

Criminal Court Rules of the High Court of Judicature at Patna

VOLUME I.

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Preliminary

1. The Court hours shall ordinarily be from 10 : 30 A.M. to 4 : 30 P.M. standard time.

2. Every Sessions Judge and Magistrate shall sit daily and punctually at the hour appointed for the opening of his court unless prevented by circumstances which are to be recorded in the Court's Diary [Form no. (R) 6].

Note 1.—Between the 1st April and 30th June, the exact dates being settled in consultation with the heads of the offices in the station, the courts may commence their sittings at 6 A.M. or as soon thereafter as convenient. When this arrangement is in force, the Sessions Judges and Magistrates are expected to sit for at least 5 hours each day. However, if the local weather conditions so necessitate or for any other sufficient reason or cause the subordinate courts may sit in the morning at any time of the year with the prior approval of the High Court.

Note 2.—Magistrates, who expect to spend all or the greater part of the day in criminal work should ordinarily rise for half an hour or less at about 1 : 30 P.M. (or at about 8 : 30 A.M. in the case of morning sittings).

3. A diary in the prescribed form shall be kept by every Criminal Court. Each case fixed for any day shall be entered in advance immediately upon a date or adjourned date being fixed. [G.L. 4/55.]

Note—This diary should also be utilized for the purpose of showing what work, if any, other than judicial work has been performed during the day by the officers maintaining it (*vide* also rule 106, Chapter VI of the¹ Board's Miscellaneous Rules, 1958).

4. At the close of each working day a list of cases fixed for the next working day, signed by the presiding Magistrate, shall be posted in some conspicuous place in every court house for the information of the parties and their pleaders. The cases will, as far as possible, be arranged in the order in which they are likely to be taken up. The number of cases to be fixed for each day should be such as, after making allowance for unavoidable postponements, the court may reasonably expect to be in a position to deal with. Orders and judgments ready for delivery, if any, should be shown in the list. The cases will be described by their number, year and the first name of each side, e.g., A vs. B. On the following working day will be shown in this list the dates to which the cases including new cases have been adjourned. [G.L. 1/64.]

Lists shall be prepared in the language of the Court and shall remain posted for seven working days after which they shall be filed in office for future reference, if necessary. At the end of every quarter, the lists for the preceding quarter will be destroyed.

5. Magistrates and other officers entrusted with the disposal of criminal business should refrain from and strictly interdict on the part of those subject to their authority the objectionable practice of transacting public business at their private residences, instead of at the public *kachahries*. A Magistrate can never be as accessible in his own house as at his court, and unless there are fixed hours for

1. See Bihar Local Laws Vol. I pp. 417–Ed.

the regular disposal of business thereat, petitioners and others will be either deterred from attending or constantly subject to much inconvenience and expense.

6. Without the consent of parties and in the absence of urgent necessity no criminal enquiry or trial shall ordinarily be held on a Sunday or gazetted holiday.

1[**7.** (a) The Courts of Executive Magistrates should not be closed except on days which are gazetted as holidays by the State Govt. for such Courts.

(b) The Courts of Sessions and of Judicial Magistrates should not be closed except on days which are declared by the High Court as holidays for the Civil Courts.

Note—During the Civil Court annual vacation, the occasional holidays to be observed by the Courts of Sessions and Judicial Magistrates shall be those which are holidays gazetted by the State Government for the Executive Magistrates and other Govt. Offices. The High Court may, however, in its discretion, permit presiding officers of Courts of Sessions and Judicial Magistrates to avail themselves of the Civil Court annual vacation, either in whole or in part.]

8. Judicial Officers shall in all cases take care to sign their names distinctly and legibly.

9. In the case of documents which are required by law to be signed, the impression of a stamp bearing the officer's name is insufficient and illegal.

1[**10.** The District Magistrates and the Chief Judicial Magistrates are required to maintain a watchful and intelligent control over the works of the Magistrates subordinate to them and to inform themselves thoroughly, from time to time, of the mode in which business is transacted by them. In particular they are expected to secure circumspection in the issue of warrants and summonses and to see that business is transacted with due despatch.]

11. The Government of Bihar have declared the following as Court language in the State of Bihar in supersession of all previous notifications and orders on the subject:—

'Hindi' ¹[* * *] in Devanagiri' ¹[script]
²[* * * * *]

PART I

General Rules regarding Practice and Procedure

CHAPTER I

General

12. All petitions should be in the language of the Court, as far as practicable, or in English, and type-written, if possible. No petition or *pairvi* shall be filed in the Court unless copies thereof have been previously served on the pleaders for each set of parties whose interests are not joint. Pleadings served with such copies shall give receipts on the original petitions or *pairvis*.

13. In every sentence or order made by a Criminal Court, the jurisdiction of the Judge or Magistrate making it should distinctly appear on the face thereof.

1. Subs. and deleted by C.S. No. 21.

2. Deleted by C.S. No. 16, dated 11.8.1972.

Note—When the law empowers Magistrates of a particular grade to do a particular act or make a certain order, it should always appear on the proceedings that the Magistrate making the order or doing the act is a Magistrate who has jurisdiction to do it. (22 *W.R.Cr. R.* 30).

14. In every process and every sentence or order (of whatever description) issued by a Judicial Officer for whatever purpose it may be issued or made, the name of the district and of the Court from which the same is issued and also the name and power of the officer issuing or making it, shall be clearly set out in such manner that it may be easily read. [*G.L. 4/52.*]

15. Every summons issued under ¹[x x x] the Code of Criminal Procedure shall be² [in duplicate] signed and sealed by the Presiding Officer of the Court or in his absence by any other ¹[x x x] Magistrate exercising jurisdiction within the local area of the Court.

16. (1) The Regular Seal of the Court shall be placed in custody of a responsible officer of the Court authorised by the Presiding Officer for the purpose and documents required to be sealed with it should be sealed under his superintendence. Similar precaution shall be taken with respect to the Date Seal.

(2) Each Court shall affix a date seal to all documents and papers on their presentation to Court in such a way as to show clearly the date on which they were presented. If any Court-fee label appears on them, it shall be affixed a second time in such a way as to deface the Court-fee label.

17. All processes issued by the High Court in Criminal cases should be served as quickly as possible and the service reports sent by the date fixed. If service in sufficient time before the date fixed is impracticable, the process is to be returned to the issuing Court with reasons and thereupon a fresh date may be fixed. [*G.L. 7/60.*]

18. In every ³[such] case the serving Court shall satisfy itself that a valid service has been made or that there has been a failure of service and shall certify such opinion to the High Court with the reasons in case of failure. The certificate may be endorsed on the process and it shall be accompanied by the return of service or of failure to serve the notice and the affidavit or solemn declaration of the serving officer.

CHAPTER II

Process

19. Every person on whom a process is to be served or executed shall be described therein in such manner as will serve to identify him clearly, i.e., by the statement of his correct name and address and such further description as will serve to identify him. [*G.L. 1/25, G.L. 2/54.*]

Note—In the case of service or execution of process to be effected in large towns, the name of the street or section of the town and the number of the house (if known) should be given.

1. Deleted by C.S. No. 22.

2. Ins. by *ibid.*

3. Ins. by C.S. No. 23.

20. Processes shall ordinarily issue in the language of the Court, but when processes are sent for service to a place where the language is different from that of the Court issuing them, they should be accompanied by a translation into the language of such place or into English, certified by the transmitting Court to be correct. Where the return of service or report of non-service is in a language different from that of the issuing Court it shall be accompanied by an English translation similarly certified.

¹**[21.** Process for foreigners should be issued along with an English translation thereof.]

22. In a proceeding instituted upon a complaint made in writing, every process issued shall be accompanied by a copy of such complaint.

23. Whenever a summons to appear as a witness in a criminal case is issued against an officer of police, it shall be served upon such officer through the Superintendent or the Assistant in charge of the subdivision to which such officer may belong.

24. Whenever it may be necessary to summon an officer or soldier in Military employ to attend a Criminal Court as a witness, the process-server who is to serve the summons, shall be instructed to take it under cover to the Officer in Command of the Regiment or Detachment with which the witness may be serving and to apply for his assistance in serving it. With this assistance the process-server shall then proceed to serve the process and shall make his return direct to the Court. In such cases sufficient time should always be given to admit or arrangements being made ¹[of] the relief of the witness summoned.

Note—For rules relative to the dress of military officers and soldiers appearing before Civil or Criminal Courts, see rule 247, Chapter III, Part VII *post*.

25. ²[* * * *]

³**[26.** As regards production of post office records under section 92, Criminal Procedure Code by Post Master, Rule 74, Chapter I, page 31 of Post Office Manual, vol. I, 1912 should be referred to.]

⁴**[27.** Whenever any document or documents which are required to be produced in a case, are in the custody of the ³[Lok Sabha/Rajya Sabha/Vidhan Sabha/Vidhan Parishad] or whenever a witness whose presence is required in a case, for being examined, is an officer in the Secretariat of the ³[Lok Sabha/Rajya Sabha/Vidhan Sabha/Vidhan Parishad] or any duly informed officer of the Secretariat of the ³[Lok Sabha/Rajya Sabha/Vidhan Sabha/Vidhan Parishad], a letter of request in Form No. (M) 13-A shall be issued instead of a summons in the ordinary form.

28. ⁵[* * * *]

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1. Subs. by C.S. No. 24.
 2. Deleted by *ibid*.
 3. Subs. by C.S. No. 25.
 4. Subs. by C.S. No. 19, dated 27.8.1974.
 5. Deleted by C.S. No. 19, dated 27.8.1974.

CHAPTER III**Confession and Statements of Accused—Section 164, Cr.P.C.**

29. (i) The examination of an accused person immediately on his production by the police is to be deprecated. Whenever possible, he should be allowed a few hours for reflection, free from the influence of the police, before his statement is recorded. The investigating police should not be allowed to be present when confession is recorded.

(ii) Confessions should be recorded in open court and during the court hours except when unusual circumstances require a different procedure as, for instance, when an open record would be detrimental to the public interests or when the recording of the confession in open court is rendered impracticable by reason of the fact that the Court is closed for two or more successive days on account of holidays.

(iii) A Magistrate recording a confession should satisfy himself in every reasonable way that the confession is made voluntarily. It is not necessary actually to invite complaints of police ill-treatment, though of these, if spontaneously made, cognizance should be promptly taken, but it should be made clear to the prisoner that the making or withholding of a statement is within his discretion, and any indication of use of improper pressure should be at once investigated.

(iv) The Magistrate should question a confessing prisoner with a view to ascertaining the exact circumstances in which his confession was made and the connection of the Police with it; in other words, the Court should record the confessions in as much detail as possible with a view to obtaining material from which its genuineness can be judged and to testing whether it is freely made or is the outcome of suggestion. To the certificate required by Section ¹[164] of the Criminal Procedure Code, the Magistrate should add a statement, in his own hand, of the grounds on which he believes that the confession is genuine, of the precautions which he took to remove accused from the influence of the police and of the time, if any, given to him for reflection. [*Vide Form no. (M) 2.*]

(v) The Magistrate should formally warn the accused, though not necessarily in set words, that anything said by him will be taken down and may thereafter be used against him.

(vi) A remand to police custody should not be allowed unless good and satisfactory grounds are shown for it; a general statement that the accused may be able to give further information should not be accepted.

(vii) Whenever possible, where the object of the remand is the verification of the prisoner's statement he should, be remanded to the charge of a Magistrate.

(viii) The period of the remand should always be as short as possible.

(ix) A prisoner who has been produced for the purpose of making a confession and who has declined to do so, or has made a statement which, from the point of view of the prosecution, is unsatisfactory, should in no circumstances be remanded to police custody.

Note—Orders of remand to police custody should ordinarily be passed by stipendiary Magistrates exercising not less than second class powers and specially selected Honorary Magistrates of the 1st Class.

1. Subs. by C.S. No. 26.

(x) If a prisoner produced for the purpose of making a confession declines to make any, the Magistrate before whom he is brought shall record on Form no. (M) 2 the refusal of the prisoner in his own words, and shall also record any statement which the prisoner may desire to make in lieu of a confession.

Comments & Case law

- The Magistrate while recording confession u/s 164 has to ensure that the confessional statement being made before him is voluntary and without pressure, the Magistrate must record the confession in the manner laid down by the section. Omission to comply the mandatory provisions, one of such being as incorporated in sub section (4) of Section 164 is likely to render the confessional statement inadmissible. The words "shall be signed by the person making the confession", are mandatory in nature and the Magistrate recording the confession has no option. Mere failure to get the signature of the person making the confession may not be very material if the making of such statement is not disputed by the accused but in cases where the making of the statement itself is in controversy, the omission to get the signature is fatal. *Dhananjay Reddy vs. State of Karnataka*, AIR 2001SC 1512: 2001 Cr.L.J 1712: 2001 SCC (Cr) 652: 2001 (4) SCC 9.

- The test of discerning whether a statement recorded by judicial Magistrate u/s 164 from an accused is confessional or non-confessional is not by dissecting the statement into different sentences and then to pick out some as not inculpatory. The statement must be read as a whole and then only the Court should decide whether it contains admissions of his incriminatory involvement in the offence. If the result of that test is positive then the statement is confessional, otherwise not. (See Para-12). *Lokeman Shah vs. State of West Bengal*. AIR 2001 SC 1760: 2001 (5) SCC 235 : 2001 Cr.L.J 2196 : 2001 SCC (Cr) 829.

- Statement u/s 164 recorded by Magistrate of appellant—That statement cannot be treated as confession as no warning was given to him as required under the law—Investigation Officer also did not send him for recording of his confessional statement as he did not like to make him an accused—That appellant in his statement u/s 313 stated that the statement was procured by police under coercion—Hence, statements u/s 164 cannot be treated as confessional statement of appellant. *Bhushan vs. State of Bihar*, 1999 (1) BLJ 596.

- Recording of confessions and statements—Discretion of Magistrate to refuse recording statements of witnesses—It has to be exercised judiciously—Case at the stage of investigation by Investigating Agency—Court to be very reluctant in interfering in the said investigation—But in case application filed by petitioner or by witness with a prayer to record his statement u/s Section 164, then Magistrate before rejecting or accepting said application, to apply his judicial mind to exercise his discretion—Not to reject mechanically or on flimsy ground. *Diwakant Choudhary vs State of Bihar*. 1997 (1) BLJ 463 : 1997 (1) PLJR 313.

- The Criminal Court Rules state that whenever possible, the accused confessing his guilt should be allowed few hours time for reflection. How much time would be sufficient for reflection would differ from case to case. It is ultimately the satisfaction of the Magistrate that the confession is voluntary which will matter because it is the Magistrate recording the confession who has dealt with the

accused, had an opportunity to talk to him and to watch his demeanor. When the Magistrate says that he was satisfied that the confession is voluntary, ordinarily that should not be doubted. (See Para 43.). *State of Bihar vs. Arnit Das & Ors.*, 2003(2) PLJR 553 : 2003(2) BCCR 135.

- Statement made before Judicial Magistrate—Admission made by person making it, about his nationality, address and other details—Recorded by Judicial Magistrate after adopting legal formalities—Rightly believed by Courts below when Judicial Magistrate appeared before Court and proved it {Criminal Trial—Confession before Judicial Magistrate—Evidentiary value of }. *Md. Anwar vs. State of Bihar*, 1991(2) BLJ 511 : 1992 CrLJ 48 : 1991(1) PLJR 672.

- Application for recording of statement—Filed after completion of investigation and when case was fixed for commitment—Rejection of application without enquiry—Against law—There is no bar for recording such statement even at stage of commitment—Direction by High Court for recording of statement. *Md. Nezam vs. State of Bihar*, 1996(1) BLJ 202 : 1995 (2) PLJR 360.

- Section 164 provides for safeguards for an accused. The provisions contained therein are required to be strictly complied with. But it does not envisage compliance of the statutory provisions in a routine or mechanical manner. (See Para 15) Taking of a statement of an accused on oath is prohibited. (See Para 10). Two confessions taken in quick succession and no legal aid was provided to the accused and there was no other material to establish the guilt of the accused. Conviction cannot be based on confession—Conviction set aside. *Babubhai Udesinh Parmar vs. State of Gujarat*. AIR 2007 SC 420.

CHAPTER IV

Complaints under Sections 200–203, Cr.P.C.

30. Complaints should be received daily at fixed hours ordinarily at the commencement of the day's sitting. They should be immediately numbered in the order of their receipt and entered in 1[* * *] the Register to be kept in Form no. (R) 1. When a case is made over for trial to another officer, and entry to this effect should be made in the column for preliminary orders. [G.L. 3/57.]

Comments & Case law

- It is settled law that there is no statutory bar in filing a second complaint on the same facts. In a case where a previous complaint is dismissed without assigning any reason, the Magistrate under Sec.204.Cr.P.C. may take cognizance of an offence and issue process if there is sufficient ground for proceeding. Where the previous order was passed on an incomplete record or on a misunderstanding of the nature of complaint or it was manifestly absurd, unjust or where new facts which could not, with reasonable diligence, have been brought on record in the previous proceedings, have been adduced. (See Para 19) *Mahesh Chand vs B. Janardhan Reddy*, AIR 2003 SC 702: 2003 SCC (Cr)425. (2003) 1 SCC 734:2003 Cr. LJ 866.

- When there is also serious doubt whether the procedure required under the Code of Criminal Procedure was really followed by the Magistrate at all while taking cognizance of the offence alleged. In this background of inherent falsehood that

1. Omitted by C.S. No. 27.

could be *ex facie* noticed from the contents of the complaint and coupled with the fact admitted by the parties to the petition The said complaint is a fraudulent one and liable to be quashed based on the legal principle that an act in fraud *is ab initio void*. (See Para 8). *Vijay Shekhar & anr. vs Union of India*, 2004 AIR SC 3976 : 2004(4) SCC 666 : 2004 SCC (Cr.) 1403.

- Examination of witness not named in the complaint petition before framing of charge—Magistrate allowing complainant—opposite party—Validity of order—Held, even before framing of charge, Magistrate may either on his own motion or on an application by complainant—Opposite party—may examine even those witnesses not named in complaint petition—Held, further impugned order not suffering from any illegality. *Jogendra Paswan vs State of Bihar*, 1998(1)BLJ 387 : 1997(2) East. Cr.C 114.

- Cognizance of complaint taken without examination of complainant on solemn affirmation (SA)—This omission is mere irregularity and not illegality—Thus curable—As the complaint was at initial stage—High Court directed the Court below to proceed in accordance with law—Cognizance taken without examining complainant—Effect of. (See Para 7&8). *Anwar Ahmad vs State of Bihar*, 1991(1) BLJ 692 : 1991 BLJR 578 : 1990 (2) PLJR 606.

- Complaint case—Sanction & prosecution of public servant i.e. police officers—III—treatment, assault and abuses by police officers—Cognizance of offence against some of the accused, after holding enquiry u/s 202, taken by Magistrate—But SDJM refused to take cognizance against Opposite party no.2&3 (police officers), who happened to be accused named in the complaint petition—Petitioner—complainant complained to the Magistrate who saw their injuries and while remanding to judicial custody, he directed jail doctor to examine and report—On those facts, a prima facie case was actually made out against OP nos.2&3, but they were exonerated by lower Court under the wrong impression that they have got protection under Section 197 of the Code—Police has got enormous power under the Code, but if they behave like an unbridled horse, then everybody's safety will be at peril, and such protection cannot be given to a person acting in such a manner—Protection granted to OP no's 2&3 by Magistrate was not proper and legal—There was every justification in taking cognizance against the opposite parties along with others and they deserve to be tried along with others in the case—Open to trial Court to consider as to how far the allegation against them was proved and substantiated—SDJM directed to pass fresh order, and to take cognizance against the OP's 2&3. (See Para 4&5) *Vijaywant Kumar Choudhary vs State of Bihar*, 1998(2) BLJ 781 : 1998 (2) East. Cr.C 1002.

- Any investigation under the provisions of Sec.202 of the Code can only be ordered after the complainant and witnesses were personally examined on oath under Section 200 of the Code. In the present case though, the complainant had appeared before the learned Chief Judicial Magistrate, he was not examined on Solemn Affirmation (SA). As noticed above this is curable irregularity under section 465 of the Code. However, if on the filing of the complaint petition an investigation is ordered as per clause (b) of first proviso of Sec 202 (1) of the Code then examination of the complainant and witnesses present, if any, becomes mandatory before any such investigation is ordered. (See Para 16). *Rajeshwar Yadav vs State of Bihar*. 2004(2) PLJR 699 : 2004(3) BBCJ 396 : 2004 (2) East Cr.C 202.

Note—Cases instituted under sections 182, 193 and 211, Indian Penal Code, cases sent by the Civil Courts for judicial enquiry, excise cases unless challaned by the police and cases under sections 174, 188 and 312, Indian Penal Code, are to be shown in the Register of Complaints of offences.

31. The examination of the complainant and the witnesses present, if any, is not to be a mere form, but an intelligent enquiry into the subject-matter of the complaint carried far enough to enable the Magistrate to exercise his judgment as to whether there is or is not sufficient ground for proceeding.

Note—Statement of complainant and the witnesses present, if any, should ordinarily be recorded on the back of the petition.

32. Magistrates are cautioned against the indiscriminate use of police agency for the purpose of ascertaining matters as to which a Magistrate is bound to form his own opinion upon evidence given in his presence. This caution is especially needful in respect of all cases regarding offences not cognizable by the police.

