction in relation to the said district or metropolitan area.]

←Commentary

[STATE AMENDMENTS]

3[Maharashtra:

After section 14 , the following section shall be inserted, namely.-

" 14 -A Investing Judicial Magistrates with jurisdiction in specified cases of local area- The High Court may invest any Judicial Magistrate with all or any of the powers conferred or conferrable by or under this Code upon a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally, in any local area, consisting of all or any of the districts specified by it in this behalf."]

4[After Section 14

The following section shall be inserted, namely :-

"14A. Investing Judicial Magistrates with jurisdiction in specified cases or local area.- The High Court may invest any Judicial Magistrate with all or any of the powers conferred or conferrable by or under this Code upon a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases or in regard to cases generally in any local area consisting of all or any of the districts specified by it in this behalf."]]]

1. Added by Act 45 of 1978 Section 5 w.e.f. 18.12.1978.
2. Inserted by Act 45 of 1978, Section 5 w.e.f. 18.12.1978.
3. Vide Maharashtra Act 23 of 1976, Section 2 w.e.f. 10.6.1976.
4. Inserted by Code of Criminal Procedure (Maharashtra Amendment) Act, 1976.

Section 15 - Subordination of Judicial Magistrates

(1) Every Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

(2) The Chief Judicial Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Judicial Magistrates subordinate to hi m.

Commentary

[STATE AMENDMENT

1[Bihar:

In section 15, after sub-section (2) of section 15 , the following sub-section shall be substituted, namely.-

"(3) Any judicial Magistrate exercising powers over any local area extending beyond the district in which he holds his Court, shall be subordinate to the Chief Judicial Magistrate of the said district and reference in this Code to the Sessions Judge shall be deemed to be references to the Sessions Judge of that district where he holds his Court."]

²[In Section 15

After sub-section (2)

the following sub-section shall be substituted and shall be deemed always to have been substituted, namely:—

"(3) Any Judicial Magistrate exercising powers over any local area extending beyond the district in which he holds his court shall be subordinate to the Chief Judicial Magistrate of the said district and reference in the Code to the Sessions Judge shall be deemed to be reference to the Sessions Judge of that district where he holds his court."]

[Jharkhand

³[In Section 15

The following sub-section shall be substituted and shall be deemed always to have been substituted, namely:-

"(3) Any Judicial Magistrate exercising powers over any local area extending beyond the district in which he holds his court shall be subordinate to the Chief Judicial Magistrate of the said district and reference in the Code to the Sessions Judge shall be deemed to be reference to the Sessions Judge of that district where he holds his court."]

1 . Vide Bihar Act 8 of 1977, Section 4 w.e.f. 10.1.1977.

2. Substituted Vibe Code of Criminal Procedure (Bihar Amendment) Act, 1976.

3. Substituted by Code of Criminal Procedure (Bihar Amendment) Act, 1976, (jharkhand).

Section 16 - Courts of Metropolitan Magistrates

(1) In every metropolitan area, there shall be established as many Courts of Metropolitan Magistrates, and at such places, as the State Government may, after consultation with the High Court, by notification, specify.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the metropolitan area.

[STATE AMENDMENTS

1[Uttar Pradesh:

In section 16 after sub-section (3), the following sub-section shall be inserted, namely.-

"(4) Where the office of the Chief Metropolitan Magistrate is vacant or he is incapacitated by illness, absence or otherwise for the performance of his duties, the senior most among the Additional Chief Metropolitan Magistrates and other Metropolitan Magistrates present at the place, shall dispose of the urgent work of the Chief Metropolitan Magistrate,"]

◀Commentary

1. Vide Uttar Pradesh Act 1 of 1984, Section 4 w.e.f. 1.5.1984.

Section 17 - Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate

(1) The High Court shall, in relation to every metropolitan area within its local jurisdiction, appoint a Metropolitan Magistrate to be the Chief Metropolitan Magistrate for such metropolitan area.

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

[←Commentary](#)

Section 18 - Special Metropolitan Magistrates

(1) The High Court may, if requested by any Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Metropolitan Magistrate, in respect to particular cases or to particular classes of cases [1](#) [***] in any metropolitan area within its local jurisdiction:

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules,

specify.

(2) Such Magistrates shall be called Special Metropolitan Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

² [(3) The High Court or the State Government, as the case may be, may empower any Special Metropolitan Magistrate to exercise, in any local area outside the metropolitan area, the powers of a Judicial Magistrate of the first class.]

STATE AMENDMENTS

³[**Andhra Pradesh:**

In section 18, in sub-section (2) of section 18, for the words, "not exceeding one year at a time" the words "not exceeding two years at a time" shall be substituted and to the said sub-section the following proviso shall be added, namely:-

"Provided that a person who is holding the office of Special Metropolitan Magistrate at the commencement of the Code of Criminal Procedure (Andhra Pradesh Amendment) Act, 1992, and has not completed sixty-five years of age shall continue to hold office for a term of two years from the date of his appointment."

⁴[**Maharashtra:**

In section 18, in sub-section (1) of section 18, for the words "in any metropolitan area" the words "in one or more metropolitan areas" shall be substituted.]

◀Commentary

⁵[**In Section 18**

In sub-section (1), for the words "in any metropolitan area" the words "in one or more metropolitan areas" shall be substituted.]

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1. The words "or to cases generally" omitted by Act 45 of 1978 Section 6 w.e.f. 18.12.1978.
 2. Substituted by Act 45 of 1978 Section 6, for sub-section (3) w.e.f. 18.12.1978.
 3. Vide Andhra Pradesh Act 2 of 1992.
 4. Vide Maharashtra Act 23 of 1976, Section 3 w.e.f. 10.6.1976.
 5. Substituted by Code of Criminal Procedure (Maharashtra Amendment) Act, 1976.

Section 19 - Subordination of Metropolitan Magistrates

(1) The Chief Metropolitan Magistrate and every Additional Chief Metropolitan Magistrate shall be subordinate to the Sessions Judge, and every other Metropolitan Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Metropolitan Magistrate.

(2) The High Court may, for the purposes of this Code, define the extent of the subordination if any, of the Additional Chief Metropolitan Magistrates to the Chief Metropolitan Magistrate.

(3) The Chief Metropolitan Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

[←Commentary](#)

Section 20 - Executive Magistrates

(1) In every district and in every metropolitan area. The State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have¹[such] of the powers of a District Magistrate under this Code or under any other law for the time being in force²[as may be directed by the State Government].

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

(4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires; and the Magistrate so placed in charge of a sub-division shall be called the Sub-divisional Magistrate.

⁴[(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.]

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

[STATE AMENDMENTS

³[Uttar Pradesh:

In section 20

after sub-section (5), the following sub-section shall be inserted, namely:-

"(6) The State Government may delegate its powers under sub-section (4) to the District Magistrate."

[Assam

⁵[in Section 20

after sub-section (4), the following sub-section shall be inserted, namely:--

"(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate."

[Haryana

⁶[In Section 20

the following sub-section shall be inserted, namely:--

"(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.".]]]

[Himachal Pradesh

[Z](#)[In section 20

The following sub-section shall be inserted, namely:--

"(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.".]

[←Commentary](#)

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1. Substituted by Act 45 of 1978 Section 7, for "all or any" w.e.f. 18.12.1978.
 2. Inserted by Act 45 of 1978 Section 7 , w.e.f. 18.12.1978.
 3. Vide Uttar Pradesh Act 1 of 1984, Section 5 w.e.f. 1.5.1984.
 - 4 . Inserted by Code of Criminal Procedure (Amendment) Act, 2005.
 5. Inserted By Code of Criminal Procedure (Amendment) Act, 2005(Assam).
 6. Inserted by Code of Criminal Procedure (Amendment) Act, 2005 (Act No. 25 of 2005) (Haryana).
 7. Inserted by Code of Criminal Procedure (Amendment) Act, 2005(Himachal Pradesh)(Act No. 25 of 2005).
 8. Substituted by Court Fees (Punjab Amendment) Act, 1939.

Section 21 - Special Executive Magistrates

The state Government may appoint, for such term as it may think fit, Executive Magistrates, to be known as Special Executive Magistrates for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrate, as it may deem fit.

◀Commentary

Section 22 - Local Jurisdiction of Executive Magistrates

(1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

◀Commentary

Section 23 - Subordination of Executive Magistrates

(1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

◀Commentary

Section 24 - Public Prosecutors

1[24. Public Prosecutors

(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutor, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case or class of cases in any district, or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutor or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything contained in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

13 [Explanation.--For the purposes of this sub-section,--

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.]

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or subsection (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor.

[14](#)[Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.]

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as a pleader, or has rendered (whether before or after the commencement of this Code) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.]

[Commentary](#)

[STATE AMENDMENTS

[2](#)[Bihar:

In section 24, for sub-section (6) the following sub-section shall be substituted:--

"(6) Notwithstanding anything contained in sub-section (5) where in a State there exists a regular Cadre of Prosecuting Officers, the State Government may also appoint a Public Prosecutor or an Additional Public Prosecutor from among the persons constituting such Cadre."

[16](#)[In Section 15

For sub-section (6)

the following sub-section shall be substituted and shall always be deemed to have been substituted namely:—

"(6) Notwithstanding anything contained in sub-section (5) wherein a State there exists a regular cadre of Prosecuting Officers, the State Government may also appoint a Public Prosecutor or an Additional Public Prosecutor from among the persons constituting such cadre."