CHAPTER V

Proceedings under Sections 145 and 147 Cr.P.C.

33. Final orders in proceedings under sections 145 and 147 of the Code of Criminal Procedure should be drawn up in ¹[Forms 25 and 27, Schedule II] of the Code [High Court Forms nos. (M) 51 and (M) 53, Vol. II], such modifications being made therein, in accordance with the provisions of ¹[Section 476] of the Code, as the circumstances of each case may require. [G.L. 5/60].

Comments & Case law

- Proceeding initiated under Sec.145 Cr.P.C. and any order passed by the Executive Magistrate, the same could be testified only on revision before the High Court. No other authority, much less than District Collector, has been conferred with any power to testify the validity of the order passed by the Executive Magistrate. District Collector entertaining an appeal or revision held to be without any jurisdiction and illegal. 2004 Cri.LJ.1465.

- When Parties are Co-owners of disputed land the question of invoking the provisions of u/s 145 Cr.P.C. would arise. 2002 Cr.LJ.,1865, *Nilima Barman vs. Ratima Barman*; see also *Neelam Singh vs. State of U.P.*

- Magistrate is not bound to consider police report viz a viz about status of Party as he is empowered to see the evidence or material independently. 2003 Cr.L.J. 4308 ; 2003 (11) A.I.C.862.

- Parallel Proceeding Civil & Criminal—Case pertaining to injunction and dispute over partition. It will not be proper to run parallel proceedings by Criminal Courts when the subject matter is before Civil Court also since, the decision of the Civil Court are binding. The question of injunction has to be considered by the Civil Court. [*Jora Singh vs. State of Punjab*, 1999 Cr.LJ.1302.]

- Pendency of civil litigation regarding title, and the Civil Court has ordered status quo to be maintained. Proceeding under u/s 145 Cr.P.C. is not competent. *Harjet Singh vs. Amarjit Singh*, 1999 Cr.LJ.98.]

- However, when no civil suits are pending dropping the proceedings u/s 145 Cr.P.C. is erroneous *Jora Singh vs. State of Punjab*, 1999 Cr.LJ.1302.]

1. Subs. by C.S. No. 28.

● Long pending civil litigation—On the question of possession of land—Breach of peace from time to time. Proceedings under Sections 144, 145 and 107 Cr.P.C. initiated but dropped later on the ground that a title suit is pending before the Civil Court where under both the possession and title would be considered. Criminal Revision filed before the Additional Sessions Judge. Dismissed. Dismissal of the Revision Petition by Additional Sessions Judge on the ground that the order of the Executive Magistrate was well within law to drop the proceedings. High Court refused to interfere with the order of Additional Sessions Judge. *Mohan Lal Kuer vs. State of Bihar*, 1999 Cr.LJ. 4249.

● The proceeding u/s 145 have to be taken cautiously and the Magistrate must follow the provisions scrupulously. Where the purpose of the party is to get possession without the expenses, delay and trouble of a civil suit or the settlement or a civil dispute it should not be initiated. *Ramesh Ch. Saxena vs. VI. the Additional Sessions Judge*, 1998 Cr.LJ. 3794.]

● Though, a person is prevented from invoking jurisdiction of the Criminal Court when a suit or remedy in Civil Court for possession or injunction is available. When admittedly parties are co-owners and there is no partition and the dispute is not on the right to possession but on the question of the possession, the Magistrate is empowered to take cognizance under Section 145 Cr.P.C. *Prakash Chand Sachdeva vs. The State & another*. [AIR 1994 SC 1436: 1994 (1) SCC 471: 1994 SCC (Cr.) 438.]

● Inherent power of High Court cannot be invoked if there is no abuse of proceeding u/s 145 of the Cr.P.C. No order can be quashed on the ground that the lower Court has passed an erroneous order, simply because he passed the order adverse to the interest of the petitioner. Section 482 of the Cr.P.C. is meant for such aggrieved party who have got no remedy under any legal provision and when there caused a gross injustice. *Hanuman Prasad Agrawal vs. State of Bihar*, 2001(3) BLJ 431 : 2001(3) BLJR 431 : 2001(3) PLJR 510.

● When question of possession is being examined by the Civil Court and parties are in apposition to obtain interim orders, jurisdiction of Criminal Court should not be allowed to be invoked. Multiplicity of litigation and parallel proceedings are not in the interest of justice. *Ram Sumer Puri vs. State of U.P.*, AIR 1985 SC 472 : 1985(1) SCC 427.

● Competent court do not necessarily mean a civil Court only. It is one which has the jurisdictional competence to determine the question of title or the rights of the parties with regard to possession over the properties forming the subject matter or the proceedings before the Executive Magistrate as contemplated in see 146 (1) of Cr.P.C. *Shanti Kumar Panda vs. Shankuntla Devi*, 2004 SCC (Cr) 320 : AIR 2004 SC 115 : 2004(1) SCC 438 : 2004 Cr.LJ 1249.

Note:—In the same judgment see also for (a) Effect of interlocutory or final Order of Court. (b) Order of Criminal Court is not binding on Civil Courts.

CHAPTER VI

¹[Commitment of cases to the Court of Sessions.

¹[34. A Magistrate making a commitment to the Court of Sessions, shall notify the same in Form No. (M)-7, Vol. II without delay, to that Court stating at the

1. Subs. by C.S. No. 29.

same time the number of days over which, in his opinion, the trial is likely to extend. The names of all the witnesses with their full addresses to be examined in the Court of Sessions, shall be appended to the said notice. A copy of the same shall be sent to the public prosecutor simultaneously. The public prosecutor shall, within a fortnight of the receipt of the copy, file in the Court of Sessions, a list of witnesses whom he wants to be summoned in the case. The Sessions Judge shall then fix the date for trial and send intimation of the date and also the summons to be served on the witnesses, direct to the Sub-divisional Judicial Magistrate concerned. He will also send intimation of the date fixed for trial to the District Magistrate and the public prosecutor. On receipt of the summons the Sub-divisional Judicial Magistrate shall have them served on the witnesses in accordance with the provisions of section 62 of the Criminal Procedure Code. The District Magistrate and the local police shall be responsible to ensure the attendance of the witnesses on the dates fixed in the case.]

¹[**35.** As soon as the dates of sessions trial are settled, a list showing the same shall be fixed in a conspicuous place in the Court. The Sub-divisional Judicial Magistrate concerned on receipt of the dates fixed for trial from the Sessions Judge under rule 34 shall also get them notified at a conspicuous place in his office.] [G.L. 1/49, G.L. 12/57.]

Note 1.—As acknowledgement of the letter in Form no. (M) 7, Volume II, notifying the commitment should invariably be required by the Magistrate making the commitment from the Court of Sessions; and in the event of none being received within a reasonable time, enquiry should be made to ascertain the cause.

Note 2.—A Magistrate should furnish an explanation to the Court of Sessions in every case of delay of more than 7 days in notifying the date of commitment to that Court. [G.L. 13/51.]

Note 3.—²[* * * *].

Note 4.—²[* * * *].

36. ²[* * * *].

37. ²[* * * *].

38. ²[* * * *].

CHAPTER VII

Sessions Business

39. Sessions trials should be held in the order in which the commitments are notified to the Court of Sessions. The Sessions Judge should, however, exercise his discretion in the matter of giving priority to certain cases, particularly capital sentence cases, subsequently received judging the seriousness of the offence and the convenience of the accused. It should always be the endeavour of every Sessions Judge to see that a Session trial is brought to a close with due expedition and without unnecessary adjournment.

40. When it is duty of a Sessions Judge to hold sitting at more than one place and he finds that he is unable to proceed to the other place on the date fixed for

1. Subs. by C.S. No. 29.

2. Deleted by *ibid.*

trial there, he shall make such arrangements as may be best calculated to relieve the prisoners under trial from unnecessarily prolonged detention in custody and also to minimise the inconvenience of the witnesses. [G.L. 1/66.]

¹**41.** In all capital sentence cases where there has been an interval of one month or more between the apprehension of the accused and the conclusion of the trial in the Court of Sessions, a full explanation of such delay should be sent to the High Court along with the proceedings submitted under the provisions of Section 366 of the Code of Criminal Procedure.

It should be clearly understood, however, that the period of 9 months here allowed before a capital sentence case becomes explanatory, should in no circumstances be regarded as the interval which may justifiably intervene between the apprehension of the accused and the conclusion of the trial in the Court of Sessions.]

42. The Judge shall maintain a Register of sessions cases in Form no. (R) 23. ²[* * * *]. [G.L. 3/23.]

43. ²[* * * *].

44. Cases shall be entered in the Register of sessions cases in Form no. (R) 23 serially in the order of receipt of commitments in the Sessions Court. The series of numbers shall be separate for each year. A separate index number shall be given to each accused.

45. Column 4 ³[of Register (R) 23] is meant to contain an abstract of the charge. Offences are to be stated as concisely as possible with the section of the Indian Penal Code or other law applicable. When a prisoner is charged with several offences, the heads of charge on which he has been convicted must be indicated by red underlining.

46. In the column of remarks ⁴[of Register (R) 23], Sessions Judges should state the ground of postponement when any trial is postponed, the period of any solitary confinement awarded to any prisoner—the fact, if it be so, that the sentence passed on any prisoner is in addition to any other sentence in a different case passed at the same Sessions, or one which is to take effect on the expiration of another sentence which the prisoner may be undergoing and the grounds on which any person punishable with death has been sentenced to any punishment other than death (Section 366 ⁴, Criminal Procedure Code) the reasons which have prompted a specially light, or specially severe sentence in any particular case and generally any matter necessary to enable the High Court to exercise the power of revision vested in it by ⁵[Chapter XXX] of the Criminal Procedure Code.

47. Whenever an enhanced sentence is passed upon an accused on conviction on a charge within the terms of Section 75 of the Indian Penal Code the Sessions Judge should enter in the column for remarks the date of each previous conviction, the offence charged, and the sentence passed on each occasion.

1. Subs. by C.S. No. 30.

2. Deleted by C.S. No. 95, dated 1.5.1985.

3. Ins. by C.S. no. 31.

4. Ins. by C.S. No. 32.

5. Subs. by *ibid*.

¹[48. When, in any case committed to the Court of Sessions, there is an interval of more than one month between the date of appearance of the accused or of his production before the Magistrate and the commitment of the case, the committing Magistrate shall, at the time of notifying the commitment, submit an explanation as to the delay, to the Chief Judicial Magistrate who shall forward the same to the Sessions Judge with his remarks therein with a note as to the action, if any, taken by him in case of any unreasonable delay. The Sessions Judge shall forward to the High Court, along with the Sessions statement, the explanation with his comments thereon.] [G.L. 1/34, G.L. 5/52, G.L. 6/52, G.L. 3/53, G.L. 1/56, G.L. 11/57, G.L. 4/58.]

Note—Any appearance or production of the accused before the submission of the final form under Section 173 of the Code of Criminal Procedure shall not be taken into account for the purpose of this rule.]

49. (a) Sessions Judges, in all cases in which they may convict of culpable homicide not amounting to murder, shall invariably mention in their remarks on the trial, the circumstances under which the culpable homicide was held out to amount to “murder”.

(b) Sessions Judges shall invariably record their opinion whether the act by which death was caused was done with the intention of causing death,* or of causing such bodily injury as was likely to cause death, or with the knowledge that it was likely to cause death, but without any intention to cause death, or to cause such bodily injury as was likely to cause death†.

CHAPTER VIII

General Provisions as to Enquiries and Trials

²[50. In complaint cases, except those relating to offences mentioned in Section 195 of the Code of Criminal Procedure, the complainant/accused or his lawyer and in police cases and cases relating to offences mentioned in section 195 *ibid*, the public prosecutor or the assistant public prosecutor, concerned or the accused or his lawyer, as the case may be shall be required to make over to the Bench Clerk not later than 11 a.m. during day sitting and 7 a.m. during morning sitting, a duly verified, dated and signed a list of witnesses who are in attendance for examination. The omission of the name of witnesses shall be no bar to such witnesses being examined if presented for examination, but no costs shall be allowed to any witness on account of his expenses for the days attendance if he is neither entered in the list nor actually examined.]

Note 1—This rule in no way affects the obligation on the part of witnesses to attend punctually at the time for which they are summoned.

Note 2—Not only the names of witnesses entered in the lists mentioned in this rule but also of those who, though not so entered, are actually examined, will

*Penalty, imprisonment for life or imprisonment for a term which may extend to 10 years and fine.

†Penalty, imprisonment of either description for a term which may extend to 10 years or fine or both.

1. Subs. by C.S. No. 33.
2. Subs. by C.S. no. 34.

find entry in the register of the attendance of witnesses which is to be written up by the Bench Clerk.

51. The trial, ¹[* * * *]. when once commenced, should except for good and sufficient cause (to be noted in the order-sheet) proceed throughout the day on which it has been opened, and from day to day and throughout each day following until all the witnesses in attendance have been examined. [G.L. 4/54.]

52. All Courts should take care that officers who are about to proceed ¹[* * * *]. out of India, are examined, before their departure, in any pending criminal cases in which they are important witnesses.

53. Where the evidence of the Government expert in hand-writing cannot be obtained without undue delay and inconvenience other available evidence should be taken. The prolonged postponement of criminal trials for the purpose only of obtaining expert evidence of hand-writing should be discouraged. [G.L. 1/54, G.L. 2/65.]

CHAPTER IX

Mode of Recording Evidence—²[Chapter XXIII], Cr.P.C.

54. Deposition should be written on one side of the paper only, a margin of one-fourth of the sheet being left blank. Only one deposition should be written on each sheet of paper. [G.L. 9/22.]

Note—On account of scarcity of paper this rule should remain in abeyance till further orders. Depositions of witnesses may whenever practicable, be recorded on both sides of the paper.

55. Depositions shall be taken down in writing in the language of the Court, either by the Magistrate or Sessions Judge, with his own hand or from his dictation in open Court. The depositions so recorded shall be signed by the Magistrate or the Sessions Judge.

56. If a type writing machine be used by the Presiding Officer himself for the purpose of recording deposition and memoranda of evidence in criminal cases, a certificate must be given that this has been done. Each page of the record so made must be attested by the Presiding Officer's signature.

57. Every Sessions Judge and Magistrate shall, in the examination of witnesses and accused persons, record in his own hand-writing in each deposition, or statement, the name of the person examined, the name of his or her father and, if a married woman, the name of her husband, the ²[nationality, religion], profession and age of the witness or accused person and the village, *thana* and district in which the witness or accused person resides ³[and in case the witness or accused person belongs to the Scheduled caste or Scheduled tribe, a statement to that effect]. The entry of age shall be the Presiding Officer's own estimate and in his own handwriting.

Note—In recording the profession a general word like "service" should not be used. The precise nature of the service should be indicated.

58. (a) In depositions in which there may be any doubt, as to the exact meaning of any expression used and in which the doubtful expression has an

1. Deleted by C.S. No. 34.

2. Subs. by C.S. No. 34.

3. Ins. by C.S. No. 34.

important bearing on the offence with which the accused is charged, the words actually used should be ¹[written] in order that the Court may be in a position to determine their exact signification.

(b) Should any instance occur in which a foreign language is used or in which the evidence may be delivered in a dialect to which a Judge may be unaccustomed, an interpreter may be employed.

59. All communications from witnesses regarding their attendance in the Court of Sessions should be addressed to the Government Prosecutor, or to the members of the legal profession appearing for the defence and laid by them before the Sessions Judge for orders. The orders passed thereon should be communicated to the witness through the same channel.

60. When several accused persons bearing the same or similar names are included in one trial, care should be taken in recording the evidence given by each witness, to specify the name of the father of the accused whenever the name of any one of them is mentioned.

61. When any person whose evidence is essential to the prosecution of a criminal charge against any accused persons, or to the proper investigation of an alleged crime with which no person has been specifically charged, may be in imminent danger of dying before the case comes to trial, the deposition of the dying person should, if possible, be recorded in the presence of such accused person (if any), or of attesting witnesses, and in the event of his death, submitted at the trial with evidence of this fact.

CHAPTER X

Judgment and Sentence

62. Judgments should be written legibly and on one side of the paper only a margin of one-fourth of each sheet being left blank.

63. A type writing machine may be used for the purpose of recording judgments in criminal cases. The type writing machine must be used by the Presiding Officer himself and a certificate must be given that this has been done. In the alternative, type writing machine may be used to the dictation of the Presiding Officer and a certificate to the effect that the judgment has been dictated and corrected by him must be given. Each page of the record so made must be attested by the Presiding Officer's signature. [G.L. 9/57, G.L. 7/65, G.L. 10/22, G.L. 1/39, G.L. 3/40, G.L. 4/43, G.L. 2/53, G.L. 2/55, G.L. 4/57, G.L. 6/60, G.L. 1/63, G.L. 3/65, G.L. 8/65, H.C. letter No. 5787-803, dated the 11th June, 1966.]

64. Whenever an enhanced sentence is passed on conviction on a charge within the terms of Section 75 of the Indian Penal Code, the Sessions Judge or Magistrate shall state in his judgment the date of each previous conviction and the sentence passed, as well as the particular offence charged.

65. When a Sessions Judge has occasion in any judgment, whether at sessions trial, or on appeal or in revision, expressly to condemn or to praise the action of the police or of any particular police officer, a copy of such judgment should be forwarded to the Magistrate of the district for his information. [G.L. 3/56.]

1. Subs. by C.S. No. 35.

66. (a) Sessions Judges and Magistrates should forward to the Defence Department (Army Branch) of the Government of India copies of judgments of all cases in which Commissioned Officers have been tried for criminal offences. In the case of other ranks, it is not necessary to supply copies of judgments, but the Defence Department should be supplied with copies of the conviction and sentence only.

Whenever a military pensioner is convicted and sentenced to imprisonment, a copy of the judgment should be sent by the Criminal Court concerned to the Deputy Controller of Military Pensions, Allahabad.

(b) In the case of a reservist of the Army who may be sentenced by a Criminal Court to imprisonment for any term exceeding three months, a report should be made to the Officer Commanding of the appropriate Reserve Centre. (*Home Department letter no. F-1032-31-Judicial, dated the 2nd December, 1931.*)

A list of Reserve Centres will be found in Appendix VII.

67. Session Judges and Magistrates shall forward to the Registrar of the Council of Medical Registration, Bihar, free of charge, a copy of the judgment in all cases where a registered medical practitioner is convicted of any non-bailable offence. In other cases, when a judgment contains any unfavourable remarks on the professional conduct of a registered medical practitioner, whether accused in the case or a witness, a copy of the judgment, or relevant extracts therefrom, shall be sent if the Court pronouncing the judgment considers that the conduct of the registered practitioner has been such that it is desirable to call the attention of the Medical Council to it.

CHAPTER XI

Execution (Chapter ¹[XXXII] Cr.P.C.)

68. In all cases where the accused is a soldier or person holding any rank in the army, the warrant for detention or imprisonment shall set forth accurately the rank of the prisoner, and the Regiment or Military Department to which he belongs.

69. Every Magistrate, when committing a prisoner to Jail, shall attach to the warrant of commitment a note in Criminal Process Form no. (M) 64, Volume II. When the prisoner is sentenced by a Court superior to that of a Magistrate, the ¹[Chief Judicial Magistrate] must arrange that this note be made by a competent officer, and be attached to the warrant.

70. (a) When a Magistrate passes an order to give security under ¹[Section 122], Criminal Procedure Code, for a period exceeding one year and such security is not given on or before the date on which the period for which such security is to be given commences, he should commit the person against whom the order is made to prison, until the orders of the superior Court are received making the necessary modification in ¹[Form no. 15 or 16 Schedule II], Criminal Procedure Code. When he receives the order of the superior Courts, he should, if the order is one to detain the person in Jail, issue a revised warrant in the terms of that order. The warrant will not, in such a case, be issued by the superior Court but by the Magistrate before whom the proceedings were instituted.

1. Subs. by C.S. No. 36.

(b) Where a superior Court, on a reference being made to it under ¹[Section 122 (2)], Criminal Procedure Code, directs release of the person detained, the warrant for release shall, as in the case of an appeal, be issued by the superior Court in ¹[Form no. 17 of Schedule II] Criminal Procedure Code. [Form no. (M) 44, Volume II.]

71. When the record of a case tried at the Session is submitted to the High Court, the Sessions Judge shall call for (if necessary) and forward simultaneously all the police diaries connected with the case. He should also forward such of the material exhibits as in his opinion will be of importance at the hearing in the High Court and if any such exhibit is bulky he should ask for the instructions of the High Court. It is important to send any material exhibits directly connecting the accused with the crime. In murder and homicide cases all weapons, garments and other articles which are relied upon by the prosecution to prove the identity of the murderer or his victim should invariably be forwarded. Stolen property said to have been recovered and identified should also be forwarded. Such of the material exhibits as are not sent up with the record should not be returned or destroyed until the period for filing an appeal has expired, or, if an appeal is filed, until the appeal has been decided. [*G.L. 1/35, G.L. 1/36, G.L. 2/43*].

72. When the record of a case of culpable homicide amounting to murder is submitted to the High Court in connection with ²[Sections 366, 378 and 397] of the Code of Criminal Procedure the Sessions Judge shall also state whether the prisoner has funds or not to employ a pleader in the High Court for his defence and in the case of an appeal under ²[Section 378] or of a revision under ²[Section 397] of the Code of Criminal Procedure when notice has been given to the accused to show cause why the order passed should not be set aside, and sentence of death passed, the ²[Trial Court] shall in returning the notice, state thereon whether the accused has funds or not to employ a pleader in the High Court.

73. The date named by the Sessions Court in its warrant for the execution of a sentence of death shall not be less than twenty-one nor more than twenty-eight days from the date of the issue of such warrant.

74. When a prisoner has been committed to jail under two separate warrants, the sentence in the one to take effect from the expiry of the sentence in the other, the date of such second sentence shall in the event of the first sentence being remitted on appeal, be presumed to take effect from the date on which he was committed to jail under the first or original sentence.

75. All recommendations for remission or suspension of a sentence made under ²[Section 432] of the Code of Criminal Procedure, by an officer of any subordinate Court to the State Government, in regard to a convict whose case has been before the High Court on appeal, shall be made through the High Court.

76. In the case of a convict against whom an order is passed under ²[Section 356] of the Criminal Procedure Code, a copy of the order passed under that Section should be attached by the convicting Court to the warrant referred to in ²[Section 418] of the Code.

1. Subs. by C.S. No. 36.

1. Subs. by C.S. No. 37.

77. If in any case a claim is made to the property attached under ¹[Section 421 (1) (a)], Code of Criminal Procedure, the ownership of such property must be determined by the Magistrate who issued the warrant, or his successor in office or the Magistrate in charge of the accounts.

78. When a Court of Sessions realizes a fine imposed by it on an accused person, it shall prepare the usual warrant for the realization of the fine, and shall forward it to the ¹[Chief Judicial Magistrate] concerned with an endorsement thereon to the effect that the fine has been realized.

CHAPTER XII

Appeals—²[Chapter XXIX, Cr.P.C.]

79. Petitions of appeal against the sentence or orders of Sessions Judges, presented to officers in charge of jails shall be forwarded by such officers direct to the Registrar of the High Court, intimation of the fact being at once given, in each instance, to the Judge whose sentence or order is appealed against by sending him a copy of the letter [in Form no. (M) 18, Vol. II] addressed to the Registrar with a forwarding memo.

Note—Sessions Judges need not send the records of such cases to the High Court until they are requested to do so upon the admission of the appeal. [G.L. no. 1 of 4th January, 1901.]

²**80.** In the case of appeals preferred to the Court of Sessions by persons convicted by a Magistrate, the letter intimating the date fixed for the hearing and calling for the records of the case should be sent in Form (M) 14, Vol. II by the Sessions Judge to the trying Magistrate and in case of his absence to the Magistrate incharge or his successor-in-office, for compliance, with a copy to the District Magistrate and the Chief Judicial Magistrate.]

²**81.** When an appellate Court, or a Court of Revision direct the release of a prisoner on bail pending the hearing of an appeal or an application for revision, such Court shall send the warrant for his release on bail to the Court which passed the order under appeal or revision. If the Presiding Officer of the Court concerned is not there, then it shall be the duty of his successor-in-office or the officer-in-charge of his Court, as the case may be, to comply with the order. The bail orders may also lay down the amount of bail, number and nature of sureties, etc. If any person is unable to furnish the bail required of him, the Court receiving the warrant for the release of the prisoner on bail shall forthwith return the same to the Appellate Court or Court of Revision which issued it, with an endorsement thereon to the effect that the prisoner is unable to furnish the bail. [G.L. 4/40, G.L. 1/53, G.L. 6/54.]

Note—In this behalf attention is drawn to General letter no. 3 of 1967 (Criminal).]

82. When an appeal has been disposed of, a copy of the judgment in appeal and of the order passed shall be forwarded to the Original Court.

83. (a) In every case in which a sentence is reversed the Appellate Court shall fill in the prescribed form of warrant of release on appeal, and shall send the

1. Subs. by C.S. No. 37.

2. Subs. by C.S. No. 38.

same direct to the officer in charge of the jail in which the appellant is confined. [G.L. 6/57.]

(b) In every case in which a sentence is modified on appeal the Appellate Court shall prepare a fresh warrant in the form reproduced in Vol. II as Form no. (M) 75, in accordance with the terms of the order passed and shall send the same direct to the officer in charge of the jail in which the appellant is confined. When the fresh warrant is returned with the endorsement of execution under ¹[Section 430] Criminal Procedure Code, the Appellate Court shall forward it to the Court from the decision of which the appeal was preferred to be attached to the original record.

(c) The Appellate Court shall, at the same time when the release warrant or fresh warrant is issued recall and cancel the original warrant of commitment and this warrant as well as the release warrant when returned with an endorsement of execution shall be attached to the record of the original Court and returned to it therewith. [G.L. 5/40.]

(d) In the event of the conviction and sentence being set aside and a retrial ordered the Court directing the retrial shall communicate its order to the Jail authorities with a view to the necessary action being taken under rule 513 of the Jail Code. [G.L. 4/40].

84. Judicial Officers are prohibited from sending by telegraph orders to officers in charge of jails for the release of prisoners in their custody.

85. Irrespective of the procedure prescribed in rule 83 above the Appellate Court shall, for the information of the appellant, notify to the officer in charge of the jail in which such appellant is confined the result of his appeal. The notification shall be made in Form no. (M) 17, Vol. II.

86. Judicial Officers must understand that this notice is intended solely for the communication of the result of the appeal to the appellant, and in no way relieves them from the duty of issuing revised warrant when such are necessary.

Proviso 1.—Provided that, where an accused has been admitted to bail pending the hearing of his appeal the original warrant of commitment shall after being returned by the Jail authorities to the Court which issued it, be forwarded to the Appellate Court.

(1) In every case in which a sentence is reversed on appeal, the Appellate Court shall return the original warrant, with a copy of its order, to the Court by which the accused was admitted to bail with direction to discharge him.

(2) If the conviction and sentence are set aside and a retrial of the accused is ordered by the Appellate Court, that Court shall return the original warrant together with its order on the appeal ²[x x x] to the Court which tried the case, with directions to retry the prisoner for the offence charged.

(3) In every case in which a sentence is modified on appeal, the appellate Court shall prepare a fresh warrant [in Form no. (M) 75, vol. II] and shall forward the same with the original warrant and with a copy of its order, to the Court by which the accused was admitted to bail, with directions to take measures to secure his surrender and commitment to jail on the modified warrant.

1. Subs. by C.S. No. 39.

2. Deleted by C.S. No. 40.

(4) In every case in which a sentence is confirmed on appeal the Appellate Court shall return the original warrant, with a copy of its order, to the Court by which the accused was admitted to bail, with directions to take measure to secure his surrender and re-commitment to jail on the original warrant.

In each of the last above mentioned cases, it shall be the duty of the Court to which the accused surrenders to his bail to endorse on the warrant the dates of his release on bail and of his subsequent surrender.

The copy of the order of the Appellate Court referred to in clauses (1) to (4) of this proviso shall be in Form no. (M) 17-A, Vol. II, and shall be prepared and despatched immediately after the order has been passed, without waiting for the judgment, a copy of which shall be sent to the Court concerned as soon as it is prepared. A direction by the Appellate Court to take measures to secure the surrender of an accused and his re-commitment to jail on an original or on a modified warrant shall be carried out by the Court or Magistrate to whom it has been issued without any delay.

Note—The bail-bond, if any, must invariably accompany the copy of the order.

Proviso 2.—Provided also that where an accused surrenders to his bail in the Appellate Court, such Court, in every case in which the sentence is reversed on appeal, shall discharge him; and in every case in which the sentence is modified or confirmed on appeal, such Court shall forward the accused in charge of a Police Officer, with the modified or the original warrant, to the District Magistrate, with direction to commit him to custody as in cases (3) and (4) of Proviso 1.

Note—Wherever a Sessions Division consists of more districts than one, the District Magistrate in this proviso shall be held to be the Magistrate of the District in which the Sessions Court is sitting for the hearing of appeals.

87. The Court to which the judgment of the High Court may have been certified for the purpose of giving effect thereto will be guided by the above rules (82 to 86). Except when the High Court otherwise directs, the lower Court shall issue the warrant of release or modification of sentence. [*G.L. 5/40.*]

Note—When an appeal is preferred to the High Court against the conviction and sentence passed by the Sessions Judge and the prisoner is admitted to bail the original warrant in case of reversal or modification of the sentence should be returned by the Magistrate to the Sessions Judge to be filed with the Sessions record.

88. Where the High Court simply modifies a sentence passed by a Sessions Judge without change of Section, and where the High Court passes a new sentence by changing the conviction Section or the punishment Section, or otherwise, the sentence finally passed shall count, unless especially otherwise directed, from the first day of imprisonment under the original sentence. [Reproduced in Rule 523 of the Jail Code.]

CHAPTER XIII**Reference and Revision—¹[Chapter XXX] Cr.P.C.**

89. The Magistrate of district must be deemed in respect of his judicial functions and in this respect only to be subordinate to the Sessions Judge.

¹**90.** Sessions Judges are to be guided by, but not to go beyond the following instruction in communications with the Executive Magistrates.

District Magistrates are to comply with all requisitions made by Sessions Judges with regard to any case appealable to or revisable by them. The District Magistrates are also to render any explanation which the Sessions Judges may require from them and to obtain and submit any explanation which Sessions Judges may require from the Executive Magistrates.]

¹**91.** When the record of a proceeding in the Court of Executive Magistrates is called for by the Sessions Judge under Section 397, Criminal Procedure Code, it shall always be done through the District Magistrate. If the case relates to the Court of Judicial Magistrate, the record shall be called for from that Court.]

¹**92.** Every application under Section 397 of the Code of Criminal Procedure, 1973 (Act 2 of 1974) shall be accompanied with an affidavit stating whether an application on the same facts and against same judgment or order had been previously filed before the High Court or the Sessions Judge on behalf of all or any of the petitioners, and if so with what result.]

93. ²[* * * * *]

94. ²[* * * * *]

CHAPTER XIV**Lunatics—³[Chapter XXV], Cr.P.C.**

95. The following is suggested as a suitable form of finding of acquittal on the ground of insanity—

“The Court finds that did kill by striking him on the head with a club, but that, by reason of unsoundness of mind, he was incapable of knowing that he was doing an act which was wrong or contrary to law, and that he is not therefore guilty of the offence specified in the charge, viz,; and the Court directs that the said (.....) be acquitted, and that, under the provisions of ³[section 335], Criminal Procedure Code the said (.....) be kept in sate custody in the”.

CHAPTER XV**Commissions for Examination of Witnesses—Chapter XL, Cr.P.C.**

96. ⁴[* * * * *]

⁵**97.** When the evidence of a Gazetted Officer of the Mint or the Indian Security Press is required as to the genuineness or spuriousness of a coin or currency note, the Court concerned should ordinarily send the coin or the currency note to the Master of the Mint or the Controller of paper currency as the case may be, under cover of the Court seal or by a messenger whose evidence can afterwards be taken.

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1. Subs. by C.S. No. 41.
 2. Deleted by C.S. No. 42.
 3. Subs. by C.S. No. 43.
 4. Deleted by C.S. No. 44.
 5. Subs. by *ibid*.

The experts at the Mint and in the Currency Department are much engaged and it is not always possible for one of them to attend on the date fixed by the Court. The Court should consider the desirability of issuing a commission for their examination instead of summoning them. [G.L. 2/23, G.L. 1/43.]

¹[98. The instructions contained in Rule 97 shall apply *mutatis mutandis* to the articles to be sent for examination by a Gazetted Officer of the office of the Controller of Stamps and Stationery and also to the examination on commission of such officer with regard thereto. [G.L. 1/26, G.L. 5/44.]

CHAPTER XVI

Special Rules of Evidence—²[Chapter XXIII], Cr.P.C.

99. ³[* * * * *]

100. As soon as evidence under ²[Section 299], Cr.P.C. have been recorded or the trial has been separated, particulars thereof shall be noted in the register in Form no. (R) 5A, maintained in the Court for the purpose, and intimation thereof with necessary details shall be sent by the Courts concerned to the ²[Subdivisional Judicial Magistrate] and the Sessions Judge for being noted in the registers maintained in their respective offices. The Subdivisional Magistrate shall call for a report from Police concerned as to the action taken and forward a copy thereof with his comments thereon to the Sessions Judge at the end of each quarter. This report together with the register in Form (R) 5-A, shall be put up before the Sessions Judge at an interval of three months for necessary orders.

CHAPTER XVII

Disposal of Property—⁴[Chapter XXIV], Cr.P.C.

101. (a) Criminal Courts in marking orders under ⁴[Sections 452, 457 or 458] of the Criminal Procedure Code for the disposal of counterfeit coin, should consider whether the coin should not be forwarded to the nearest Treasury or Sub-Treasury Officer with directions to him to deal with it in a manner similar to that prescribed by rule 1* of the Rules issued by the Government of India, in the Department of Finance and Commerce**.

1. Subs. by C.S. No. 44.
2. Subs. by C.S. No. 45.
3. Deleted by C.S. No. 45.
4. Subs. by C.S. No. 46.

* When it can be done with the consent of the tenderer, counterfeit coins tendered to Treasury Officers and others authorised to cut or break them under the provisions of section 16 of Act III of 1906 should be sent to the Mint at Calcutta or Bombay. If the tenderer, however, does not consent to the counter-feit coin being sent to the Mint, unless the broken pieces are afterwards returned to him, the coin should not be sent at all. It is however open to all Government Officers, to whom such a coin is tendered in cases in which the tenderer is otherwise unwilling to part with it to purchase it from him at a suitable price, not in any case exceeding its nominal value charging its cost to Government. This course should only be followed when from the excellence of the execution, or for any other special cause, it seems desirable that the coin should be acquired as a specimen, and the officer purchasing the same should, when forwarding it to the Mint, state at the same time the grounds upon which its purchase was considered desirable.

** Now "Commerce and Industry".

(b) The above instructions should be held to apply also to any implements such as dies, moulds, etc., used in coining. When in any case, such coins or implements are forwarded to a Treasury Officer a copy of the judgment delivered in the case with which they are connected, should at the same time be forwarded to that officer.

CHAPTER XVIII

Miscellaneous—Chapter XLVI, Cr.P.C.

102. The following rules have been made by the Governor-General in Council under sub-section (1) of Section 549 of the Code of Criminal Procedure, 1898 (Act V of 1898), and in supersession of the notification of the Government of India in the Home Department no. 817, dated the 23rd May, 1902 (*vide* Home Department notification no. F-465-28, dated the 27th June, 1928), as to cases in which persons subject to military or air force law shall be tried by a Court to which the said Code applies, or by a Court-Martial, namely:—

1. Where a person subject to military or air force law is brought before a Magistrate and charged with an offence for which he is liable, under Section 41 of the Army Act or under Section 41 of the Air Force Act, as the case may be, to be tried by a Court-Martial, such Magistrate shall not proceed to try such person, or to issue orders for his case to be referred to a Bench or to inquire with a view to his commitment for trial by the Court of Sessions ***, for any offence triable by such Court, unless—
 - (a) he is of opinion, for reasons to be recorded, that he should so proceed without being moved thereto by competent military or Air force authority, or
 - (b) he is moved thereto by such authority.
2. Before proceeding under clause (a) of rule 1 the Magistrate shall give notice to the Commanding Officer of the accused and, until the expiry of a period of five days from the date of the service of such notice, he shall not—
 - (a) acquit or convict the accused under sections 243, 245, 247 or 248 of the Code of Criminal Procedure, 1898 (Act V of 1898), or hear him in his defence under Section 244 of the said Code; or
 - (b) frame in writing a charge against the accused under Section 254 of the said Code; or
 - (c) make an order committing the accused for trial by the High Court or the Court of Sessions under Section 213 or sub-section (1) of Section 446 of the said Code; or
 - (d) issue orders under sub-section (1) of Section 445 of the said Code, for the case to be referred to a Bench.
3. Where within the period of five days mentioned in rule 2, or at any time thereafter before the Magistrate has done any act or issued any order referred to in that rule, the Commanding Officer of the accused gives notice to the Magistrate that, in the opinion of competent

military or air force authority, as the case may be, the accused should be tried by a Court-Martial, the Magistrate shall stay proceedings and, if the accused is in his power or under his control, shall deliver him with the statement prescribed by Section 549 of the said Code, to the authority specified in the said Section.

4. Where a Magistrate has been moved by competent military or air force authority, as the case may be, under clause (b) of rule 1, and the Commanding Officer of the accused subsequently gives notice to such Magistrate that, in the opinion of such authority, the accused should be tried by a Court-Martial, such Magistrate, if he has not before receiving such notice done any act or issued any order referred to in rule 2, shall stay proceedings and, if the accused is in his power or under his control, shall in the like manner deliver him, with the statement prescribed in Section 549 of the said Code to the authority specified in the said Section.
5. Where an accused person, having been delivered by the Magistrate under rule 3 or 4, is not tried by a Court-Martial for the offence of which he is accused, or other effectual proceedings are not taken or ordered to be taken against him, the Magistrate shall report the circumstance to the State Government.
6. In these rules 'competent military authority' means the Brigade Commander, and 'competent air force authority' means the Air Officer Commanding, Air Force in India.

103. For rules framed by Government under Section 565 (3), Criminal Procedure Code, ¹[see] Bengal Government notification no. 313-J., dated the 14th January, 1902.

²**[103-A.** In the matter of application of Rules 102 and 103, the provisions of Section 484 (2) (b) of the Criminal Procedure Code (Act 2 of 1974) may be seen.]

PART II

Rules regarding Practice and Procedure under Special Acts.

CHAPTER I

*The Indian Oaths Act, X of 1873

RULES FRAMED BY THE HIGH COURT

104. The following forms of oaths and affirmations are prescribed by the High Court of Judicate at Patna under Section 7, Act X of 1873.

FOR WITNESSES

Oath

I swear that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

So help me God.

1. Subs. by C.S. No. 47.

2. Ins. by *ibid.*

* Now Oaths Act, 1969 (44 of 1969)

Affirmation

I solemnly declare that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

FOR INTERPRETERS

Oath

I swear that I will well and truly interpret, translate and explain all questions and answers, and all such matters as the Court may require me to interpret, translate and explain.

So help me God.

Affirmation

I solemnly declare that I will well and truly interpret, translate and explain all questions and answers, and all such matters as the Court may require me to interpret, translate, or explain.

So help me God.

Comments & Case law

- Non reasoned conclusions by appellate Courts are not appropriate, more so when views of the lower Courts are differed from. In case of concurrence, the need to again repeat reasons may not be there. It is not so in case of reversal. Reason is the heart beat of every conclusion. Without the same, it becomes lifeless. (See Para. 19) *Raj Kishore Jha vs. State of Bihar*, AIR 2003 SC 4664 : 2003(11) SCC 519 : 2003 Cr.LJ 5040.

- A false statement before the Court whether on affidavit or not is not to be treated lightly. The Court acts on the basis of the statement made by a party to the lis. (Para. 63) A person should not be permitted to take advantage of his own wrong. He should either stand by his statement made before a Court of law or should explain the same sufficiently. In absence of any satisfactory explanation, the Court will presume that the statement before a Court is correct and binding on the party on whose behalf the same has been made. (See Para 64) *Sushil Kumar vs. Rakesh Kumar*, 2004(1) PLJR SC 261 : 2004(1) BLJR 261 (SC) : 2004(2) BBCJ 98 (SC).

- The golden thread which runs through the web of administration of justice in Criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. (Para 12) *Mani Pal vs. State of Haryana*, AIR 2004 (SC) 2158 : 2004(10) SCC 692 : 2004 SCC (Cr.) 1882.

- Appeal was dismissed on 26-12-2003. The Order indicated that the reason would be given subsequently as the High Court was closing for winter holidays and as there was paucity of time. The Supreme Court deprecated such practice as there was no perceivable reason for hurry. *Zahira Habibullah H. Sheikh vs State of Gujrat*, 2004Cr.LJ 2050 : (2004) 4 SCC 158.

- Appeal against conviction—Filed by one of the two accused persons—Conviction of appellant set aside—Conviction of non appellant accused has also to be set aside—Co accused is entitled to same benefit in spite of fact that he did not file appeal. (See Para 6) 1996(1) BLJ 843, *Ajit Singh vs. State of Haryana*, 1996(3) SCC 335 : 1996 SCC (Cr.) 481.

● Inherent concept of Court having jurisdiction over specific territory and not beyond it, is indeed essential for the very maintenance of the comity of the courts. The concept of territoriality is inherent in the justice system and the more so in the realm of criminal jurisprudence. *Zafrul Hassan vs The State*. 1986 BLJ 367 (FB) :AIR 1986 Pat 194: 1986 BLJR 298: 1986 PLJR 274: 1986 Cr. LJ 605.

105. Christian witnesses and interpreters to whom oaths are administered are to be sworn upon the New Testament.

106. In other cases the oaths are to be administered upon such symbol, or accompanied by such act, as may be usual, or as such witness or interpreter may acknowledge to be binding on his conscience.

CHAPTER II

The Reformatory Schools Act

107. For rules under the Reformatory Schools Act—*vide* Bihar and Orissa Government's no. 197-201-J., dated the 29th January 1917, circulating "Summary of orders relating to the treatment of juvenile offenders" and also the Reformatory Schools Act Manual, issued by the Local Government. [G.L. 5/63.]

CHAPTER III

The Indian Stamp Act, II of 1899

108. (a) When a Judicial Officer sees reason to doubt the genuineness of a stamp filed before him, the stamp should be forwarded to the Collector of the district, who will examine it, and satisfy himself, if possible, as to its character, reporting the result to the officer sending it.