[3](#)[Haryana:

To sub-section (6) of section 24, the following Explanation shall be added, namely:--

"Explanation.--For the purpose of sub-section (6), the persons constituting the Haryana State Prosecution Legal Service (Group A) or Haryana State Prosecution Legal Service (Group B), shall be deemed to be a regular Cadre of Prosecuting Officers,"]

[17](#)[In Section 24

the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 18th day of December, 1978, namely:--

'Explanation.-- For the purposes of this sub-section,--

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and

which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.'].]

4[**Karnataka:**

In section 24, in sub-section (1),--

- (i) the words "or the State Government shall", shall be omitted; and
- (ii) for the words "appoint a Public Prosecutor" the words "or the State Government shall appoint a Public Prosecutor" shall be substituted.]

5[**Madhya Pradesh:**

In section 24,-

- (i) in sub-section (6), for the words, 'brackets and figure "Notwithstanding anything contained in sub-section (5)", the words, brackets, letter and figures "Notwithstanding anything contained in sub-section (5), but subject to the provisions of sub-section (6-A)" shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978;
- (ii) after sub-section (6), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978, namely:-

"(6-A) Notwithstanding anything contained in sub-section (6), the State Government may appoint a person who has been in practice as an advocate for not less than seven years as the Public Prosecutor or Additional Public Prosecutor for the district and it shall not be necessary to appoint the Public Prosecutor or Additional Public Prosecutor for the district from among the person constituting the Cadre of Prosecuting Officers in the State of Madhya Pradesh and the provisions of sub-sections (4) and (5) shall apply to the appointment of a Public Prosecutor Additional Public Prosecutor under this sub-section";

- (iii) in sub-section (7), after the words, bracket and figure "sub-section (6)", the words, brackets, figure and letter "or sub-section (6-A)" shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978; and
- (iv) in sub-section (9), for the words, brackets and figure, "sub-section (7)", the words, brackets, figures and letter "sub-section (6-A) and sub-section (7)" shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978.]

20[In Section 24

- (i) in sub-section (6), for the words, brackets and figure "Notwithstanding anything contained in sub-section (5)", the words, brackets, letter and figures "Notwithstanding anything contained in sub-section (5), but subject to the provisions of sub-section (6A)"

shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978;

(ii) after sub-section (6), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978, namely :-

"(6-A) Notwithstanding anything contained in sub-section (6), the State Government may appoint a person who has been in practice as an advocate for not less than seven years as the Public Prosecutor or Additional Public Prosecutor for the district and it shall not be necessary to appoint the Public Prosecutor or Additional Public Prosecutor for the district from among the persons constituting the Cadre of Prosecuting Officers in the State of Madhya Pradesh and the provisions of sub-sections (4) and (5) shall apply to the appointment of a Public Prosecutor or Additional Public Prosecutor under this sub-section",

(iii) in sub-section (7), after the words, brackets and figure "sub-section (6)" the words, brackets, figure and letter "or sub-section (6-A) shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978; and

(iv) in sub-section (9), for the words, brackets and figure, "sub-section (7)", the words, brackets, figures and letter "sub-section (6-A) and sub-section (7)" shall be substituted and shall be deemed to have been substituted with effect from 28th December, 1978.]

6[**Maharashtra:**

In section 24,-

(a) in sub-section (1), the words "after consultation with the High Court" shall be deleted;

(b) in sub-section (4), for the words "in consultation with the Sessions Judge" the words "with the approval of the State Government", shall be substituted.]

In Section 24

In its application to the State of Maharashtra,-

21[(a) in sub-section (1), the words "after consultation with the High Court," shall be deleted.]

22[(b) in sub-section (4), for the words "in consultation with the Sessions Judge," the words "with the approval of the State Government." shall be substituted.

Vide Maharashtra Act No. 34 of 1981.

23[In Section 24

(a) in sub-section (6), the proviso shall be deleted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:--

"(6-A) Notwithstanding anything contained in sub-section (6), the State Government may, subject to the provisions of sub-sections (4) and (5), appoint a person who has been in practice as an advocate for not less than seven years, as the Public Prosecutor or Additional Public Prosecutor for the district.".]

7[**Rajasthan:**

In section 24, sub-section (6) shall be substituted by the following, namely:--

"(6) Notwithstanding anything contained in sub-section (5), wherein a State there exists a regular Cadre of Prosecuting Officers, the State Government may also appoint a Public Prosecutor or an Additional Public Prosecutor from among the persons constituting such Cadre."]