(b) Care should be taken to retain an examined copy of any document bearing a stamp which may be forwarded to the Collector under the above orders.

PART III

Records

CHAPTER I

Arrangements of Records of Criminal Proceedings

109. "Record-room" is a room set apart for the storage of *decided* cases and "Record-keeper" is the ministerial officer in immediate charge of such records.

A.—RECORDS OF COURTS OF SESSION

110. Every record of a Court of Sessions shall consist of two files, to be styled and marked respectively File A and File B.

111. File A shall contain the following papers which shall be arranged in the following orders—

- (1) Title-page*
- (2) Table of Contents*
- (3) Order-sheet
- (4) Papers showing how the proceedings were initiated together with any sanction to the proceeding granted under sections 195, 196 or 197, Criminal Procedure Code [that is to say : the complaint, first information to the Police, or order of the Magistrate under Section 190 (1) (c) on which the proceedings were taken], the final report of the Police

*The Title-page and the Table of Contents in records of Courts of Session should invariably be written up in English and in the combined form prescribed.

under Section 173 of the Criminal Procedure Code and the order of commitment. ¹[* * * * *]

- (5) The charge under which the trial has been held, amended or otherwise : with a record thereon that is has been read and explained to the accused, and the plea of the accused.
- (6) Any documents or document connected with the offence charged, or in respect of which the charge is made, e.g., the statements made by the accused, which form the subject of a charge of giving false evidence, document said to be forged, etc.
- (7) List of articles connected with the offence, which have been proved and exhibited, but which cannot be attached to the records; e.g., any weapons used in the commission of any offence against the person, stolen property in an offence against property, counterfeit coin and materials for counterfeiting, etc.
- (8) (a) The deposition of the witnesses for the prosecution examined at the trial in chronological order, except that when a witness has been cross-examined, or re-examined, in a later stage of the proceedings, such cross-examination, or re-examination, shall be attached to his original deposition.

Note—When a witness has been cross-examined under Section 145 of the Evidence Act, for the purpose of contradicting him as to previous statements made by him in writing or reduced into writing (e.g., deposition taken during the enquiry before the Magistrate), such statements shall be filed in the record immediately after the deposition of the witnesses to which these relate. Every such statement, when proved, shall be marked by the Court in a series of its own which shall be noted in the order-sheet, but need not be included in any list.

- (b) The depositions of witnesses who are absent at the trial, which are admitted under Section 33 of the Evidence Act, or ²[Section 299] of the Criminal Procedure Code or otherwise, e.g.,
Depositions of witnesses taken on commission;
Dying declarations admitted in evidence;
³[* * * * *]
- (9) Deposition of a medical witness admitted under ²[Section 291], Criminal Procedure Code.
- (10) Report of the Chemical Examiner, or Assistant Chemical Examiner to Government, admitted under ²[Section 293], Criminal Procedure Code.
- ²[(11) Any confession, or statement of the accused recorded under Section 164, Criminal Procedure Code, and admitted in evidence.]
- (12) The examination (if any) of the accused before the Sessions Court.
- (13) Any written defence that may be laid before the Court.
- (14) The depositions of the witnesses examined for the defence in chronological order.

1. Deleted by C.S. No. 48.

2. Subs. by C.S. No. 49.

3. Deleted by *ibid*.

- ¹[(14A) Written Memorandum of argument, if any, submitted under Section 314 of the Code of Criminal Procedure.]
- (15) The judgment and final orders.
- (16) If the trial involves a charge of previous convictions, the evidence for the prosecution to prove such convictions and the evidence for the defence, if any, and the final judgment and order as provided in clause (15).

The following papers shall be subsequently added to complete the record—
[G.L. 12/22.]

- (17) Copy of the judgment, or order of the Appellate, or Revisional Court.
- (18) Warrant returned after execution by the Jail Authorities.
- (19) If the sentence has been remitted in whole, or in part, by the President, or the Governor, a copy of the order of remission.

112. File B shall contain—

- (1) Title-page,*
- (2) Table of Contents,* and
- (3) All other papers not included in File A, except documents admitted as evidence during the trial, that is, exhibits, which are dealt with in a separate rule.

B.—MAGISTRATES' RECORDS

Warrant and Summons Cases

113. The record of every Warrant or Summons case tried by a Magistrate shall consist of two files, to be styled and marked, respectively as File A and File B.

114. The following papers shall be included in the File A in the following order—

- (1) Title-page.†
- (2) Table of Contents.†
- (3) Order-sheet.
- (4) Papers showing how the proceedings were initiated together with any sanction to the proceedings granted under Sections 195, 196 or 197 of the Criminal Procedure Code, that is to say, the petition of complaint, the first information, or other report to the Police or order of the Magistrate under Section 190 (1) (c), Criminal Procedure Code, on which the proceedings were taken, and, if there has been a police investigation, the final report of the Police under Section 173 of the Criminal Procedure Code. [G.L. 1/57.]
- (5) Statement, if any, of the accused under ²[Section 252], Criminal Procedure Code, in Summons cases—For Summons cases only.

1. Ins. by C.S. No. 49.

*To be written up in English and in the combined form prescribed.

†The Title-page and the Table of Contents in Magistrates' records shall be written up in English in the combined form of Title page and Table of Contents.

2. Subs. by C.S. No. 50.

- (6) (a) Deposition of witnesses for the prosecution examined at the trial in chronological order, except that, when a witness has been cross-examined, or re-examined in a later stage of the proceedings, such cross-examination, or re-examination shall be attached to his original deposition.
 - (b) Deposition of witnesses who are absent at the trial, which had been admitted in evidence under Section 32 of the Evidence Act, or otherwise.
 - (7) Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under ¹[Section 293] Criminal Procedure Code, in Warrant cases—For Warrant cases only.
 - (8) List of articles connected with the offence which have been proved and exhibited but which cannot be attached to the record, e.g., any weapons used in commission of an offence, stolen property, etc., etc.
 - (9) The charge with a record thereon that it has been read and explained to the accused and plea of the accused in Warrant cases—For Warrant cases only.
 - (10) Any document or documents, connected with the offence charged, or in respect of which the charge is made, e.g., statements made by the accused, which form the subject of a charge of giving false evidence, etc.—For Warrant cases only.
 - (11) Any confession or statement made by the accused before a trial and recorded under Section 164, Criminal Procedure Code—For Warrant cases only.
 - (12) Examination of the accused under ¹[Section 254], Criminal Procedure Code, in Summons cases or under ¹[Section 313] Criminal Procedure Code, in Warrant cases and any written statement filed by the accused during the trial.
 - (13) The deposition of the witnesses examined for the defence in chronological order.
 - ²[(13A) Memorandum of argument, if any, submitted under Section 314 of the Code of Criminal Procedure.]
 - (14) Judgment, finding and sentence.
- The following papers shall be subsequently added to complete the record—
- (15) Copy of the judgments or order of the Appellate or Revisional Court or Courts.
 - (16) Warrant returned by the Jail authorities after execution of sentence.
 - (17) Any petition, or other paper bearing on the offence charged and material to elucidate, or justify the decision in Warrant cases—For Warrant cases only.

115. File B shall contain—

- (1) Title-page,

1. Subs. by C.S. No. 50.

2. Ins. by *ibid.*

- (2) Table of Contents, and
- (3) All other papers not included in File A, except documents admitted as evidence during the trial, that is, exhibits which are dealt with in a separate rule.

Complaints dismissed under Section 203, Criminal Procedure Code

116. (a) It shall not be necessary to prepare a title-page, table of contents, or order-sheet in the case of complaints dismissed under Section 203, Criminal Procedure Code, in respect of which no enquiry is made under Section 202, *ibid*, but such complaints (with the order passed thereon), shall be formed into weekly, monthly, or quarterly files as may be most convenient and each such file shall constitute one record, to which shall be attached a title-page and a table of contents. Of each file or record thus formed a single entry shall be made in the list which accompanies all records sent to the District Record Room. These files shall be preserved for one year from the date of the latest order in each.

(b) No title page and table of contents need be attached in the cases under the Municipal and District Board bye-laws nor in those under Section 34 of the Police Act.

117. ¹[* * * * *]

118. ¹[* * * * *]

Summary Trials

119. In cases tried summarily, the A file should contain only the form of summary trial kept under Section 263 or 264 of the Criminal Procedure Code, and whatever else the Court may record under the provisions of these Sections; and all other papers connected with the trial, should be placed in the B file. In the absence of express orders to the contrary, the A file alone should be forwarded to a Court of Appeal, or Revision. In the case of such records, no title-page, table of contents, or order-sheet need be prepared.

Miscellaneous Inquiries

120. The rules relating to the records of Summons cases shall apply to the records of Inquiries under Section 107, Criminal Procedure Code and to such other proceedings as, under the Code, the procedure applicable to Summons cases applies; and the rules relating to the records of Warrant cases shall apply to the records of Inquiries in other cases, with such modifications in details as the circumstances of such cases may require.

C.—RECORDS OF APPELLATE AND REVISIONAL COURTS

121. The record of the Appellate or Revisional Court shall be arranged in the same way as that of the Court of Original Jurisdiction, except that there shall be no separate B file, the papers which would belong to the B file being attached to the A file.

D.—EXHIBITS

Note 1—These rules apply to the records of all Courts.

Note 2—For rules as to return of exhibits see rules under Chapter V “preservation and destruction of records”.

1. Deleted by C.S. No. 51.

(a) Documents Exhibited as Evidence

122. The Courts shall mark the documents which are admitted as evidence on behalf of the prosecution, with figures in the order in which they are admitted, thus—

Exhibit 1, Exhibit 2, etc., etc., and the documents admitted as evidence on behalf of the defendant with capital letters, thus—

Exhibit A, Exhibit B, etc., etc.

123. When a number of documents of the same nature are admitted, as for example a series of receipts for rent, the whole series shall bear one number or capital letter, a small number, or small letter being added to distinguish each paper of the series thus—

Exhibits 11, 12, etc., etc.

Exhibits Aa, Ab, etc., etc.

124. A list of the documents admitted in evidence on behalf of the prosecution, and another list of documents admitted in evidence for the defence, shall be prepared by the clerk of the Court and signed by the Judge/Magistrate. The documents shall be entered in these lists in the order in which they are admitted and marked. [For form of list see Form no. (M) 22, Volume II.]

125. Whenever a document used in evidence is withdrawn, either before or after judgment, a note of the fact shall be made in the column of remarks, stating also whether a copy has, or has not, been substituted.

126. Documents admitted as evidence at the trial and not included in file A, shall not be shown in the table of contents of that file, but shall be placed in a separate or supplementary file to which it is to be attached to the list referred to in rule 124. This file will include not only documents produced for other purpose, but also documents used to refresh the memory of witnesses, e.g., reports of a medical witness, etc.

127. If a witness has given his evidence on a conditional pardon, the proceedings under which pardon was tendered and accepted, and any statement of the witness recorded by the Magistrate, ¹[x x x x] shall be included in this file.

(b) Documents not Admitted as Evidence

128. Documents which have not been admitted in evidence should not be made part of the record unless the Court directs otherwise. They should, immediately on the conclusion of the trial, be returned to the person producing them or his *mukhtar* or pleader after he has signed the receipt for the same in the appropriate column of the list [Form no. (M) 22A]. A *mukhtar* or pleader, when required to do so is bound to take back any document produced by his client which has not been admitted into evidence and to sign the receipt referred to above.

(c) Articles Exhibited as Evidence

129. When any article connected with the offence charged is produced in a Criminal Court and, after being proved, is admitted in evidence it shall be marked by the Court with a Roman Numeral, thus—

Exhibit I, II, III, etc.

1. Deleted by C.S. No. 52.

130. A list of such articles admitted in evidence shall be prepared by the clerk of the Court, and shall be signed by the Judge/Magistrate. The articles shall be entered in the list in the order in which they are admitted and marked. [For form of list see Form No. (M) 22, Volume II.]

131. No article which has been admitted in evidence, shall be returned, or destroyed until the period for appeal has expired, or until the appeal has been disposed of, if an appeal be preferred against the conviction and sentence.

132. Whenever an article, which has been admitted in evidence is returned, or destroyed, a note of the fact shall be made in the column for remarks.

E.—GENERAL RULES

133. In every case, papers shall, as far as possible, be attached to the file to which they belong, as the trial proceeds, and shall be arranged in the order in which they are brought before the Court. The necessity of sorting papers in the Record-Room must be avoided.

134. To each file of every record there shall be prefixed a combined title-page and table of contents in Form No. (M) 21, Volume II. ¹[x x x]

135. The Table of Contents will be in the following form and should be written up in the manner indicated below—

TABLE OF CONTENTS

Serial no. of papers	Sheets	Description	Value of Court fee stamps	Period of which to be preserved	Remarks
1	2	3	4	5	6
		Rs. P.			
1	1-3	Order-sheet			
2	4-5	Petition of complaint	0 50		
3	6-8	Confession of accused before trial			
	9	Charge			
	10-12	Judgment			
	13-14	Copy of the judgment of Appellate or Revisional Court.			

Total value of Court-fee stamps

Compared and found correct

(Signed)

Officer of Court

Record-keeper

Note—The above form is reproduced in form no. (M) 21, Volume II.

Column 1 will give the consecutive number of the different papers in the file. The sheets in the file shall be numbered consecutively, and column 2 which should be kept blank until and filled in after the file is complete, will give the consecutive

1. Deleted by C.S. No. 53.

numbers of the sheets. Columns 1, 3 and 4 will be filled in as the trial proceeds and in column 5 the Record-keeper will enter the number of years for which each paper on the record is to be preserved according to the Rules for the preservation and destruction of records.

CHAPTER II

The Order-sheet

A.—Order-sheet for Sessions Courts

136. An Order-sheet in Form no. (M) 20, Volume II, shall be used in all Sessions trials, and shall form part of the record of each trial.

137. The Order-sheet shall contain a complete record, in chronological order, of the proceedings, from the commencement to the conclusion of the trial, and every order passed during the trial. It may be written by the clerk of the Court, but shall be signed, at the end of the proceedings on each day, as well as on the conclusion of the trial, by the Sessions Judge, after he has satisfied himself of the correctness of all the entries made therein. ¹[* * * *]

138. It shall contain—

- (1) An abstract of the charge or charges, and, if any amendments are made by the Sessions Judge under ²[Section 216] Criminal Procedure Code, a note of that fact.
- (2) A note of the fact that the charge has been read out, and explained to the accused, and a note of his plea.
- (3) *Deleted.*
- (4) *Deleted.*
- (5) A note stating by whom the case is opened, and, if any preliminary objections are taken, the substance of such objections, with the orders passed thereon.
- (6) The names of the witnesses for the prosecution, as they are examined.
- (7) Particulars of any documentary evidence, or articles, admitted in evidence for the prosecution, with a note if any tendered in evidence and rejected, as well as the order passed.

²[**Note**—This should include any examination, or confession, of the accused or of any of the accused.]

- (8) If the accused has been examined, a note of the fact, and whether, on being asked, he has stated that he means to call evidence ²[Section 233].
- (9) A note of the fact that the prosecutor sums up his case (as the case may be) before, or after any defence made ³[Sections 233, 234].
- (10) If accused or his pleader addresses the Court, a note of such fact.
- (11) The names of any witnesses examined for the defence, and particulars of any documentary evidence, or articles, admitted for the defence.

1. Deleted by C.S. No. 54.

2. Subs. by *Ibid.*

3. Subs. by C.S. No. 55.

Note—If any are rejected, the order should be here set out.

(12) If the prosecutor replies, the fact should be noted.

(13) *Deleted.*

(14) A note of the final order, or sentence, passed. And if a sentence of death be passed, a note of the fact that the accused has been informed of the period within which he can appeal ³[Section 363, Criminal Procedure Code.]

(15) *Deleted.*

B.—Order-sheet for Magistrates' Courts

139. A form of Order-sheet in Form No. (M) 19, Volume II, is to be used by all Magistrates subordinate to the High Court, and it shall form part of the record of each trial. ¹[* * *]

140. The Order-sheet shall include every interlocutory order, from the date of complaint, or ²[the date on which the F.I.R. as received in the office of the ³[Magistrate concerned] is laid before him, and shall also contain the substance of the final order. [G.L. 1/50, G.L. 1/58, G.L. 1/59]

³**141.** Each order entered in the order-sheet shall bear serial number be signed by the Magistrate.]

CHAPTER III

Inspection of Record

142. No record not deposited in the Record Room shall be inspected without the permission of the ⁴[Court concerned].

143. The ⁴[Court concerned] may either in his presence or in the presence of a clerk deputed by him for the purpose allow inspection of any such record to public officers, pleaders and *mukhtars* in the case subject to the general conditions laid down for inspection of records in the Record Room (*vide* Chapter VI, rule 158 *post*).

CHAPTER IV

The transmission of Records to the District Record-Room

144. With the exception of proceedings before the Court of Sessions, the records of which will be kept in the Record Room of the Sessions Judge, the records of all criminal proceedings will be kept in the Record Room of the Magistrate of the district.

⁵**Note**—Records received from the committing Court shall, for the purpose of depositing in the record room, be treated as part of the Sessions record.]

145. The records of all decided cases shall be forwarded to the District Record Room by Magistrates, at headquarters, in the course of the next month, and by Magistrates, at Subdivisions, in the course of the fourth month succeeding that in which they were decided. [H.C. memo no. 4331–64, dated 21st April, 1966.]

1. Deleted by C.S. No. 55.

2. Subs. by C.S. No. 8.

3. Subs by C.S. No. 55.

4. Subs. by C.S. No. 56.

5. Subs. by C.S. No. 57.

146. The District Magistrate shall fix the dates on which the records from each Court shall be despatched to the District Record-Room endeavouring so to fix the dates that too many records shall not reach the Record Room at one and the same time.

CHAPTER V

Preservation and Destruction of Records and Return of Exhibits

147. A list in Form No. (R) 13, Volume II, shall accompany all records sent by Magistrates to the District Record Room and a list in Form No. (R) 14, Volume II, shall accompany all records sent to the Sessions Judge's Record Room.

One list only shall be prepared for the record of all the four classes into which the cases have been classified under rule 150. The records of cases mentioned in provisos to rule 150 shall be entered in a separate list.

148. These lists must be uniform in size and shape and shall be bound up from time to time, so as to constitute catalogues of the records sent to the District Record Room and the Record Room of the Sessions Judge, respectively. They shall be preserved for the same period as the record to which they relate.

149. The lists required by rule 147 shall contain an entry of every case disposed of during the period to which they relate and be prepared in duplicate by means of Zanetic (pen) carbon paper. One copy of each list shall be forwarded with the records. The duplicate copy shall be sent to the Judge or Magistrate in charge of the Record Room under a separate cover and will be returned to the issuing Court duly signed by the Record-Keeper who shall acknowledge that the records have been received. These duplicate copies shall, on return, be preserved by the issuing Court for ¹[three years] from the dates of despatch of the original copies to the Record Room.

Note 1—In every list, entries shall be serially numbered. Care should be taken to correct the classification of records as shown in the lists when this becomes necessary owing to the convictions being modified or set aside by higher Court.

Note 2—A note shall be made against each entry in the list of records mentioned in the provisos to rule 150 if and when destruction is carried out.

150. The period for which the records shall be preserved, such period being calculated from the date of the final judgment or order in each case, shall be as follows [*G.L. 8/44*]—

Class I—To be preserved for 14 years

- (a) Files A and B of Sessions and Magistrates' cases in which the accused has been acquitted or convicted of offences punishable under Sections 392 to 402, Indian Penal Code, inclusive.
- (b) Files A and B of proceedings under Sections 109 and 110, Criminal Procedure Code.
- (c) File A of Sessions cases other than those mentioned in (a) above, resulting in the conviction of the accused.
- (d) File A of non-bailable Magistrate's cases other than those mentioned in (a) above resulting in the conviction of the accused.

1. Subs. by C.S. No. 17, dated 19.12.1973.

- (e) File A of appeals and applications for revision against judgment or orders passed by Magistrates in cases (a), (b) and (d).

Class II—To be preserved for five years

- (a) File A of possession cases under ¹[Chapter X] Criminal Procedure Code.
- (b) File A of security cases under Chapter VIII, Criminal Procedure Code, other than those mentioned in I (b) above.
- (c) File A of appeals and applications for revision in respect of the cases mentioned in (a) and (b) above.
- ¹[(d) File 'A' of cases where after an enquiry in the manner prescribed under the proviso to Section 202 (2) of the Code of Criminal Procedure a Magistrate has passed an order dismissing the complaint under Section 203 or where a Court of Sessions has passed an order of discharge, under Section 227, Criminal Procedure Code.]

Class III—To be preserved for two years

- (a) Files A and B of other miscellaneous cases.
- (b) Files A and B of Magistrates' bailable cases.
- (c) File A including B papers of appeals and applications for revision in respect of cases mentioned in (a) and (b) above.
- (d) File B of cases mentioned in classes I and II, excepting cases in I (a) and (b).

Class IV—To be preserved for one year

- (a) Files A and B of cases ²[excepting cases referred to in class II (d) above], in which Magistrate has declined to issue process.
- (b) Files A and B of cases in which a Magistrate has passed an order of discharge under ¹[Section 118 or 245 or 249], Criminal Procedure Code.
- (c) Files A and B of cases in which the accused has been acquitted, excepting the cases referred to in class I (a) above.
- (d) Cases in which the accused has been executed under a capital sentence, except in cases in which such sentence has been passed under Section 396, Indian Penal Code, *vide Class I (a) above*.

Proviso 1.—Provided that the following records shall be treated as permanent—

- (i) The record of any case in which any of the accused or parties proceeded against has not been apprehended.
- (ii) File A or form of summary trial under Section 263, Criminal Procedure Code, as the case may be, in cases in which the accused has been convicted of an offence, a repetition of which renders the offender liable to enhanced punishment.

1. Subs. by C.S. No. 58.

2. Ins. by *ibid*.

- (iii) Record of any case in which an order for maintenance has been made under ¹[Section 125] Criminal Procedure Code.

Note—The records mentioned in clauses (i), (ii) and (iii) of this proviso may however be destroyed when all the persons on whose account they have been preserved are known to be dead. And in the case of the records mentioned in clauses (i) and (ii) of this proviso (except when the offence is one punishable with death or transportation for life) death shall be presumed when the records have been preserved for 30 years, and the records may then be destroyed.

Proviso 2.—Provided that the record of no case in which the sentence has not expired shall be destroyed.

Proviso 3.—Provided that the record of any case in which an order of attachment has been made under Section 146, Criminal Procedure Code, shall not be liable to destruction so long as such order remains in force.

Note—A quinquennial revision should be made in respect of the records mentioned in Proviso 1 of Rule 150 with a view to the destruction of those that have become liable to destruction under the instructions contained in note to it.

151. Sessions Judges and Magistrates may, at their discretion, preserve any particular paper on the record of any particular case, beyond the above periods.

Return of Exhibits

152. When an entry in a public register, or in private account book or other bulky record, not being itself an entry in respect of which an offence has been committed, or is alleged to have been committed, is produced in evidence, and made an exhibit in the case, and the retention of such register, account book or record would cause inconvenience to the public, or the person producing the same, such register, book or record shall not be retained by the Court but shall be returned to the person by whom it has been produced. Before returning the register, book, or record, the Court shall mark, for the purpose of identifications, such entry or entries as have been exhibited in evidence and shall cause a certified copy of the entry or entries to be filed with the records of the case. The person to whom the register, book, or record is returned, shall be bound to produce the same before the Court when required to do so, and may be required to enter into a bond to that effect.

153. (a) On the judgment, or order, in any case becoming final, notice shall be given to the person by whom any document, admitted and used in evidence; was brought into Court, or to his pleader, requiring him to take it into his keeping, within six months from the date of the notice, failing which the document will be destroyed, when the record to which it relates is destroyed. The notice must distinctly warn the owner that the document will be kept at his own risk, and that the Court declines all responsibility for its safe custody.

Note—For form of notice, see Form no. (M) 23, Volume II.

(b) A copy of the notice shall be put up in the Court in which the case was tried.

1. Subs. by C.S. No. 59.

154. When returning documents, care must be taken that any document which the Court has impounded is not delivered out of the custody of the Court.

155. The destruction of records, in accordance with these rules, shall take place at the end of each calendar year, by burning in the presence of the record-keeper. Sessions Judges and District Magistrates will not in their Annual Reports whether these rules have been duly observed.

Note—The above rules must be read in connection with the provision of Section 8, Act III of 1879.

CHAPTER VI

Custody and examination of and requisitions for, access to and transmission of records from one Court to another

156. The records of decided cases shall be retained in the record rooms of the Courts to which they appertain or of the superior Court of the district, and shall not be allowed to pass out of the custody of the officers of such Courts, except when called for by superior Judicial authority, or required for the purposes of Order XIII, rule 10 of the Code of Civil Procedure by a Civil Court. It is improper and inconvenient that records of the Courts of Justice should be sent to other public officer or functionaries. If a reference to their contents is required the proper procedure is ordinarily to obtain copies of the requisite papers. [G.L. 3/49.]

157. The records of cases called for by the High Court, on appeal, revision or reference from the judgments and orders passed therein, should be despatched within seven days from receipt of the requisition. In the event of any delay occurring in their despatch, a reply should be sent explaining the cause of delay, and the probable date of their despatch.

1[157-A. Reminders relating to records sent to the High Court should be issued in the first instance on the expiry of twelve months and thereafter at intervals of not less than six or more than twelve months.]

158. (a) The Record Rooms of the Criminal Courts are not open to the public generally, but public officers of the district, including Head Clerks, may, with the permission of the Sessions Judge or District Magistrate, as the case may be, be allowed to enter the Record Room and in the presence of the Record-Keeper or one of his assistants, deputed for the purpose, to examine the record of any specified case, provided that such entry is made in pursuance of a public purpose.

(b) Pleaders and *Mukhtars*, duly authorised by any person in that behalf, may, under similar conditions, and at a place to be provided for the purpose in the Record-Keeper's office examine any specified record; but in doing so, shall make only brief notes (to be written in pencil on slips to be provided by the Record-Keeper). If any extract from the record is required, it shall be obtained through the Copying Department in the usual way.

159. The examination of records by Pleaders shall be allowed only on office days and during such office hours as the Sessions Judge or District Magistrate may prescribe.

1. Ins. by C.S. No. 97, dated 1.5.1985.

160. When in the course of proceedings in a Criminal Court, it becomes necessary to refer to the contents of public documents deposited in other Courts the ordinary procedure is to require copies of them to be filed. It frequently happens, however, that in the course of a criminal trial the production of an original record becomes necessary. In such case the Court where the record is deposited shall comply with the requisition of the Court requiring it even though the reason given for the production of the original record may be considered insufficient. [G.L. 7/54.]

Note 1—This course should also be followed when no reason is given in the requisition. If the record required is that of an appeal pending before the ¹[Court of Sessions or Chief Judicial Magistrate], he should intimate the fact to the officer making the requisition, and request him to return the record without delay.

Note 2—Papers and Records received from other officers or Courts shall be entered in Register (R) 14-A, to be maintained by all Criminal Courts.

161. When a Divisional Commissioner requires the record of a criminal trial in order to satisfy himself whether Government should be moved to direct an appeal against an original or appellate judgment of acquittal under ¹[Section 378] or an application for enhancement of sentence under ¹[Section 399 or 401] of the Criminal Procedure Code, the Sessions Judges should comply with the application. [G.L. 1/20.]

162. Similarly, when the State Government appoints a commission of inquiry into misconduct on part of a Police Officer in consequence of strictures expressed by a Court, the Sessions Judge should forward to the commission, on requisition, the original record of the decided sessions case in question.

Access to Records in Courts of Session

163. (a) ¹[Sessions Judges should give every facility to Executive Magistrates and Gazetted Police Officers authorised by the District Magistrates and Superintendent of Police concerned for inspecting the records of cases of the Courts of Sessions, care being taken that no record is removed from the Judges' Record Room.] Copies of the judgment and order, when required by the District Magistrate, shall be prepared by the Copying Establishment of the Sessions Judge and, if possible, should be type-written. (For rates to be charged for such copies, see rule 192 (a) of Part V, post). [G.L. 2/39.]

(b) Copies of papers other than those specified above, which are required by the District Magistrate, should be prepared by a clerk of the ¹[District] Magistrate's office deputed to the Judge's office for that purpose. Such copies are to be used only for the information and guidance of ¹[Executive Magistrates] ²[x x x x] who are not at liberty to cavil at the judgment of the Sessions Court or enter into any discussion with the Judge upon its merits.

³[**Note**—The same procedure should be followed in respect of copies supplied free of cost from the records of the Courts of the Judicial ²[x x x x] Magistrates and

1. Subs. by C.S. No. 60.

2. Deleted by *ibid*.

3. Ins. by C.S. No. 7.

also when a copy is required by any public officer referred to in Rule 188, at page 71.]

How Records should be transmitted from one Court to another

164. The following instructions should be observed in transmitting records from one Court to another—

- (a) If the two Courts are situated in the same station, the record should be despatched by hand properly packed with a peon book in which a serial number and date should be entered, and the signature of the recipient should be taken. The serial number and date appearing in the peon book should be reproduced in the remarks column of the register of records removed. If the requisitioning Court is situated in a different station, records should be sent by parcel post, the postage being paid by means of service stamps.
- (b) Records relating to different cases may, if not inconvenient, be packed in the same parcel provided such records are separately tied up.
- (c) In the parcel containing a record should be enclosed a forwarding letter, and the cover of the parcel should bear the distinguishing number and date of that letter.
- (d) A letter of advice should be forwarded simultaneously with the despatch of the parcel by post but separately and by ordinary letter post, and in it the number and date of the forwarding letter referred to in the preceding clause should be quoted.
- (e) An acknowledgment should invariably be required from the Court to which a parcel containing a record has been sent, and in the event of none being received within a reasonable time, enquiry should be made to ascertain the cause.

Note 1—For forms of covering letter and of letter advising despatch of records, see Forms nos. (M) 24 and (M) 25, Volume II.

Note 2—For cost of transmission of records to Civil Courts at the instance of a party, see rule 195, Part V. *post*.

¹**[164-A.** No requisition made under the provisions of Order XIII, Rule 10 of the Code of Civil Procedure, by a Court sub-ordinate to any of the High Courts other than the High Court at Patna for production of the record of a case appertaining to, and in the custody of, a Court subordinate to the High Court at Patna should be complied with unless such requisition is transmitted through the High Court at Patna and is accompanied by copy of the affidavit referred to in the rule above quoted together with a duly certified translation into English if such affidavit ²[be not in Hindi].

Note—The above procedure will apply when a Criminal Court subordinate to the High Court at Patna calls for a record appertaining to and in the custody of any other High Court or Court subordinate thereto.]

1. Ins. by C.S. No. 12, and renumbered as 164A by C.S. No. 61.

2. Subs. by C.S. No. 61.

PART IV
Information and Copies
CHAPTER I

For searching fees and charges for copies, see Part V

Preparation and issue of copies and supply of information

[G.L. 13/65 (Civil/Crl.)]

1[**165.** In addition to the rules of this chapter, the relevant rules of Part IV, Chapter I of the Civil Court Rules, Vol. I shall apply as far as may be to the application for copies and information in the criminal Courts.] [H.C. Letter No. 5739–71, dated the 1st June, 1964; G.L. 2/61.]

Note—The copying work of the Sessions Judge's Court is done in the Copying Department of the District Judge.

166. Any person may apply for information from the records and registers of any Court.

167. Information may be asked for in one application in respect of one matter from a single record or register and shall be limited to a single question. Questions about particulars to be inserted in application for copy of any document respecting which information is wanted will be treated as a single question. Information requiring anything but short answers shall not be given. If any extract from the record is desired the proper course is to apply for a copy.

168. In criminal cases, parties are entitled to obtain copies of any portion of the record of trial; this rule covers such Police Papers as may be made use of as evidence at the trial;

²[Provided that in cases where there arises a doubt as to whether copy of any particular paper from the record of a pending case should be granted or not specific orders of the Presiding Officer of the Court concerned shall be obtained at the earliest opportunity before sending the paper to the Copying Department;

Provided further that for copies of depositions in a Cr. case which is being heard the procedure laid down in rule 369 of the Civil Court Rules, Vol. I shall be followed.]

Note—Police reports on which proceedings are instituted under ³[Chapters VIII, XB, XC and XD] from a portion of the record of trial.

169. As a general rule, copies of exhibit in a criminal case should not be granted to persons who are strangers to the case. A Magistrate should use his discretion in each case, acting on the general principle that no copy should be given to a stranger without good cause being shown.

170. Copies of printed and lithographed maps and plans will not ordinarily be supplied by the Copying Department. Application should be made to the office where the original maps are deposited.

171. Copies of papers from a record called for from another Court or office not being subordinate to the Court to which the Copying Department is attached

1. Subs. by C.S. No. 93.

2. Ins. by C.S. No. 15.

3. Subs. by C.S. No. 62.

will not be given unless an application for copy is made through the Court or office which sent the record or paper and such Court or office forwards the application for compliance.

172. ¹[x x x x]

173. At Sadr copies of English documents shall be type-written.

174. In the ordinary circumstances a copy shall be furnished not later than 1 P.M. or 8 A.M., as the case may be, on the 5th open day after the application;

²[Provided that in case of notification regarding filing of deficit stamps and folios, copies shall ordinarily be furnished on the next open day following the date of filing of the deficit stamps and folios, if the time prescribed in the above rule has expired.]

CHAPTER II

Copyists

175. Seventeen and a half paise out of the charge levied of 35 paise per folio (see Chapter I, Part V, Rule 187) represent the payment to Government on account of the salary of examiners and cost of paper and the remaining 17½ paise will represent the earning of the copyist or the typist, whose account will be made up monthly. (Fraction of a paise, if any, in the total of the monthly earnings will be ignored). The amount due to each shall be paid out of the grant for 'Allowances'. These payments must be checked with the upper part of each stamp, which, when the copy is ready, must be torn off each sheet along the perforated line, and endorsed with the Typist's or Copyist's name and kept till the end of the month. In cases of maps and plans, half of the copying charges to be levied shall be paid to the Copyists and half will go to the Government on account of examination charges and cost of materials. The upper halves of the adhesive stamps used in maps, plans and copies on forms shall be treated in the same way as upper portions of impressed stamped sheets. Care must be taken to see that nothing in excess of half in either case of the amount realised in stamps is paid to the Copyists or Typists.

Note 1.—The Copyist or Typist is paid by the folios copied, whether the copies are subsequently taken out or not.

Note 2.—Expedition fees (Part V, Chapter I, Rule 187) are for credit to Government and no part of them is payable to the Copyists or Typists.

176. ³[x x x x]

PART V

Fees and Costs including rules and orders under the Court-Fees Act

CHAPTER I

A.—Process Fees

Rules framed by the High Court of Judicature at Patna, under Clause (ii) of Section 20 of the Court-Fees Act, 1870, declaring the fees chargeable for the service and execution of processes issued by the Courts of Magistrates.

1. Deleted by C.S. No. 14.

2. Ins. by C.S. No. 13.

3. Deleted by C.S. No. 94, dated 19.11.1982.

Note 1.—These rules apply only to processes served and executed by Magistrates, establishments. By this, however, it was not intended that processes issued under the orders of a Court of Sessions, should be served without charge, as it was contemplated that such processes should always be issued by the District Magistrate at the discretion of the Sessions Judge.

Note 2.—These rules do not apply to the service and execution of processes in the case of cognizable offences and no fee can legally be charged for the issue of process in the case of a cognizable offence, whether the case be instituted on complaint or not.

The question whether fees are chargeable in any particular case should be determined by the Magistrate with reference to the Section of the Indian Penal Code or other law relating to the offence in respect of which he directs process to issue, whatever the Section or law may be that is quoted in the complaint.

Note 3.—Under Clause (xviii) of Section 19 of the Court-Fees Act, VII of 1870, no court-fee is leviable on a complaint preferred by a Municipal Officer. Court-fee should, however, be levied for processes issued in non-cognizable cases instituted by such officers, such fees being, on conviction of the accused, recovered from him under ¹[Section 359 of the Code of Criminal Procedure, 1973 (Act no. 2 of 1974)].

Note 4—²[x x x x]

177. The fees hereinafter mentioned shall be chargeable for serving and executing the processes to which the fees are respectively attached, viz.—

	Rs.	P.
(1) Warrant of arrest—		
For the warrant in respect of each person named therein	...	...
	1	50
(2) Summons—		
For the summons in respect of one person, or of the first two persons residing in the same place	...	...
	0	75
In respect of every additional person named therein	...	...
	0	40
(3) Proclamation for absconding party under ³ [Section 62] of the Criminal Procedure Code—		
For the proclamation	...	...
	3	00
(4) Proclamation for witness not attending ³ [Section 62]		
For the proclamation	...	...
	0	75
(5) Warrant of attachment		
For the warrant	...	...
	1	50

1. Subs. by C.S. No. 20, dated 19.11.1975.

2. Deleted by C.S. No. 63.

3. Subs. by C.S. No. 64.

Where it is necessary to place officers in charge of property attached, for each officer so employed, per diem	...	...	0	40
(6) Written order—				
For the order	...	...	1	50
(7) Injunction				
For the injunction				

Note—The provisions of the ¹[Section 359] Cr. P.C., and of Rules 178 and 179 below, apply also to injunctions. Criminal officers are, however, reminded that injunction in proceedings not connected with offences are not chargeable with any fee. An injunction under Section 143, Criminal Procedure Code, would, for example, be chargeable with the above fees whereas an injunction under Section 144 or 145 of the Code would not carry any fee (Rule no. 10 of 26th September, 1882).

			Rs.	P.
(8) Notice				
For the notice in respect of one to four persons residing in the same village	...	...	1	50
In respect of every additional person named therein	...	...	0	50

²**178.** No fee shall be chargeable on any process of Criminal Court in any case where the prosecution is on the part of the Government.]

179. No process which comes within the operation of rule 177 or 182 shall be drawn up for service or execution except upon an application made to the Court for that purpose in writing on a document bearing upon its face stamps not less in amount than the fee which is directed to be charged for serving and executing the process so sought to be drawn up. This application may, however, at the option of the party making it, be included in the petition by which he moves the Court to order process to issue, but in that case the petition must bear the requisite stamps for the process-fee, in addition to such stamps if any, as are needed for its own validity; and in either case the filing of the application, thus duly stamped, shall constitute payment of the fee chargeable for the process.

180. Cost awarded under ²[Section 359] Cr.P.C. and compensation awarded under ²[Sections 250 and 357] of the Code of Criminal Procedure shall be realized by Magistrates of their own motion, and without payment or recovery of process-fee.

181. When a proclamation has been issued for an absent witness, if the witness shall afterwards appear, and the Court shall be of opinion that such witness had absconded or concealed himself for the purpose of avoiding the service of warrant upon him, such Court may order the witness to pay the cost of the proclamation.

182. In the districts named in the margin, in every case where a process has to be executed at a distance of more than ³[40 kilometres] from the Court from

1. Subs. by C.S. No. 64.

2. Subs. by C.S. No. 65.

3. Subs. by C.S. No. 18, dated 18.12.1973.

which it is issued, an addition of one-fourth is to be made of the fee chargeable, and if more than ¹[80 kilometres] an addition of one-half. [Hazaribagh, Palamau, Singhbhum. ²(Giridih)].

183. Throughout the district of Purnea and the Madhepura and Supaul Subdivisions of the district of Saharsa and for the periods of the year during which travelling except by boats is, in the opinion of District Officer, impracticable, the fees chargeable for the service of processes shall be increased 25 percent in order to provide for payment of the boat-hire or ferry-toll rendered necessary by the State of the country. The additional fees may, however, be reduced to 12½ per cent over the fees ordinarily leviable at the discretion of the District Officer in any part of a district, where, or at any season of the year, when the levy of the larger amount is found to be unnecessary.

In Khagaria Subdivision in the district of Monghyr an additional fee of 50 paise shall be realised in Court-fee stamps in addition to the ordinary fees chargeable for the service of processes in order to provide for payment of boat-hire or ferry-toll rendered necessary by the State of the country.

Note—The process-server's boat-hire passed under this rule should alone be included under the head of "process-serving charges" under "Special Contingencies" (*vide* Resolution of the Financial Department of the Government of Bengal, dated the 4th August, 1890).

184. When for service of any process a peon has to cross a ferry, then the amount, if any, legally exigible as toll, shall be paid by the Court executing such process from the special permanent advance sanctioned by the State Government for the purpose of these rules.

Note—This rule will not apply to the district of Purnea and the Madhepura and Supaul Subdivisions of the district of Saharsa for the period of the year during which additional fees for the payment of the boat-hire or ferry-toll are leviable, under the preceding rule (rule 183).

185. No fee shall be chargeable for serving and executing any process, such as a notice, rule, summons or warrant of arrest, which may be issued by any Court of its own motion solely for the purpose of taking cognizance of, and punishing any act done, or words spoken in contempt of its authority.