8[**Tamil Nadu:**

In section 24,-

(a) in sub-section (6), after the expression "sub-section (5)" insert the following, namely:--

"but subject to the provisions of sub-section (6-A)";

(b) after sub-section (6), insert the following sub-section namely:--

"(6-A) Notwithstanding anything contained in sub-section (6), the State Government may appoint a person who has been in practice as an advocate for not less than seven years, as the Public Prosecutor or Additional Public Prosecutor for the district and it shall not be necessary to appoint the Public Prosecutor or Additional Public Prosecutor for the district from among the persons constituting the Cadre of Prosecuting Officers in the State of Tamil Nadu and the provisions of sub-sections (4) and (5) shall apply to the appointment of a Public Prosecutor or Additional Public Prosecutor under this sub-section."

(c) "In sub-section (7), after the expression "sub-section (6)" the expression or "sub-section(6-A)" shall be inserted.

9[**Uttar Pradesh:**

In section 24,--

(a) in sub-section (1), after the words "Public Prosecutor" the words, "and one or more Additional Public Prosecutors" shall be inserted and be deemed always to have been inserted.

(b) after sub-section (6), the following sub-section shall be inserted and be deemed always to have been inserted, namely:--

"(7) For the purpose of sub-sections (5) and (6), the period during which a person has been in practice as a pleader, or has rendered service as a Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor, shall be deemed to be the period during which such person has been in practice as an advocate.

10 In section 24 hereinafter referred to as the said Code--

(a) in sub-section (1), the words "after consultation with the High Courts" shall be omitted;

(b) sub-sections (4), (5) and (6) shall be omitted;

(c) in sub-section (7), the words " or sub-section (6)" shall be omitted.]

11[West Bengal:

In sub-section (6) of section 24, for the words "shall appoint a Public Prosecutor or an Additional Public Prosecutor only" the words " may also appoint a Public Prosecutor or an Additional Public Prosecutor" shall be substituted.

12 In sub-section (6) of section 24, the proviso shall be omitted.]

[Assam

15[in Section 24

in sub-section (6), after the proviso, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 18th day of December, 1978, namely:--

'Explanation.--For the purposes of this sub-section,--

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.'.]

[Himachal Pradesh

18[In section 24

The following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 18th day of December, 1978, namely:--

'Explanation.--For the purposes of this sub-section,--

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.'.]

[Jharkhand

19[In Section 24

The following sub-section shall be substituted and shall always be deemed to have been substituted namely:—

“(6) Notwithstanding anything contained in sub-section (5) wherein a State there exists a regular cadre of Prosecuting Officers, the State Government may also appoint a Public Prosecutor or an Additional Public Prosecutor from among the persons constituting such cadre.”]]]

1. Substituted by Act 45 of 1978 Section 8, for section 24 w.e.f. 18.12.1978.
2. Vide Bihar Act 16 of 1984 Section 2 w.e.f. 24.8.1984.
3. Vide Haryana Act 14 of 1985, Section 2.
4. Vide Karnataka Act 20 of 1982, Section 2 w.e.f. 3.9.1981.
5. Vide Madhya Pradesh Act 21 of 1995, Section 3 w.e.f. 24.5.1995.
6. Vide Maharashtra Act 34 of 1981 Section 2 w.e.f. 20.5.1981.
7. Vide Rajasthan Act 01 of 1981, Section 2 w.e.f. 10.12.1980.
8. Vide Tamil Nadu Act 42 of 1980 Section 2 w.e.f. 1.12.1980.
9. Vide Uttar Pradesh Act 33 of 1978, Section 2 w.e.f. 9.10.1978.
10. Vide Uttar Pradesh Act 18 of 1991, Section 2 w.e.f. 16.2.1991.
11. Vide West Bengal Act 26 of 1990.
12. Vide West Bengal Act 25 of 1992.
13. Inserted by Code of Criminal Procedure (Amendment) Act, 2005.
14. Inserted by Code of Criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009.
15. Inserted By Code of Criminal Procedure (Amendment) Act, 2005.
16. Substituted Vibe Code of Criminal Procedure (Bihar Amendment) Act, 1983.
17. Inserted by Code of Criminal Procedure (Amendment) Act, 2005 (Act No. 25 of 2005) (Haryana).
18. Inserted by Code of Criminal Procedure (Amendment) Act, 2005(Himachal Pradesh)(Act No. 25 of 2005).
19. Substituted by Code of Criminal Procedure (Bihar Amendment) Act, 1983, (jharkhand).
20. Sub-section (6) and (9) shall be Substituted and Sub-section (6-A) and (7) shall be Inserted by Code of Criminal Procedure (Madhya Pradesh Amendment) Act, 1995.
21. Omitted by Code of Criminal Procedure (Maharashtra Amendment) Act, 1981.
22. Substituted by Code of Criminal Procedure (Maharashtra Amendment) Act, 1981.
23. Proviso shall be Omitted and Sub-section 6-A shall be Inserted by Code of Criminal Procedure (Maharashtra Amendment) Act, 2006.

Section 25 - Assistant Public Prosecutors

(1) The State Government shall appoint in every district one or more Assistant public Prosecutors for conducting prosecutions in the Courts of Magistrates.