B.—Reduction and Remission of Court-fees

Extracts from orders of the Government of Bihar and Orissa under Section 35 of the Court-Fees Act

186. Under Section 35 of the Court-Fees Act, 1870 (VII of 1870), as amended by Act XXXVIII of 1920 and in supersession of all previous notifications under that Section, it is hereby notified that, in exercise of the power to reduce or remit, in Bihar and Orissa, all or any of the fees mentioned in the First and Second Schedules to the said Act, the Government of Bihar and Orissa have been pleased to make the reductions and remissions hereinafter set forth, namely [Notification of the Government of Bihar and Orissa, no. 2576/L.A. 25, dated the 5th December, 1921.]—

1. Subs. by C.S. No. 18, dated 18.12.1973.
2. Ins. by C.S. No. 65.

* * * * *

(4) to remit the fees chargeable on—

(a) copies of village settlement records furnished to land holders and cultivators during the currency or at the termination of settlement operations;

(b) list of fields extracted from village settlement records for the purpose of being filed with petitions of plant in Settlement Courts;

Provided that nothing in this clause shall apply to copies of judicial proceedings, or to copies of village settlement records (other than lists of fields) extracted as aforesaid, which may be filed in any Court or office;

* * * * *

(6) to remit the fees chargeable on security bonds for the keeping of the peace by, or good behaviour of, persons other than the executants;

(7) to remit the fees chargeable under articles 6, 7 and 9 of the First Schedule on copies furnished by Civil or Criminal Courts or Revenue Courts or offices for the private use of persons applying for them;

Provided that nothing in this clause shall apply to copies when filed, exhibited or recorded in any Court of Justice or received by any public officer;

(8) to remit the fees chargeable under paragraph 4 of clause (a) and paragraph 2 of clause (b), of article I of the Second Schedule, on applications for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount;

Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application;

* * * * *

(13) to remit the fees chargeable on the following documents, namely:—

(a) copy of a charge framed under Section 210 of the Code of Criminal Procedure, 1898 (V of 1898), or of a translation thereof, when the copy is given to an accused person;

(b) copy of the evidence of supplementary witnesses after commitment, when the copy is given under Section 219 of the said Code to an accused person;

(c) copy or translation of a judgment in a case other than a summons-case, and copy of the heads of the Judge's charge to the Jury, when the copy or translation is given under Section 371 of the said Code to an accused person;

(d) copy or translation of the judgment in a summons-case when the accused person to whom the copy or translation is given under Section 371 of the said Code is in jail;

(e) copy of an order of maintenance, when the copy is given under Section 490 of the said Code to the person in whose favour the order is made or to his guardian, if any, or to the person to whom the allowance is to be paid;

- (f) copy furnished to any person affected by a judgment or order passed by a Criminal Court, of the Judge's charge to the Jury or of any order, deposition, or other part of the record, when the copy is not a copy which may be granted under any of the preceeding sub-clauses without the payment of a fee, but is a copy which, on its being applied for under Section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment;
- (g) copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court;
- (h) copies of all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation, for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any criminal proceedings;
- (i) copies of judgment or depositions required by officers of the Police Department in the course of their duties;

* * * * *

(15) to remit the fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office;

* * * * *

(18) to direct that no Court-fee shall be charged on an application for the repayment of a fine or of any portion of a fine the refund of which has been ordered by competent authority;

(19) to remit the fees chargeable on applications for copies of documents detailed in clauses 4 and 13 *supra*;

* * * * *

(23) (a) to remit the fees payable under Schedule II upon applications for the grant or renewal of licences or duplicates under the Indian Arms Rules, 1924, in respect of which a fee is payable under those rules; and

(b) to reduce to ten paise all fees exceeding ten paise payable under the said Schedule upon other applications relating to licences or duplicates granted or renewed under the said rules;

(24) to remit the fees chargeable on applications for the grant of licences of the nature mentioned in items 8 and 9 of Schedule II appended to the Indian Explosives Rules, 1914, to possess gunpowder, other explosives or detonators required bona fide for blasting purposes :

[The Indian Explosives Rules, 1914 have been superseded by the Explosives Rules, 1940.]

* * * * *

(28) to remit the fees chargeable on applications for the grant of licences issued in accordance with the provisions of any rule made under Section 9 of the Indian Petroleum Act, 1899 (VIII of 1899), for the possession of dangerous petroleum for use on motor vehicles and for its transport thereon for the purpose of use therein;

[The Indian Petroleum Act, 1899, has been superseded by Act XXX of 1944.]

* * * * *

(41) to remit the fees chargeable on copies of documents furnished by a District Magistrate to a pleader appointed by the Court to defend a pauper accused of murder;

* * * * *

(45) to remit the fees chargeable on applications made to a Magistrate under the Indian Motor Vehicles Act, 1914 (VIII of 1914), for the registration of a motor vehicle and for a licence to drive it.

[The Indian Motor Vehicles Act, 1914, has been superseded by Act IV of 1939.]

(46) To remit the fees chargeable on copies of judgments or relevant extracts therefrom furnished to the Registrar of the Council of Medical Registration, Bihar, by Courts exercising criminal jurisdiction in cases in which a registered medical practitioner is convicted of a non-bailable offence or in which the Court pronouncing the judgment considers that the professional conduct of a registered medical practitioner has been such that it is desirable to bring it to the notice of the Council. [Government of Bihar and Orissa Judicial Department Notification No. 1445 J.R., dated the 23rd July, 1931.]

¹[**Note**—In rule 186 for the Sections of the Code of Criminal Procedure, 1898, the corresponding sections of the Code of Criminal Procedure, 1973, shall be read. The rule shall be followed subject to the relevant provisions of the latter Code.]

C.—Searching and Copying Fees

187. Searching and copying fees shall be charged according to the scale shown in the table below except in the cases where the law requires copies to be given free of cost :—

Nature of fee or charge	Cases in which to be paid	Amount Rs. P.	How to be paid
1	2	3	4
1. Searching fee	On all applications— (1) For information whether the record is deposited in the Record room or not.	0 25	By a Court-fee stamp to be affixed to the application.

1. Ins. by C.S. No. 65.

1	2	3	4
	<p>Note—This is the only fee to be paid on such application.</p>		
	<p>(2) For inspection of the record of a decided case.</p>	0 25	Ditto.
	<p>Note—No searching fee to be charged to pleaders for looking at the records of pending cases.</p>		
	<p>(3) For copy (in addition to the prescribed fee of one anna under the Court-Fees Act) where the record is deposited in the Record room.</p>	0 25	Ditto.
2. Copying charges.	<p>Note 1.—One searching fee shall be charged for any number of copies taken from the same record and included in the same application.</p>		
	<p>Note 2.—Records called for in connection with original case or appeal will be treated as a part of the record of such case or appeal.</p>		
	(a) Manuscript copies	0.35 per folio consisting of 150 words English, ¹ [or Hindi in Devanagri script] or 300 words vernacular ¹ [other than Hindi in Devanagri script] 4 figures counting one word.	By means of an impressed stamp of 35 paise on each sheet of paper corresponding with the folio to be provided by the applicant for copy. Note —There are 25 lines in each sheet. No line shall contain more than 6 words English, ¹ [or Hindi in Devanagri script] or 12 words vernacular ¹ [other than Hindi in Devanagri script]

1. Ins. by C.S. No. 9.

1	2	3	4
	<p>(b) Typed copies containing—</p> <p>(i) Not exceeding 150 words.</p> <p>(ii) Exceeding 150 but not exceeding 300 words.</p> <p>(iii) Concluding portion of documents beyond 300 words.</p>	<p>0 35</p> <p>0 70</p>	<p>By means of an impressed stamped paper of 35 paise.</p> <p>Note—Special stamped sheets divided into two equal parts by a blue line, each part being intended for 150 words should ordinarily be used for type-written copies.</p> <p>By means of the same impressed stamped paper of 35 paise with an adhesive stamp of 35 paise affixed thereto across the top so that the figure head may be above the perforated line and that the portion below may clearly show the value.</p> <p>By means of an additional impressed stamped paper or papers of 35 paise with an adhesive stamp of 35 paise affixed thereto if necessary according to the number of words remaining to be typed.</p> <p>Note 1.—The adhesive stamp will be supplied loose by the parties and affixed in the Copying Department according to necessity.</p>

1	2	3	4
	(c) Expenditure fee for urgent applications— (i) For inspection or information. (ii) For copies— (1) Not exceeding 600 words English ¹ [or Hindi in Devanagri script] or 1,200 words vernacular ¹ [other than Hindi in Devanagri script] (2) Exceeding 600 words English ¹ [or Hindi in Devnagri script] or 1,200 words vernacular. [other than Hindi in Devanagri script]	 1 00 1 00 0 25 for every 150 words English ¹ [or Hindi in Devanagri script] or 300 words vernacular ¹ [other than Hindi in Devanagri script] or part thereof.	Note 2. —Impressed stamped sheets should never be received and cancelled in lieu of adhesive stamps. By means of Court-fee stamp to be affixed to the application. Ditto. Ditto. Note —This calculation is to be made on the aggregate number of folios covered by the same application.

Note 1—Complainants must pay copying fees whenever they want copies. But an accused is entitled under Section 210, Criminal Procedure Code, to a copy of the charge, under Section 219 of the same Code, to a copy of the evidence of supplementary witnesses after commitment, and under Section 371 of the Code, in case other than summons cases, to a copy of the judgment absolutely free of

1. Ins. by C.S. No. 9.

cost and on plain paper. Similarly, under Section 490 of the same Code, a copy of a order of maintenance, shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid.

Note 2—The provision of ¹[Section 363 (5)] of the Code should also be referred to.

Note 3—See also Rule 186 of this Chapter regarding remission of copying fees in certain cases.

Note 4—Court-fee stamps for extra fee in respect of urgent copies should find entry in the Register of Court-fee stamps.

188. No fees are to be required or paid for searching, or copying papers wanted by public officers for public purposes.

Note—In their Resolution no. 1248-64, dated 31st August, 1899, the Government of India directed that “The existing practice of supplying free of charge, to the head of the office concerned, copies of judgments convicting Government officers of criminal offences” should be continued and that “in future, copies of judgments of acquittal and orders of discharge” should also be “supplied free of charge on the application of the Head of the Department”. [G.L. 1/20.]

189. In the case of maps and plans no general rule can be laid down. In each case the charges will have to be fixed with reference to the difficulty or intricacy of the work to be done. The charges shall be realized by means of adhesive stamps to be affixed to the map or plan, the upper half being kept by the copyist as his voucher. Half will be paid to the copyist and half will go to Government on account of examination fees and cost of material.

The upper halves of adhesive stamps used in maps and plans shall be treated in the same way as upper portion of impressed stamped sheets.

190. In the case of urgent copies of maps and plans the expedition fee will also be fixed by the Magisterial Officer in charge to be paid by means of a Court-fee stamp affixed to the application for copy. No part of the expedition fee shall be paid to the copyists.

191. For the cancellation of Court-fee stamps on copies reference should be made to rule 197 of this part for “Information and Copies” to Chapter I, Part IV, and for “copyists” to rule 175 of Part IV, *ante*.

192. (a) The charge for obtaining copies of records in Courts of Sessions referred to in rule 163 (a) Part III, shall be at the rate of one rupee and forty paise per ²[1,200 words English or Hindi in Devanagri script, or 2,400 words Vernacular (except-Hindi in Devanagri script) which should be paid to the Typist or Copyist concerned. The typists or the copyist] should be paid at the same rate for preparing briefs.

(b) The charges for obtaining copies of records in Sessions cases ³[xxxxx] which are required by ⁴[District Magistrates] should be adjusted under “Civil and

1. Subs. by C.S. No. 66.
2. Subs. by C.S. No. 10.
3. Omitted by C.S. No. 67.
4. Subs. by *ibid*.

Sessions Courts” while those for copies of records in cases in which an appeal has been preferred, and the copies required for Government Pleaders, should be adjusted under “Civil and Sessions Courts’ or ‘Criminal Courts” according as the papers to be copied are at the time in the Office of the Sessions Court or of the Magistrate’s Court.

(c) The charge for typed copies of translations mentioned in rule 41, Part I shall be at the rate of one rupee and forty paise per 1,200 words to be paid to the copyist concerned;

Provided that when one or more copies are prepared simultaneously by carbon paper process and one of such copies is prepared for Government and the other or others for private individuals, the copyist shall not be entitled to remuneration for such a copy provided also, however, that the paper for the copy and also the carbon paper shall be supplied by Government.

D.—Fees for Affidavits

Fees for administering Oaths on Affidavits

193. The charge for administering the oath to the deponent in the case of any affidavit—¹[three rupees and twenty paise]. [G.L. 8/64.]

Except (1) affidavits made by process-servers regarding the manner of service of processes;

(2) Affidavit made by any public officer in virtue of his office.

194. The above fee shall be paid by means of a Court-fee stamp.

Note—Fees for affidavits are to be entered in the Daily Register of Court-fees.

E.—Cost of Transmission of Records

195. When a record is called for by a Civil Court from a Criminal Court, at the instance of party, the cost of postage should be borne by such party at a uniform rate of one rupee per record to be paid in Court-fee stamp for transmission of the record and its re-transmission.

F.—Cancellation of Court-fee Stamps

196. Each Judicial Officer should, under Section 30 of the Court-fees Act, VII of 1870, formally appoint an officer for the purpose of cancelling stamps and should see that, that officer, and no other, is allowed to do the work. [G.L. 6/55, G.L. 5/56.]

197. The second or triangular punching of Court-fee stamps prescribed in rule 199 *post* should be made on the day the records are received in the District or Subdivisional Record-room or as soon after as possible, and should not await the inspection or examination of the records.

198. The Record-keeper should, on receiving records from a *Muharrir* or others, ascertain that all the papers in the records which require stamps are properly stamped and that the rules regarding their cancellation have been properly carried out. Should any of the stamps show signs of having been tampered with, or should there be any deficiency or any suspicious circumstances he must at once submit a report to the Presiding Officer of the Court. Record-keepers should be

1. Subs. by C.S. No. 68.

reminded that the appointment of a special peon or any other officer to punch stamps on records received into the Record-room in no way absolves them from the duty of seeing that the stamps are duly punched.

199. (a) The Record-Keeper of every Court or office shall, when a case is decided and the record consigned to his custody, punch a second hole with a triangular punch in each label distinct from the first and at the same time note upon the table of contents the date of his doing so. The second punching should not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

Note—In cases tried summarily, the note referred to above should be entered, in the forms of summary trial, kept under Section 263 ¹[xxxx] of the Criminal Procedure Code.

(b) These directions apply only to adhesive labels used under the Court-fees Act. Impressed stamps used for denoting Court-fees need not be cancelled or punched otherwise than as required by Section 30 of the Court-fees Act.

200. The Court or office issuing copies, certificates or other similar documents liable to stamp duty shall, before issue, cancel the labels affixed to them by punching out with a square punch a portion of the labels in such a manner as to remove neither the figure head nor that part of the label upon which its value is expressed*. As an additional precaution the signature of the officer attesting the document with the date should be written across the label and upon the paper on either side of it as is frequently done by persons signing stamped receipts. The stamp shall be punched at the time of attesting the document.

Note—The Court or office in which the copy or certificate, etc., may be produced or filed must punch out the figure head under Section 30 of the Court-fees Act.

201. Each Judicial Officer should cause an occasional inspection to be made of documents that have been filed in order to ascertain that the stamps have been properly punched and defaced and have not been subsequently removed for the documents on which they have been used. The inspection should be made at least once a quarter. The check herein prescribed applies equally to all papers, which require, adhesive label, and they should be subjected to similar scrutiny.

G.—Inspection of Records by Registration Officers

202. Government having directed the Inspector-General and Inspectors of Registration to examine the record-rooms of various Courts in the *mufassal* in order to see how far the rules and instructions on the subject of the punching, custody and sale of stamps are carried out, every assistance should be afforded by Judicial Officers to those officers in the discharge of their duty.

203. Government having ordered that, on the discovery of any irregularity in respect of punching or otherwise defacing Court-fee stamps, the inspecting

* Stamps affixed to affidavits presented to a Commissioner for the purpose of administering an oath or affirmation to the deponent should be dealt with in the same manner as the stamps on copies, certificates or other similar documents liable to stamp duty (G.L. No. 3 of 6th August, 1896).

1. Deleted by C.S. No. 69.

Registration Officer should at once bring the matter to the notice of the Presiding Officer of the Court, such officer should go into the matter at once and thus trace the person who is responsible for the omission pointed out by the inspecting officer.

PART VI
Registers, Periodical Returns and Statements and
Annual Reports

CHAPTER I

Registers

Rules for the maintenance and destruction of the Registers of Subordinate Criminal Courts.]¹

204. While the Court does not positively forbid the maintenance of other Subsidiary Registers in the various Criminal Courts subordinate to it, the list of registers given in Volume II specifies all the registers which, it is believed, are absolutely necessary for judicial, administrative, or statistical purposes.

²**205.** All registers shall be kept in Hindi except the Accounts Registers which shall be kept in English.]

206. The Register of Processes received for service [No. (R) 9] should be kept in each department responsible for the service of processes. The practice of entering Criminal and Revenue processes sent to the department under the Nazir indiscriminately in the same volume should be discontinued.

207. The list of registers given in Volume II shows the period for which each is to be preserved. Registers of Magistrates' Courts which are to be preserved for three years or less should not be consigned to the record-room, but should be retained in the office in which they were written and should be destroyed by that office with the Magistrate's sanction on the expiry of the prescribed period. All other registers of such Courts are to be consigned to the record-room as soon as they are completed. Those that are to be preserved permanently will be entered by the Record-keeper in a register in Form no. 7 and those that are to be preserved for more than three years, but not permanently, in another register in Form no. 8 of Appendix A of the Bihar Records Manual. The registers in Forms nos. 7-8 are to be preserved permanently. [G.L. 1/23].

CHAPTER II

Periodical Returns and Statements

A.—General

208. The forms of Periodical Statements³, entered under the heading of "Appendix A" in the list at the beginning of Volume II, are prescribed for adoption by the Criminal Courts shown against each. On the forms themselves some introductions for observance will be found, and the following general instructions

1. These rules, so far as they relate to the destruction of registers, were framed under Act III of 1879.
2. Subs. by C.S. No. 11.
3. The forms are reproduced as Nos. (S) 1 to (S) 14 in Volume II.

are also issued, in order to secure the correct and uniform preparation of the statements.

209. A part from certain miscellaneous proceedings under the Criminal Procedure Code, the returns have reference to judicial work alone, the High Court having no supervision over police work in any shape. Appeals from the orders of the Superintendent of Police, which are heard by the Magistrate in the executive capacity, are to be excluded from the returns. So also are fines on ministerial officers for neglect of duty.

210. No person who has not appeared personally or ¹ [through lawyers] in Court is to be included in the returns; but all persons who have appeared, whether in obedience to summons, warrant, or other process, or voluntarily, to answer a criminal charge, should be shown as under trial. Persons discharged from bail taken under Section 169 without appearing before a Magistrate, should not be entered in the returns.

Note 1—Cases of escaped prisoners should not be shown as pending on the files. On their recapture, their cases will be entered as new cases. [G.L. 6/56.]

Note 2—Witnesses examined by Magistrates in Court in preliminary inquiries, under ¹ [Sections 202 and 330], Criminal Procedure Code, need not be included in the periodical returns, the existing forms not contemplating them.

Note 3—Cases of lunatics dealt with under ¹ [Section 330] of the Code of Criminal Procedure should not be shown as pending on the files. When such lunatics are subsequently brought before the Court and found to be capable of making a defence, their cases should be entered as new cases (C.O. No. 2 of 1905).

Note 4—Cases finally remanded should be treated as new cases.

CASES RECEIVED OR DISPOSED OF BY “TRANSFER”

211. It is not intended that any case should be entered in the returns as received or disposed of by transfer, unless the transfer was from one district to another, or from one kind of Court to another, as for example, from a Civil or Revenue Court under ² [Section 346] of the Criminal Procedure Code. A note should always be made in the column of remarks of the number, if any, of cases and persons transferred to, or received from, places outside the jurisdiction of the High Court, as this information is required in order to the compilation of the returns for the whole State.

CASES “REFERRED” AND “RECEIVED ON REFERENCE”

212. The columns headed “Referred” and “Received on Reference”, are meant to exhibit cases in which an enquiry or trial has been held, and the proceedings of the Court are submitted for confirmation by, or the orders of, a higher tribunal; for example, ³ [cases submitted by Magistrates under Sections 323, 325 and 122] and by Sessions Judges under ³ [Section 366] of the Criminal Procedure Code. Mere reference for trial under Section 192 are not to be entered

1. Subs. by C.S. No. 70.

2. Subs. by C.S. No. 71.

3. Subs. by C.S. No. 72.

in these columns nor in the columns exhibiting transfer; they are to be entered against the Court which decided them, and not against the Court which may have merely received the complaint.

213. Cases of the kind alluded to above, in which the proceedings of one Court are submitted for the confirmation or orders of another, will, like cases committed to the Sessions, find entry in the returns of both Courts. The persons concerned will appear in, the returns of the referring Courts, not as convicted, but as "referred". In this returns of the Courts receiving the references, they will be shown as convicted, acquitted, etc., according to the result of the reference in each case, or as "Pending" if orders have not been passed on it.

DURATION OF CASES

214. In calculating the duration of cases before the ¹ [Judicial] Magistrate, time must be counted from the date of the apprehension of the accused or of his appearance in Court, whichever was the earlier. [G.L. 1/34, G.L. 1/46]

215. A case is regarding as coming on the file of the receiving Court from the date of commitment, reference, or order of transfer.

DATE OF SUBMISSION OF PERIODICAL RETURNS

216. Monthly Statement of pending cases and Quarterly Statement should be despatched by ¹ [the Courts of Executive Magistrates] to the District Magistrates, ¹ [and by the Courts of Judicial Magistrates of the Chief Judicial Magistrates] on or before the 3rd of the month next succeeding the period to which they relate, and Annual Statements on or before the 15th day of the new year.

217. Quarterly Statements should be submitted by District Magistrates ² [Chief Judicial Magistrate] and Sessions Judges to the High Court on or before the 15th of the month next succeeding the period to which they relate, and Annual Statements, along with the Annual Report on the Administration of Criminal Justice, on or before the 15th February of each year. The punctual despatch of correct statements is an important duty, the neglect of which will not be overlooked by the Court.

³ [Note—The Chief Judicial Magistrate shall submit statements and reports through the Sessions Judge.]

218. The periodical statements have now been brought in accordance with each other as far as possible, and if due attention is given, during the course of the year, to the collecting of materials for the Annual Statements, the delay of which the High Court have had so frequently to complain, should not occur in the preparation of these returns in a correct form.

219. Punctuality in the submission of Annual Statements and Annual Reports must be insisted upon and ⁴ [officers concerned] should be careful to take the necessary steps to insure the accurate compilation and prompt despatch of the same. The Court will be compelled to take a serious view of the conduct of any officer who neglects to accord due attention to these orders.

1. Ins. by C.S. No. 72

2. Ins. by C.S. No. 73.

3. Ins. by C.S. No. 74.

4. Subs. by C.S. No. 74.

Note—¹[x x x x x x]

MISCELLANEOUS

220. ²[Officers concerned] are required to see that the statements are prepared neatly as well as correctly, in respect of the entries made, and that they are not disfigured by slovenly or bad writing. When such defects occur, the statements will be liable to be returned.

221. Where the figures given in any return differ from those given for the same period in any returns previously submitted, explanation should always be offered to avoid the necessity for a reference in the matter. Much correspondence will also be rendered unnecessary if, before submission, figures entered in the Annual Statements are compared with those in the High Court printed reports for the previous year.

222. Officers having work in more departments than one should always note in returns how their time was apportioned between the various departments. This is necessary to enable the High Court to judge whether the work done is sufficient, and to admit of the officer's salary being correctly apportioned in the annual returns between the various departments.

223. The column of remarks should contain the mention of any cases or particulars which do not appear to be fairly provided for in other columns and should also contain brief explanations of any noticeable results appearing on the face of the returns, especially of such as, if unexplained, might lead to erroneous conclusions; in short, any comments which will tend to throw light upon the figures.

224. No statement in use by authority of the High Court may be discontinued without an express order of such Court.

B.—Monthly and Quarterly Statements

³**[225.** Judicial Magistrates shall submit a monthly statement to the Chief Judicial Magistrate and Executive Magistrates shall submit a monthly statement to the District Magistrate of their pending files. They are also required to submit monthly explanations of the cause of delay in the disposal of cases pending for more than six months.] [G.L. 7/44.]

³**[226.** Judicial Magistrates shall submit to the Chief Judicial Magistrate and Executive Magistrates shall submit to the District Magistrate, quarterly a general statement.]

³**[227.** With the figures submitted by the Magistrates subordinate to them, the District Magistrate and the Chief Judicial Magistrate shall compile a general statement for the whole district and submit it to the High Court with an explanation of delay where any case has been ending for more than two years in respect of cases in part I and part II, for more than six months in respect of criminal appeals and for more than three months in respect of revisions shown in part III of the statement.] [G.L. 4/44, G.L. 5/52, G.L. 6/52, G.L. 3/53, G.L. 4/53, G.L. 7/53, G.L. 11/57.]

1. Deleted by C.S. No. 74.

2. Subs. by *ibid*.

3. Subs. by C.S. No. 75.

¹[**Note 1**—The Chief Judicial Magistrate shall submit the statement through the Sessions Judge.]

¹[**Note 2**—Clear concise explanations regarding delays with the ²[District Magistrate's/Chief Judicial Magistrate's] remarks thereon, and not copies of the order sheets, should be submitted to the High Court with Quarterly statement A, Form No. (S) 3, Copies of order sheets, unless called for by the High Court in specific cases, should not be forwarded (G.L. No. 3 of 1914).]

228. The District Magistrate's ³[and Chief Judicial Magistrates] are expected to examine carefully the statements, monthly and quarterly, submitted by the Courts subordinate to them, and to satisfy themselves that the business in these Courts is transacted with due despatch. They may, if they consider it necessary, call for a full explanation from a subordinate Court in regard to any case on its file. A case which calls for special attention may be brought to the notice of the High Court. They will submit with the quarterly returns a concise statement in Form no. (S) 3A regarding the outturn of work shown by each of the Subordinate Magistrates and an expression of their opinion on any deficiency apparent in this respect. [G.L. 1/24.]

³[**Note**—In case the Sessions Judge considers it necessary, he may express his own opinion in this respect.]

³[**228A.** Sessions Judges while forwarding the quarterly statements submitted by Chief Judicial Magistrates to the High Court, shall submit a memorandum showing separately the outturn of criminal work of each officer exercising powers of a Chief Judicial Magistrate with an expression of his opinion on his outturn.]

229. Session Judges shall submit also quarterly to the High Court, a statement⁴ showing the result of commitments to the Court of Sessions and of appeals and applications for revision made to them. The Additional or Assistant Sessions Judge, if any, will furnish a similar return for his own Court to the Sessions Judge, who will exhibit the figures separately in his return. [G.L. 1/24.]

230. In the quarterly statements, columns headed "Brought to trial" or "Preferred" unlike those headed "Under trial" or "Total dealt with" are intended to show only cases brought to trial, or appeals or applications filed during the period to which the return relates, and are not intended to include cases pending at the commencement of such period.

231. Sessions Judges shall submit to the High Court along with the Quarterly Statements a memorandum showing separately the outturn of criminal work of each officer exercising the powers of a Sessions Judge or of an Assistant Sessions Judge. In the case of each such officer the number of days devoted to criminal work, the number of criminal cases disposed of, and the number of witnesses examined, should be shown. [G.L. 2/57.]

1. Existing "Note" made Note 2 and "Note 1" Ins. by C.S. No. 75.
2. Subs. by C.S. No. 75.
3. Ins. by C.S. No. 76.
4. Quarterly Statement B, Parts I and II, Form no. (S) 4, Volume II.

C.—Annual Statements

232. Most of the Annual Statements can be readily compiled from the statistical and other registers. In the case of others it is essential that the requisite information should be collected from time to time so as to be available without delay at the close of the year. In the latter case ¹[Chief Judicial Magistrates and] District Magistrates must take care that the proper officers of their own Court and of the Court subordinate to them, collect the information at convenient intervals.

233. District Magistrates shall submit their Annual Statement direct to the High Court, and not through the Sessions Judge.

234. ²[x x x x].

235. Annual Statement No. ³ is intended to show the final results of trial, and it is, therefore, necessary that the Magistrates who have to prepare it should be apprised of the results of commitments to the Court of Sessions. ⁴[x x x].

236. ⁴[x x x x].

237. In the Annual Statements, columns headed “Brought to trial” or “Preferred” unlike those headed “Undertrial” or “Total dealt with” are intended to show only cases brought to trial or appeals or applications filed during the period to which the return relates and not intended to include cases pending at the commencement of such period.

CHAPTER III

Annual Reports

238. Sessions Judges and District Magistrates shall submit to the High Court along with the Annual Statements, a Report for the year to which they refer upon the Administration of Criminal Justice. The form numbered (S) 14⁵ shall be incorporated in their Reports by Sessions Judges and District Magistrates. Sessions Judges and District Magistrates should be careful to secure a correspondence between the figures given in the Tables in the body of their Reports and those contained in the Annual Statements submitted by them, and they are expected to see that no discrepancies occur in this regard. [G.L. 1/33.]

⁶[**Note**—The report shall, in so far as the business done in the Courts of Judicial Magistrates is concerned, shall, in the first instance, be prepared by the Chief Judicial Magistrate, who shall forward the same to the Sessions Judge.]

239. The Court does not consider it necessary to prescribe the use of any particular form of Report; but the Report, in whatever form should contain such remarks as suggest themselves on a consideration of the figures entered in the statements. Any great variation between the result exhibited for the year under report and for the previous year should receive notice and be explained, if possible.

1. Ins. by C.S. No. 76.

2. Deleted by *ibid.*

3. Form No. (S) 6, Volume II.

4. Deleted by C.S. No. 77.

5. The annual table 1 (*vide* Volume II).

6. Subs. by C.S. No. 78.

240. Amongst other matters, the following must be noticed in the Report—

- (a) The condition of the Record-room, which must be ascertained by careful personal enquiry, and not from the mere report of the Record-keeper.

Note—The Court will not be satisfied with a mere cursory mention, but require a clear description of the state of the record-room, and the date up to which the records have been sorted or destroyed, so that it may appear without doubt that this duty has in no way been neglected.

- (b) The extent to which effect has been given to the rules regarding the arrangement of the records in the course of the trial and the rules regarding the destruction of useless records.
- (c) The working of the rules under the Court-Fees Act.
- (d) The effect of recent legislation on the working of the Criminal Courts.

241. The character, qualifications, and official merit of ¹[x x x] Magistrates should be made the subject of a separate report by Sessions Judges ¹[x x x]. In such report the work done by, and the result of appeals ²[and revisions] from, each Magistrate should be analysed and commented on only as an aid to forming a judgment as to their respective deserts and fitness for promotion. This does not debar Sessions Judges from recording in their Administration Reports any instance of special and distinguished merit on the part of a subordinate Magistrate which they consider deserving of special mention and entitling the person indicated to the favourable notice of the Court or of Government.

Note 1—The report should set out clearly and tersely sufficient particulars to enable the Court to form a correct and definite judgment on the merits of the officer reported on; to ensure this, it is necessary that it should indicate any special merits or defects which may exist in his case. In case of a very bad report it is desirable, if possible, that the unfavourable trait should be very briefly illustrated. Sessions Judges should form a clear and reasoned estimate of the merits and demerits of the officers under them and express their view clearly and fully. Where a Sessions Judge has seen little or nothing of the work of any officer under him, he should say so in reporting to the High Court and should take steps to ensure a full report being submitted in the following year. Where the Sessions Judge has been newly posted to the district, he should submit to the Court the report or opinion recorded by his predecessor and when the subordinate officer has been transferred from another district, the Sessions Judge should obtain from the Judge of that district and submit the report required by this rule. Where a Sessions Judge has seen an officer's work, he should record something more than such vague general expressions as "satisfactory", "good", "unsatisfactory", "bad" or the like. ³[If at the time of submitting the confidential report it is found that an officer has taken steps to remedy any defect previously reported, mention should be made of this fact also in the report, and then with the Court's concurrence, the officer concerned should

1. Deleted by C.S. No. 79.

2. Ins. by *ibid.*

3. Subs. by C.S. No. 5.

be informed that his efforts at improvement have been noticed. If the confidential reports on the work and character of Subordinate Judicial Officers contain remediable defects or any adverse remarks regarding an officer which in the opinion of the High Court should be communicated to him for his guidance and correction, a transcript of the remarks will be sent by the Registrar directly to the officer concerned].

Note 2—Reports on the merits of an officer should invariably state whether he exercises effective control over his office.

¹**Note 3**—The Sessions Judges may call the report in this behalf from the Chief Judicial Magistrates and from the Subdivisional Judicial Magistrates in case of outlying stations.]

PART VII

Miscellaneous

CHAPTER I

Process Service

Rule under clause III of Section 20 of the Court-Fees Act, 1870 (VII of 1870)

242. As regard the pay of peons employed in the service of processes in ²[Executive] Magistrate's Court, the rules in part III, Chapter II of the Board's Practice and Procedure Manual, 1939, shall be followed.

Rule framed by the High Court of Judicature at Patna in accordance with Section 22 of the Court-Fees Act, 1870 (VII of 1870) for the guidance of Magistrates in the State of Bihar.

³**[242-A.** The District Magistrate]⁴ of every district shall ascertain the average number of original process issued during the last three years from his own Court and from each of the Courts subordinate thereto, and the peons to be employed in the district should be sufficient for the execution of that number. The process-serving establishment of the ⁴[Courts of Executive and Revenue Courts] in the State of Bihar having been amalgamated, each peon of the amalgamated establishment shall, for this purpose, be considered capable of executing during the year the number of original processes (criminal or revenue) noted against each district in the following table—

Division	District	Number of Original Processes
1	2	3
Patna Division	Patna	900
	Gaya	900
	Shahabad	900
Tirhut Division	Saran	900
	Champaran	900

1. Ins. by C.S. No. 79.

2. Ins. by C.S. No. 80.

3. Re-numbered by *ibid.*

4. Subs. by *ibid.*

	Muzaffarpur	1,200
	Darbhanga	900
Bhagalpur Division	Bhagalpur—	
	Sadar	900
	Banka	900
	Saharsa—	
	Supaul	600
	Madhepura	600
	Monghyr—	
	Sadar	850
	Begusarai	1,000
	Jamui	800
	Khagaria	900
	Purnea	600
	Santal Parganas	1,000
Chota Nagpur Division	Ranchi—	
	Sadar	600
	Gumla	600
	Khunti	600
	Simdega	500
	Hazaribagh	750
	Palamau	650
	Dhanbad	800
	Singhbhum	750

Provided that the processes issued from the ¹[Courts of Judicial Magistrates] shall be served by the process-serving establishment of the District and Sessions Judge, who may appoint additional staff for the purpose on examination of the figures in the manner indicated in the above rule. The District and Sessions Judge shall increase or reduce the number of peons accordingly as the number of processes has increased or decreased by ten per cent. For this purpose he will ascertain after every five years the average number of original processes issued from the Courts of the Magistrates on the judicial side. In case of diminution, the surplus permanent hands shall be gradually absorbed against permanent vacancies in his establishment by stopping fresh recruitment until the permissible limits has reached;

²[Provided further that the High Court may direct that process issued from the Court of a Special Judicial Magistrate shall be served by the process serving establishment of the District Magistrate.]

Note 1.—The term “original process” means the original document which is filed with the record of a case, that document including the names of all persons

1. Subs. by C.S. No. 81.

2. Ins. by C.S. No. 82.

residing within the jurisdiction of the Court upon whom copies of it (whether it be summons, warrant, notice, or other process) are to be served in the same case and at the same time.

Note 2.—Processes served by a special peon under the directions of the Court should be reckoned as service of three original processes. Similarly each day on which a peon is occupied in doing some work concerning Courts of Judicial Magistrates, such as taking records, letters, etc., from one station to another should also be reckoned as service of three original processes.

CHAPTER II

Inspections

INSPECTION OF MAGISTRATES' COURTS BY SESSIONS JUDGE

[H.C. Letter No. 1993–2003, dated 11th February, 1965]

¹[x x x x]

243. ¹[x x x x]

244. ²(a) When convenient, the Sessions Judges should visit the Courts of Judicial and Executive Magistrates (excluding District Magistrates). Their inspection of these Courts should be of a general character and directed rather to judicial than to executive matters. They should sit with the Subordinate Magistrates concerned, advise them in matters of procedure, and consider generally their conduct of the proceedings before them. They should also examine some of their records and scrutinize the orders passed by them at various stages of trials, e.g., orders admitting to bail, for the issued of summonses to, and warrants for the arrest of witnesses, for adjournments, and so forth.]

(b) As the Courts of ²[Executive] Magistrates are inspected by District Magistrates and Divisional Commissioners—officers whose attention is directed in the main to such detail as the maintenance of the registers, and the state of the offices visited—the Sessions Judge should not occupy himself with those matters.

(c) While the Courts are anxious to encourage inspections of the above nature, whenever possible, it is to be understood that they should not be permitted to prejudice the proper discharge of a Sessions Judge's more important duties and should therefore be carried out only when that officer can find time for them without detriment to his other work. No detailed report of an inspection need be submitted to the High Court : it will suffice if the mere fact is reported, unless the Sessions Judge's visit has disclosed any facts of unusual interest or importance. An inspection should, if time permits, take the form suggested in paragraphs (a) and (b) of this rule; but the Court attach greater importance to the supervision of a Magistrate's actual judicial procedure in Court than to an examination of his records, a number of which are likely to come before the Sessions Judge on appeal. [G.L. 10/57.]

CHAPTER III

Miscellaneous Instructions

245. The pages and paragraphs of Annual and Inspection reports and similar lengthy communications submitted to the High Court should invariably be numbered.

1. Deleted by C.S. No. 83.

2. Subs. by *ibid.*

¹[**246.** (a) Session Judges, Additional Sessions Judges, and Assistant Sessions Judges shall, when presiding in Court, wear a Judges' or Barrister's gown made of black stuff with white pants over a dark coloured Coat.

(b) ²[x x x x]

³[(c) Advocates appearing in the Supreme Court, High Court, Subordinate Courts, Tribunals or Authorities shall wear the following dress—

(1) Advocates other than Lady Advocates—

- (a) a black buttoned, up coat, chapkan, achkan, black Sherwani and white bands with Advocates' Gowns, or
- (b) a black open breast coat, white shirt, white collar stiff or soft, and white bands with Advocates' Gown.

In either case long trousers (white, black or black striped or grey) or Dhoti.

(2) Lady Advocates—

- (a) Black and full or half sleeve jacket or blouse, white collar stiff or soft with white bands with Advocates' Gowns;
- (b) Sarees, or long skirts (white or black) or flare.

Provided that the wearing of Advocates' Gowns shall be optional except when appearing in the Supreme Court or in a High Court;

Provided further that in Courts other than the Supreme Court, High Court District Court, Sessions Court or City Civil Court, a black tie may be worn instead of bands.]

¹[(d) Pleaders of the Subordinate Courts when appearing in Court, are required to wear a black or white chapkan, achkan, Sherwani or buttoned up long Coat, with trousers or Churidar of Khalta pyjamas to match, and a black gown of the cut and, shape of the gown prescribed for advocates, omitting the pipe or drawings at the back and if European dress is worn, then a black coat with dark or white trousers and a black or dark coloured plain tie and the gown.

The wearing of a head dress is optional.]

Note—⁴[x x x x]

247. The attention of all Criminal Courts is invited to the following rules which have been approved by the Government of India relative to the dress of Military Officers and Soldiers appearing before Civil or Criminal Courts (other than Courts established under Military law)—

- (1) An officer or soldier required to attend a Court in his official capacity should appear in uniform with sword or side arms. Attendance in an official capacity includes attendance—
 - (a) as witness when evidence has to be given of matters which came under the cognizance of the officer or soldier in his military capacity,

1. Subs. by C.S. No. 84.

2. Omitted by C.S. No. 90, dated 29.9.1980

3. Subs. by C.S. No. 91, dated 29.9.1980.

4. Omitted by C.S. No. 92, dated 29.9.1980.

- (b) by an officer for the purpose of watching a case on behalf of a soldier or soldiers under his command.
- (2) An officer or soldier required to attend a Court otherwise than in his official capacity, may appear either in plain clothes or in uniform.
- (3) An officer or soldier shall not wear his sword or side arms if he appears in the character of an accused or under military arrest, or if the Presiding Officer of the Court thinks it necessary to require the surrender of his arms, in which case a statement of the reasons for making the order shall be recorded by the Presiding Officer and if the Military Authorities so request, forwarded for the information of His Excellency the Commander-in-Chief.
- (4) Fire-arms shall under no circumstances be taken into Court.

SESSIONS JUDGES AND DISTRICT MAGISTRATES NOT
TO ISSUE CIRCULAR ORDERS

248. Sessions Judges should not, without permission previously obtained from the High Court, issue general instructions or circular orders of any kind for the guidance of Magistrates.

249. District Magistrates ¹[and Chief Judicial Magistrates] are prohibited from issuing general orders in the form of circulars on judicial matters to the Magistrates subordinate to them. If there be any matter connected with the administration of criminal justice in their districts which, in their opinion, require the issue of a general order for the information and guidance of the Courts subordinate to them, they should submit such order for the confirmation and approval of the High Court, without which it should in no case be issued.

RESIDENCE OF GAZETTED OFFICERS

²**250.** No officer of the Judicial Services shall be permitted to reside elsewhere than at the Head-quarters of the Station to which he is posted except with the special sanction of the High Court which may be granted in exceptional cases upon consideration of circumstances brought to its notice by the District and Sessions Judges.]

JUDICIAL OFFICERS AND THE PUBLIC

251. The attention of all officers is invited to the collection of Rules and orders of the Government regulating the conduct of Public servants in respect of borrowing money, receipt of complimentary addresses and the like.

IMPUTATION OF PREJUDICE

252. The copy of a despatch from the Secretary of State for India to the Government of Madras is reproduced below for the information and guidance of all Judges and Magistrates :—

“The memorialist was prosecuted by the Collector, and he alleges that when the Sessions Judge came to try the case, he resided at the Collector’s house and was greatly prejudiced by the Collector against the memorialist. I have no doubt that the latter assertion is quite unfounded, but

1. Ins. by C.S. No. 85.

2. Subs. by *ibid.*

I think it would be well if your Grace in Council would suggest to the Judges, through the High Court, to avoid, as far as possible, becoming the guests of those who are interested in cases, civil or criminal, which will eventually be submitted to the Judge's decision. All possible imputation of prejudice against the weaker party will thus be avoided."

RULES REGARDING PLEADER'S AND MUKHTAR'S
REGISTERED CLERKS

Note—¹[x x x x]

253. The expression "Registered Clerk means a clerk who is employed by a Pleader to a *Mukhtar* in-connection with his legal business and who is registered under these rules.

254. A registered clerk shall, for the purpose of performing the ministerial part of the work of his employer's office, have access to any Court in which the latter is authorised to practise and to such of its ministerial officers as may in that behalf be designated by the presiding officer of such Court.

Note 1.—This does not authorise a registered clerk to go inside the office of any Court (*vide* Government of Bengal's Circular no. 1259-J., dated the 13th February, 1901, which was published in the *Calcutta Gazette*, dated the 17th April, 1901, Part IVA, page 3, which should be followed).

Note 2.—No person employed by a Pleader or *Mukhtar* other than a registered clerk shall be allowed access to any of the Courts of the district or to have any dealing with the ministerial officers attached thereto.