¹[(1A) The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases in the Courts of Magistrates].

(2) Save as otherwise provided in sub-section (3), no police officer shall be eligible to be appointed as an Assistant Public Prosecutor.

(3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case:

Provided that a police officer shall not be so appointed--

(a) if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or

(b) if he is below the rank of Inspector.

[STATE AMENDMENTS

²[Orissa:

In sub-section (2) of section 25, the following proviso shall be inserted, namely:--

"Provided that nothing in this sub-section shall be construed to prohibit the State Government from exercising its Control over Assistant Public Prosecutor through police officers."]

¹³[In Section 25

In sub-section (2)

The following proviso shall be inserted, namely :

"Provided that nothing in this Sub-section shall be construed, to prohibit the State Government from exercising its control over Assistant Public Prosecutors through police

officers.".]

3[Uttar Pradesh:

In sub-section (2) of section 25, the following proviso shall be inserted and be deemed always to have been inserted, namely:--

"Provided that nothing in this sub-section shall be construed to prohibit the State Government from exercising its control over Assistant Public Prosecutor through police officers."]

14[In Section 25

In sub-section (2) the following proviso shall be inserted and be deemed always to have been inserted, namely:-

"Provided that nothing in this sub-section shall be construed to prohibit the State Government from exercising its control over Assistant Public Prosecutor through police officers."]

4[West Bengal:

For sub-section (3) of section 25, the following sub-section shall be substituted, namely:--

"(3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, any advocate may be appointed to be the Assistant Public Prosecutor in charge of that case.--

(a) where the case is before the Court of Judicial Magistrate in any area in a sub-division, wherein the headquarters of the District Magistrate are situated, by the District Magistrate; or

(b) where the case is before the Court of a Judicial Magistrate in any area in a sub-division, other than the sub-division referred to in clause (a), wherein the headquarters of the sub-divisional Magistrate are situated, by the sub-divisional Magistrate; or

(c) where the case is before the Court of a Judicial Magistrate in any area, other than the area referred to in clauses (a) and (b), by a local officer (other than a police officer) specially authorised by the District Magistrate in this behalf.

Explanation.--For the purposes of this sub-section,--

(i) "advocate" shall have the same meaning as in the Advocates Act, 1961 (5 of 1961);

(ii) "local officer" shall mean an officer of the State Government in any area, other than the area referred to in clauses (a) and (b).]

←Commentary

[Assam

5[In Section 25

"25A. Directorate of Prosecution.--

- (1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.
- (2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.
- (3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the State.
- (4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.
- (5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.
- (6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution.
- (7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.
- (8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.".]

[6](#)[In Section 25

omitted.]

[Haryana

[7](#)[After Section 25

the following section shall be inserted, namely:--

"25A. Directorate of Prosecution.--

- (1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.
- (2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.
- (3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home

Department in the State.

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution.

(7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.".]

[8](#)[In Section 25

Omitted]]]

[Himachal Pradesh

[9](#)[After section 25

The following section shall be inserted, namely:--

"25A. Directorate of Prosecution.--

(1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.

(2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.

(3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the State.

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every

Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution.

(7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.".]

[10](#)[In Section 25

Omitted]

[Karnataka

[11](#)[In Section 25

Omitted]

[Madhya Pradesh

[12](#)[After Section 25

The following Section shall be substituted, namely:--

"25A. Directorate of Prosecution.--

(1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and such other posts as it thinks fit.

(2) The post of Director of Prosecution, Additional Directors of Prosecution, Joint Directors of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and other post shall be filled in accordance with the Madhya Pradesh Public Prosecution (Gazetted) Service Recruitment Rules, 1991, as amended from time to time.

(3) The head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the head of the Home Department in the State.

(4) Every Additional Director of Prosecution, Joint Director of Prosecution, Deputy Director of Prosecution and Assistant Director of Prosecution and other posts specified in sub-section (2) shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor and Additional Public Prosecutor appointed under the Madhya Pradesh Public Prosecution (Gazetted) Service Recruitment Rules, 1991, shall be subordinate to the Director of Prosecution and every Public Prosecutor and Additional Public Prosecutor appointed under sub-section (1) of Section 24 and every Special Public Prosecutor appointed under sub-section (8) of Section 24 to conduct cases in the High Court shall be subordinate to the Advocate General.

(6) Every Public Prosecutor and Additional Public Prosecutor appointed under sub-section (3) of Section 24 and every Special Public Prosecutor appointed under sub-section (8) of Section 24 to conduct cases in District Courts shall be subordinate to the District Magistrate.

(7) The powers and functions of the Director of Prosecution shall be such as the State Government may, by notification, specify.".]]]

1. Inserted by Act 45 of 1978, Section 9 w.e.f. 18.12.1978.
2. Vide Orissa Act 6 of 1995 w.e.f. 10.3.1995.
3. Vide U.P. Act 16 of 1976, Section 5 w.e.f. 30.4.1976.
4. Vide W. B. Act 17 of 1985, Section 3.
5. Inserted By Code of Criminal Procedure (Amendment) Act, 2005(Assam).
6. Omitted by Criminal Law (Amendment) Act, 2005(Assam).
7. Inserted by Code of Criminal Procedure (Amendment) Act, 2005 (Act No. 25 of 2005) (Haryana).
8. Omitted by Criminal Law (Amendment) Act, 2005(Act No. 02 of 2006)(Haryana).
9. Inserted by Code of Criminal Procedure (Amendment) Act, 2005(Himachal Pradesh)(Act No. 25 of 2005).
10. Omitted by Criminal Law (Amendment) Act, 2005(Himachal Pradesh)(Act No. 02 of 2006).
11. Omitted by Criminal Law (Amendment) Act, 2005.
12. Substituted by Code of Criminal Procedure (Madhya Pradesh Amendment) Act, 2013.
13. Inserted by Code of Criminal Procedure (Orissa Amendment) Act, 1994.
14. Inserted by Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 (16 of 1976).

Section 25A - Directorate of Prosecution

1[25A. Directorate of Prosecution .-

(1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.

(2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.

(3) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the State.

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub-section (8), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 25 shall be subordinate to the Deputy Director of Prosecution.

(7) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(8) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.].

State Amendment**2[Karnataka****In section 25A,--**

(a) for sub-section (2), substitute the following, namely:--

"(2) The post of Director of prosecution and Government litigations, or a Deputy Director of Prosecution and other cadres shall be filled in accordance with the Cadre

and Recruitment Rules framed under the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990)."

(b) for sub-section (5), substitute the following, namely:--

"(5) Every Public Prosecutor, Additional Public Prosecutor appointed by the State Government from the cadre of Prosecutors recruited under the recruitment rules framed by the Government under the Karnataka State Civil Services Act, 1978 shall be subordinate to the Director of Prosecution and Government litigations and every Public Prosecutor, Additional Prosecutor and Special Prosecutor appointed under sub-section (8) of section 24 shall be subordinate to the Advocate General."

(c) in sub-section (6), for the words "Deputy Director of Prosecution, substitute the words "Director of Prosecution".]

1. Inserted by Code of Criminal Procedure (Amendment) Act, 2005

2. Vide Karnataka Act 39 of 2012, Section 2 (w.e.f. 24-10-2012), published in the Karnataka Gazette, Extra., dated 6-11-2012.]

Section 26 - Courts by which offences are triable

Subject to the other provisions of this Code,--

(a) any offence under the Indian Penal Code (45 of 1860) may be tried by-

(i) the High Court, or

(ii) the Court of Session, or

(iii) any other Court by which such offence is shown in the First Schedule to be triable;

²[Provided that any ³[offence under [section 376](#), ⁴[[section 376A](#), [section 376AB](#), [section 376B](#), [section 376C](#), [section 376D](#), [section 376DA](#), [section 376DB](#)] or [section 376E](#) of the Indian Penal Code (45 of 1860)] shall be tried as far as practicable by a Court presided over by a woman.]

(b) any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court and when no Court is so mentioned, may be tried by.--

(i) the High Court, or

(ii) any other Court by which such offence is shown in the First Schedule to be triable.

[STATE AMENDMENTS

1[Uttar Pradesh:

In section 26, for clause (b), the following clause shall be substituted, namely:--

"(b) any offence under any other law may be tried-

(i) when any Court is mentioned in this behalf in such law, by such Court, or by any Court superior in rank to such Court, and

(ii) when no Court is so mentioned, by any Court by which such offence is shown in the First Schedule to be triable, or by any Court superior in rank to such Court,"]

◀Commentary

1. Vide U.P. Act 1 of 1984, sec. 6 w.e.f. 1.5.1984.

2. Inserted Vide Code of Criminal Procedure (Amendment) Act 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009.

3. Substituted by the Criminal Law (Amendment) Act, 2013 (Act No. 13 of 2013) w.e.f. 03.02.2013 for the following : -

"offence under section 376 and sections 376A to 376D of the Indian Penal Code"

4. Substituted by the Criminal Law (Amendment) Act, 2018 for the following : -

["section 376A](#), [section 376B](#), [section 376C](#), [section 376D](#)

Section 27 - Jurisdiction in the case of juveniles

Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

[←Commentary](#)

Section 28 - Sentences which High Courts and Sessions Judges may pass

(1) A High Court may pass any sentence authorised by law.

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

(3) An Assistant Sessions Judge may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years.

[←Commentary](#)

Section 29 - Sentences which Magistrates may pass

(1) The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

(2) The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding ²[ten thousand rupees], or both.

(3) The Court of a Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding ³[five thousand rupees], or of both.

(4) The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

[STATE AMENDMENTS

¹[**Punjab and Union Territory of Chandigarh:--**

After section 29 , the following section shall be inserted, namely:--

" 29 A. Sentences which Executive Magistrate may pass.- An Executive Magistrate may pass a sentence of imprisonment of a term not exceeding three years or of fine not exceeding five thousand rupees, or both."

[10](#)[After Section 29

The following section was inserted, namely:--

"29A. Sentences which Executive Magistrate may pass.

An Executive Magistrate may pass a sentence of imprisonment for a term not exceeding three years or of fine not exceeding five thousand rupees, or of both".]

[4](#)[**Maharashtra :-**In Section 29,

(a) in sub-section (2) for the words "ten thousand rupees", substitute the words "fifty thousand rupees"; (b) in sub-section (3), for the words "five thousand rupees", substitute the words "ten thousand rupees".]

[8](#)[In Section 29

(a) in sub-section (2), for the words "ten thousand rupees" the words " fifty thousand rupees " shall be substituted;

(b) in sub-section (3), for the words "five thousand rupees" the words " ten thousand rupees " shall be substituted.]

[Assam

[5](#)[In Section 29

(a) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (3) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.]]]

[Haryana

[6](#)[In Section 29

the following section shall be inserted, namely:--

(a) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (3) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.]

[Himachal Pradesh

[7](#)[In section 29

(a) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (3) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.]]]

[Commentary](#)

[Rajasthan

[9](#)[In Section 29

In sub-sec. (2) of Sec. 29, in its application to the State of Rajasthan, for the existing expression "ten thousand rupees", the expression "fifty thousand rupees" shall be substituted.]

1. Vide Punjab Act 22 of 1993 w.e.f. 27.6.1993.
2. Substituted for the word "five thousand rupees" by Code of Criminal Procedure (Amendment) Act, 2005.
3. Substituted for the word "one thousand rupees" by Code of Criminal Procedure (Amendment) Act, 2005.
4. Vide The Code of Criminal Procedure (Maharashtra Amendment) Act, 2007 (Maharashtra Act 27 of 2007), sec. 2.
5. sub-section (2) and sub-section (2) shall be Substituted by Code of Criminal Procedure (Amendment) Act, 2005(Assam).
6. sub-section (2) and sub-section (2) shall be Substituted by Code of Criminal Procedure (Amendment) Act, 2005 (Act No. 25 of 2005) (Haryana).
7. Substituted by Code of Criminal Procedure (Amendment) Act, 2005(Himachal Pradesh)(Act No. 25 of 2005).
8. Substituted by Code of Criminal Procedure (Maharashtra Amendment) Act, 2007.
9. Substitution by Code of Criminal Procedure (Rajasthan Amendment) Act, 2014.
10. Inserted by Code of Criminal Procedure (Punjab Amendment) Act, 1983.

Section 30 - Sentence of imprisonment in default of fine

(1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:

Provided that the term—

(a) is not in excess of the powers of the Magistrate under section 29;

(b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 29.

◀Commentary

Section 31 - Sentence in cases of conviction of several offences at one trial

(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of [section 71](#) of the Indian Penal Code (45 of 1860), sentence him for such offences, to the several punishments, prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

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

Provided that--

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

(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

◀Commentary

Section 32 - Mode of conferring powers

(1) In conferring powers under this Code, the High Courts or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally by their official titles.

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

◀Commentary

Section 33 - Powers of officers appointed

Whenever any person holding an office in the service of Government who has been invested by the High Court or the State Government with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area under the same State Government, he shall, unless the High Court or the State Government, as the case may be, otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

◀Commentary

Section 34 - Withdrawal of powers

(1) The High Court or the state Government, as the case may be, may withdraw all or any of the powers conferred by it under this Code on any person or by any officer subordinate to it.

(2) Any powers conferred by the Chief Judicial Magistrate or by the District Magistrate may be withdrawn by the respective Magistrate by whom such powers were conferred.

◀Commentary

Section 35 - Powers of Judges and Magistrates exercisable by their successors-in-office

(1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

(2) When there is any doubt as to who is the successor-in-office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceeding or order thereunder, be deemed to be the successor-in-office of such Additional or Assistant Sessions Judge.

(3) When there is any doubt as to who is the successor-in-office of any Magistrate, the Chief Judicial Magistrate, or the District Magistrate, as the case may be, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Magistrate.

◀Commentary

Section 36 - Powers of superior officers of police : Powers of superior officers of police

Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer

within the limits of his station.

←Commentary

Section 37 - Public when to assist Magistrates and police

Every person is bound to assist a Magistrate or police officer reasonably demanding his aid-

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

←Commentary

Section 38 - Aid to person other than police officer, executing warrant

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

←Commentary

Section 39 - Public to give information of certain offences

(1) Every person, aware of the Commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely :--

- (i) sections 121 to 126, both inclusive, and section 130 (that is to say offences against the state specified in Chapter VI of the said Code);
- (ii) [sections 143](#) , [144](#) , [145](#) , [147](#) and [148](#) (that is to say, offences against the public tranquility specified in Chapter VIII of the said Code);
- (iii) sections 161 to 165A, both inclusive (that is to say, offences relating to illegal gratification);
- (iv) sections 272 to 278, both inclusive (that is to say, offences relating to adulteration of food and drugs, etc.);
- (v) [sections 302](#) , [303](#) and [304](#) (that is to say, offences affecting life);
- ¹[\[\(va\) section 364A](#) (that is to say, offence relating to kidnapping for ransom, etc.);]
- (vi) [section 382](#) (that is to say, offence of theft after preparation made for causing death, hurt or restraint in order to the committing of the theft);
- (vii) sections 392 to 399 , both inclusive, and [section 402](#) (that is to say, offences of robbery and dacoity);
- (viii) [section 409](#) (that is to say, offence relating to criminal breach of trust by public servant, etc.);

(ix) sections 431 to 439 , both inclusive (that is to say, offence of mischief against property);

(x) [sections 449](#) and [450](#) (that is to say, offence of house-trespass);

(xi) sections 456 to 460 , both inclusive (that is to say, offences of lurking house- trespass); and

(xii) sections 489A to 489E, both inclusive (that is to say, offences relating to currency notes and bank notes).

shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such Commission or intention;

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

◀Commentary

1. Inserted by Act 42 of 1993, Section 33 (w.e.f. 22-5-1993).

Section 40 - Duty of officers employed in connection with the affairs of a village to make certain report

(1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village;

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(c) the Commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under [section 143](#), [section 144](#), [section 145](#), [section 147](#) or [section 148](#) of the Indian Penal Code (45 of 1860);

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;

(e) the Commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 231 to 238 (both inclusive), [sections 302 304 382](#) , 392 to 399, [402](#), [435](#), [436](#), [449](#), 457, to 460 (both inclusive), sections 489A, 489B, 489C and 489D;

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate by general or special order made with the previous sanction of the State Government, has directed him to communicate information.

(2) In this section,—

(i) "village" includes village-lands;

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority in any territory in India to which this code does not extend, in respect of any act which if committed in the territories to which this Code extends, would be an offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, [sections 302 304 382](#) , 392 to 399, [402 435 436 449](#) , 450 and 457 to 460 (both inclusive);

(iii) the words "officer employed in connection with the affairs of the village" means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.

◀Commentary

Section 41 - When police may arrest without warrant

(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

[41](#)[(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:--

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary--

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing.

[3](#)[Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for

not making the arrest.]

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence.]]

(c) who has been proclaimed as an offender either under this Code or by order of the State Government; or

(d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(e) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(f) who is reasonable suspected of being a deserter from any of the Armed Forces of the Union; or

(g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(h) who, being a released convict, commits a breach of any rule made under subsection (5) of section 356; or

(i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

⁴₂[(2) Subject to the provisions of section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.]]

Commentary

1. Substituted vide Code of Criminal Procedure (Amendment) Act, 2008 vide [Notification No. S.O. 2687\(E\)](#) dated 30.10.2010 w.e.f. 01.11.2010 previous text was:-

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

(b) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or"

2. Substituted vide Code Of Criminal Procedure (Amendment) Act, 2008 vide [Notification No. S.O. 2687\(E\)](#) dated 30.10.2010 w.e.f. 01.11.2010 previous text was:-

"(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any person, belonging to one or more of the categories of person specified in section 109 or section 110."

3. Inserted vide Code of Criminal Procedure (Amendment) Act, 2010 (Act No. 41 of 2010).

4. With effective from 31.12.2009 vide [Notification No. SO3313\(E\) dated 30.12.2009](#)

Section 41A - Notice of appearance before police officer

⁴~~1~~[(1) ²[The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

³[(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.]]

1. Inserted Vide Code of Criminal Procedure (Amendment) Act, 2008 vide [Notification No. S.O. 2687\(E\)](#) dated 30.10.2010 w.e.f. 01.11.2010.

2. Substituted vide Code of Criminal Procedure (Amendment) Act, 2010 (Act No. 41 of 2010) for the following : - "The police officer may"

3. Substituted vide Code of Criminal Procedure (Amendment) Act, 2010 (Act No. 41 of 2010) for the following : -

"(4) Where such person, at any time, fails to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by a competent Court.]"

4. Inserted by Act 5 of 2009, Sec 6 (w.e.f. 1-11-2010)

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