255. Not more than two clerks at a time shall ordinarily be registered.

256. At Sadar stations the registering authority shall be the ²[Chief Judicial Magistrate] in the case of clerks of *Mukhtars* ¹[x x x] and the District Judge in all other cases and at other stations such authority shall be the ²[Sub-divisional Judicial Magistrate] and the principal Civil Court respectively. Where there is more than one Civil Court of the same grade at any such station, the power shall be exercised by the senior Judge unless the District Judge otherwise directs.

257. (a) Every application for the registration of a clerk shall be made to the registering authority by the Pleader or *Mukhtar* desiring to employ him. It shall also be signed by the clerk proposed to be employed.

(b) Such application shall be on plain paper and shall contain—

- (i) a certificate from the Pleader or *Mukhtar* that the person proposed is to the best of his belief fit to be so employed and will be employed *bona fide* in his own service and for the purpose of his legal business.
- (ii) the name or names of other registered clerks, if any, under him;
- (iii) a statement declaring that he has no unregistered clerk and undertaking not to employ any such clerk during the year.

(c) Registering Authority on receiving the application may—

- (i) dispose of it at once when the person proposed is known to it, or
- (ii) refer it to the Bar Association or the *Mukhtars'* Association as the case may be, for their opinion, or

1. Deleted by C.S. No. 86.

2. Subs. by *ibid*.

(iii) make such other inquiry as it thinks necessary.

(d) When the Registering Authority is of opinion that the person proposed is a fit and proper person to be employed as registered clerk he shall enter his name in the Register of Clerks. Form no. (R) 22 and issue to him a card in Form no. (M) 99. These cards shall be strictly non-transferable and shall be returned at the close of each year when clerks must be re-registered.

(e) Each Registering Authority shall at the beginning of the year send a copy of its and of all subsequent additions and alterations therein immediately after they are made to the other Registering Authority, if any, at the same station for information and for incorporation in its register.

258. The procedure in rule 257 shall apply to renewal of registrations. No card which has been lost can be renewed without payment of a fee of Re. 1 to be credited to Government. The same fee shall also be levied where a Pleader or *Mukhtar* applies for the recognition of a clerk in place of another unless he gives up the card of such other clerk.

259. Any Registering Authority in the case of a clerk registered by it may for reasons to be recorded in writing and after hearing the clerk in his defence order his suspension or removal from the register and the cancellation of his card. Every order of removal shall be communicated to the other Registering Authorities in the district.

Note.—Proceedings taken against clerks under this sub-rule are administrative and not judicial proceedings.

260. No person whose name has been struck off the register shall be recommended for registration by any Pleader or *Mukhtar* at the same or any other station.

261. (a) No clerk registered as the clerk of one Pleader or *Mukhtar* shall work or do business on behalf of any other Pleader or *Mukhtar* or in any case in which his employer is not engaged.

(b) No clerk registered as the clerk of a particular Pleader or *Mukhtar* shall, except in the absence of his employer, pass or hand over to another Pleader or *Mukhtar* any paper written by him to be filed in a case unless such paper also bears his employer's signature.

262. The rules regarding registration of pleader's clerks shall also apply to the clerks of *Vakils* and Advocates ordinarily practising in subordinate Courts.

RULES REGARDING VAKALATNAMA AND MUKHTARNAMA

263. No pleader shall be entitled to make or do any appearance, application or act in any criminal case or proceeding for any person unless he presents an appointment in writing duly signed by such person or his recognized agent or by some other agent duly authorized by power-of-attorney to act in this behalf, or unless he is instructed by an attorney or pleader duly authorized to act on behalf such persons;

Provided that no such appointment in writing shall be necessary in the case of a pleader appointed by the Government or the Court to act, appear or plead on behalf of an accused or convicted person.

Note—The term “pleader” in the rule is to be understood as defined in ¹[Section 2(q)] of the Code of Criminal Procedure.

OFFICE

264. Each clerk will keep a duty card in the following form—

Name of clerk		Department	
Nature of work			
Authorised registers	Unauthorised registers	Miscellaneous duties	Remarks
1	2	3	4

Note—The card is to be signed by the District Judge’s *Sheristadar* or the Office Superintendent, as the case may be, and the clerk concerned and a duplicate of the same similarly signed is to be kept in the shape of a bound book by the ministerial head of the department to which the clerk belongs. Such ministerial head of the department will be responsible for having all changes in the nature of work of each officer under him duly entered on the cards affected. These cards shall be preserved for a period of twelve years from the date of their revision and then destroyed.

PART VIII

Accounts

CHAPTER I

General

Application of the Rules

265. The following rules prescribe the procedure for the receipt and payment of money and for keeping accounts to be observed by officers exercising judicial powers and dealing with money in that capacity. They apply only to the Magistrates of districts.

Note 1.—The subordinates of the Magistrate of the district stationed in the interior keep their accounts under Treasury Rules and the transactions of those at headquarters are included in those of the Magistrate.

266. (a) In these rules—

- (i) “*District Magistrate*” means the officer whose accounts are rendered to the Accountant-General, either for his own Court only or for his own and subordinate Courts.
- (ii) “*Magistrate-in-charge*” means the officer who, when two or more Courts at one station are combined for the purposes of these rules, supervises the single set of accounts maintained for all the Courts so combined. When Courts are not so combined each Magistrate is the “*Magistrate-in-charge*” of his own accounts.
- (iii) “*Day*” shall be taken to close at 2 P.M. and the “*next day*” to extend from that hour to 2 P.M., of following calendar day.

1. Subs. by C.S. No. 87.

- (iv) "Month" shall be taken to close in Courts at district headquarters at the end of the last account day of the month.
- (v) "Year" shall be taken to begin on the 1st April and to close on the 31st March.

(b) A District Magistrate cannot delegate his powers as regards accounts to any of his subordinates. What he can do, when necessary, is to place any of the officers subordinate to him in charge of accounts, without in any way relieving himself of the responsibility for the due accounting of all receipts and payments. When this is done, the District Magistrate's establishment will do all the work in connection with the accounts and the subordinate officer will sign the papers as if he were placed in charge of the current duties of the Magistrate's Court.

Heads of Accounts

267. The following are the heads of accounts in the public accounts under which the money received and paid by Judicial Officers, or under their order, is classified—

- (a) Criminal deposits including compensation, fines and costs in criminal cases not paid on the spot in open Court.
- (b) fines (judicial); refunds of the same.

Note—For refunds of fines, see rule 288 and Note thereto. [G.L. 1-65.]

- (c) Stamp duty and penalties realized in Court.
- (d) Value of the unclaimed property credited to Government.
- (e) Other general fees, fines and forfeiture, i.e., general forfeitures and forfeitures of earnest money by defaulting bidders.
- (f) Miscellaneous receipts, that is, other items.

Note 1.—Details of accounts credited as "other items" should invariably be furnished to the Treasury Officer.

Note 2.—Service books are sold direct from the Treasury to parties requiring them. There can, therefore, be no cash receipts on the account.

Note 3.—The Collectorate *Nazir* sells both Magisterial and Revenue saleable forms and keeps an account in the form prescribed by the Board of Revenue.

- (g) Sale-proceeds of old stores and materials.

Note 1.—As the District Magistrate is also the Collector, the receipts under this head may be treated as receipts on the revenue side.

Note 2.—The Treasury Officer should invariably be informed of the nature of the items, i.e., whether furniture or stores, etc.

- (h) Peremptory receipts, i.e., witnesses' expenses, prisoners diet money, boat-hire and other peremptory receipts.

Note 1.—As the peremptory cash-book is no longer required to be maintained by District Magistrates, such receipts must, in the case of these officers, be entered in the General Cash-Book.

Note 2.—For payment of sums received under head (h), see rule 270 (c).

268. The receipts and payments under head (a) must appear in the Court's account in detail but in the Treasury account in which a personal ledger account

only is maintained for this head, daily totals of receipts and payments made at the Court and the individual items of receipts and payments at the Treasury will appear. All receipts and payments under heads (b), (c) and (g) above must appear in the Court's account and in the Treasury account in detail. An account in detail of all receipts under heads (e) and (f) must be kept in Court, but only the daily totals of each kind of receipts will appear in the treasury books.

All receipts and payments under head (h) will be made on the responsibility of the Cashier whose security must be sufficient to cover any amount in his hands and the balance in the hands of the Cashier must be included in the cash-book, as well as the balance of any other moneys with which he may be entrusted (e.g., permanent advance). They will not appear in detail in the Treasury accounts, but a statement in Form no. (A)6-A showing the gross amount of receipts and disbursements during the month must be sent to the Treasury on the last working day of each month for incorporation in the Treasury accounts for the same month.

Note—Fractions of a *paisa* are not to be entered in the Court's accounts and they should neither be received nor paid.

Proviso—Provided that where money has to be paid by one person to another, and both are present in Court, the money should be passed direct from the one to the other under the sanction of the Court, the fact being noted in the record of the case. No officer of the Court shall, however, receive or become in any way responsible for the money. These transactions will not appear in the Court's account at all.

Note 1.—Advantage of this proviso may be taken in cases where compensation is awarded to accused persons or costs to complainants by the Criminal Courts in non-appealable cases or when sums in excess of those paid into Court are to be paid to witness. Compensation to accused persons or costs to complainants in criminal cases whether paid on the spot in open Court or not shall be entered in red-ink in the register of Criminal fines as laid down in rule 18(b) of Appendix IV.

Note 2.—Compensation awarded to complainants is dealt with under rules 19 and 20 (a) of Appendix IV to this Part.

269. Magistrate will as far as possible in their transaction with the public avoid direct receipt and payment of money under head (a) of rule 267.

Proviso—Provided that the cash must be received in the following case:—

When any sum is tendered in payment of criminal fines including compensation under section 250, Criminal Procedure Code, or section 545, Criminal Procedure Code, or section 22 of the Cattle Trespass Act and costs awarded in non-cognizable cases under Section 31 of the Court-Fees Act.

270. (a) Money under heads (b) and (h) of rule 267 may ordinarily be received in cash in the District Magistrate's Court.

(b) In the District Magistrate's Court repayment under any of the heads of rule 267 except (h) should be made only through the Treasury.

(c) Under head (h) payments will ordinarily be made in cash by the cashier on his own responsibility.

(d) No refund should be made on account of head (g).

CHAPTER II

Receipt of Money

271. Payment of sums falling under heads (a) to (g) of rule 267 cannot be accepted at the Treasury unless the money is accompanied with a *chalan* in triplicate or when the payment is made by the *Nazir* with the pass-book and a *chalan* in duplicate.

Note 1.—No *chalan* is necessary for paying into Court criminal fines including compensation and costs (*vide* rule 319 read with rules 6 to 9 of Appendix IV).

Note 2.—In the case of the District Magistrate's Court money may be paid into the Treasury without the intervention of the "Magistrate's Accountant" who need not register the claims before payment and no register of *chalans* need be kept.

272. Any person desirous of paying money into the Treasury or in the case of collections made by any officer, the officer who has realized the money, shall be furnished free of cost with three forms of *chalan* (Accountant-General, Bihar Form no. 186 of Schedule LIII) in each of which he must enter in English the particulars required from him.

Note—In the case of deposit *chalan* care must be taken to enter fully the nature of the deposit, the number of the case (if any), the name of the person on whose behalf the money is paid or the person to whom it is to be paid over, etc.

273. Peremptory receipt under head (h) of rule 267 shall be tendered to the Cashier direct without the intervention of the Accountant. A *chalan* is not required in respect of such payments.

Receipt of money by Cashier

274. The Cashier on receiving money under rule 9 shall accept it and enter the amount as a receipt in the cash-book (Form no. 46 of Schedule XIV, Board of Revenue Forms).

275. On presentation of the *chalan* (in triplicate) at the Treasury and on payment of the money, the payer shall receive, as an acknowledgment, one of the three *chalans* signed by the Treasury Officer if the amount be Rs. 500 or more, by the Accountant and Treasurer if less than that sum. Of the two copies of the *chalan* retained by the Treasury Officer, one copy shall be forwarded to the Magistrate-in-charge together with the Advice Lists referred to in rule 295.

Note—In the case of the District Magistrate's Court money may be remitted to the Treasury without the intervention of the "Magistrate's Accountant".

¹**276.** When money is tendered under rule 273, the Cashier shall enter the amount in a bound book of receipts numbered in serial order (Form No. 511 of Schedule XIV, Board of Revenue Forms). The entries shall be made in duplicate by carbon. He shall then tear off the original, sign it and give it to the payer as his voucher. The carbon copy shall be retained in the bound volume.]

277. The Cashier's General Cash-Book shall be maintained in Form no. 46, Schedule XIV and shall exhibit in detail all receipts, repayments and remittances to the Treasury.

1. Subs. by C.S. No. 2.

278. The Cashier shall then strike a balance in words as well as in figures in his General Cash-Book. He should be required also to enter here a note of the moneys held by him upon any other accounts, such as for contingent expenditure. These form no substantive part of the judicial accounts, but the District Magistrate ought to have in a single view a statement of all the money in the Cashier's possession. This statement may be made as follows—

Balance of General Cash-Book as above—

			Rs.	P.
General balance	...	...	0	0
Balance of permanent advance as per Contingent Register	...	...	0	0
Other amounts (which should be explained)	...	...	0	0
Total money in Cashier's possession	...	...	0	0

CHAPTER III

Payment of Money

Application for Payment

279. Persons desiring to draw money deposited in Court, and payable to them, shall submit to the chief ministerial officer of the Court under whose order the money was tendered, an application in Form no. (A) 2, Criminal. One copy of such form shall be supplied free of charge. In this form the applicant shall enter all particulars necessary for the identification of the credit. If it is intended to withdraw more than a single item of deposit made in the same case by one application, the number or date and amount of each deposit must be distinctly stated. Separate applications are necessary when cases are different. [G.L. 1/65.]

Note 1.—If the party entitled to the money does not appear in person, the applicant must satisfy the Court that he is duly authorised, by an instrument in writing, to draw the money for the person so entitled.

Note 2.—The applicant must comply strictly with the terms of the order under which the money is claimed.

Note 3.—Where impounded cattle are sold, if application for the refund of the sale-proceeds be made within three months from the date of sale, *vide* Act I of 1871, Section 17, while the proceeds are held in deposit, the refund can conveniently be made in Form no. (A) 2, the particulars in Part I being filled up in the Court. All such deposits unclaimed within three months from the date of sale should be regularly withdrawn by the District Magistrates and paid by transfer to the credit of the Local Fund, an advice being sent simultaneously to the Local Body. If in any particular case difficulty arises in affording credit to the Fund by the above process, the money may be remitted to the party by money-order. The District Magistrates are required to furnish along with the monthly Criminal Court deposit registers a certificate to the effect that all deposits on account of sale of impounded cattle that remained unclaimed within three account months from the date of sale have been paid to the Local Fund concerned.

AUDIT OF APPLICATION

280. (a) The chief ministerial officer shall compare the application with the record of the case and carefully test the validity of the claim. If he finds that the

name of the payee has been correctly given, and that there is no objection to the payment of the money on the ground of attachment or otherwise, he shall sign the certificate at the foot of Part I of the application. The application will then be laid before the Presiding Officer along with the record of the case. The Presiding Officer after an enquiry that may be necessary about the identity of the claimant, shall sign the certificate in Part I in open Court and hand the certified application then and there to the claimant or his pleader for presentation to the Accountant. At the same time a note of the issue of the payment order shall be made (in red ink) in the order-sheet of the original case and initialled by the Presiding Officer. And an endorsement shall be made on the back of the application and signed by the Presiding Officer to the following effect—

Certified by me and issued to the applicant, who is identified by Shri, Pleader or to Shri, the applicant's pleader who acknowledged his signature on the face thereof. The issue of this payment order has been noted on the order sheet of Case no. of

(Signed X.Y.)

(Name and designation.)

(b) The Accountant shall compare the contents of the application with the Register of Deposit Receipts, and shall satisfy himself that the amount as shown has been received and is still unpaid and that the name of the claimant corresponds with the name of the payee entered in the register and that no order for the attachment of the money is in force. If the deposit has been transferred to the Clearance Register (rule 309 and 310), such Clearance Register shall be deemed to be the Register of Deposit Receipts within the meaning of this rule and rules 283 to 286.

Modified Note—The chief ministerial officer will note in the order-sheet of the record of the case that the application for payment order has been passed so that a second claim for the amount may be checked. This note should be signed by the chief ministerial officer and also by the presiding officer.

281. If the record of the case has been despatched to the record room of the District Magistrate under the orders of the High Court relating to the periodical despatch of records by Subordinate Judicial Officers, the Presiding Officer of the Court, to which the application is made, shall forward it to the District Magistrate, whose Record-keeper will certify, under counter-signature of the Magisterial Officer-in-charge of the record-room, that a specified sum of money is due to the applicant. On receipt of such certificate the chief ministerial officer of the subordinate Court, if he finds that there is no objection to the payment of the money, shall sign the certificate at the foot of Part I of the application and then lay it before the Presiding Officer who shall deal with it in the manner prescribed by rule 280.

Note—The Record-keeper will enter in the order-sheet of the record of the case a note that an application for payment order has been counter-signed, so that a second claim for the amount may not be passed. This note shall be signed by that officer and also by the Magisterial Officer-in-charge of the record-room. A similar note shall also be endorsed at the same time on the back of the application for the information of the Presiding Officer.

282. If the application for payment is found to be incorrect or defective the Accountant shall note the error or defect, and return it to the applicant for correction by him, or for reference by the applicant to the Court.

PAYMENT ORDER AND REGISTRY

283. If the application is found to be correct, and the deposit has not lapsed, the Accountant shall fill up the second part of the application form, post the transaction in the Register of Payment Order [Form No. (A) 9], numbered with its proper index number, and make the requisite entry in the Register of Deposit Receipts. Finally, the application, with the Register of Payment Orders and the Register of Deposit Receipts, shall be laid before the Magistrate-in-charge.

APPROVAL BY MAGISTRATE-IN-CHARGE

284. Before passing the application for payment, the Magistrate-in-charge is required to satisfy himself in the first instance, that the requirements of rule 280 have been complied with. He shall further satisfy himself by personal inspection of his Register of Deposits that the balance of credit of the particular deposits is sufficient to meet the repayment, and that no order for the attachment of the money has been noted. If the result of his scrutiny is satisfactory, he may sign the order for payment of the amount from the local Treasury as prescribed in rule 270 and shall attest with his initials the note of the order of repayment made in the Register of Deposit Receipts. He shall also initial the entries in the Register of Payment Order [Form no. (A) 9]. The Payment Order shall then be made over to the applicant for presentation to the Treasury Officer.

285. When the money sought to be drawn out to Court is in deposit, not in the Court to which the application is made, but in another Court, as for example, where two or more Courts at one station are combined for the purposes of accounts, in every such case the duty of the Court to which the application is made shall be merely to receive such application and forward it to the Court of the Magistrate-in-charge, with a certificate, made after examination of the record, as provided in rule 280, that the applicant is the proper party to receive payment of the amount claimed. In any case in which the amount has been transferred from the credit of the original payee to that of the claimant this fact should be stated. This certificate shall be compared with the Deposit Register in the office of the Magistrate-in-charge. Such register, if the sum is shown therein to be in deposit, will inform the Magistrate whether there is any bar to payment. If there is no such bar, the payment order may be issued by the Magistrate-in-charge, and the fact of its issue shall be communicated to the Court upon whose certificate the application was passed, in order to enable it to enter satisfaction for the amount upon the record of the case.

Note—The certificate should be given on the payment order, that is to say in the tripartite Form no. (A) 2, Criminal, at the foot of Part I, in the place intended for it; and in recording the payments in the Register of Repayments, particulars may be entered as to the Court under whose orders the payments have been made (Accountant-General's no. 311-T-B., dated 5th September, 1881, read with his no. 42-T.M., dated 28th April 1882.)

LAPSE OF ORDER

286. (a) An order for payment from the local Treasury is valid for ten days only, and may not be cashed after the expiry of ten clear days subsequent to the date thereof. An order which has not been paid within ten days, as aforesaid, may be presented to the Court which issued it, and such Court may re-enface thereupon a new payment order, which shall remain valid for ten clear days immediately after the date thereof. When the last day of any such period of ten days is a day on which the Treasury is closed, the order may be cashed on the day on which such Treasury re-opens.

(b) When such order as aforesaid, is for a sum exceeding Rs. 100 it should be included in a "Daily Advice List" in Form no. (A) 5, Criminal, to be issued by the Court making the order to the local Treasury where the cheque is to be paid.

(c) When the Treasury accounts are closed on the 31st day of March in each year every order for payment issued on or before that date shall lapse absolutely; and Treasury Officers are forbidden to cash after the 31st March orders issued on or before that date. An order which has lapsed under this clause cannot be renewed but a new order may be obtained upon delivering up the old order and making a fresh application under rule 279.

Note—Magistrates should warn persons who apply for orders at the end of March of the effect of this rule, and tell them to wait till April 1st unless they mean to cash immediately any order that they may obtain.

(d) Immediately after the 31st day of March in each year, the Magistrate-in-charge shall ascertain what payment orders issued on or before that date are still uncashed; and shall mark them off under his initial in the Registers (1) of payment order and (2) of deposit receipts, as "cancelled" under rule 286 (c).

287. (1) When an application is made to draw money at credit under a deposit which has lapsed under rule 314 but the payment of which is otherwise unobjectionable, the application shall be made in Form No. (A) 2 and the procedure prescribed in rule 280 above shall be followed; after which the Accountant shall prepare a special form of application in Form no. A (3), Criminal which, when passed by the Magistrate-in-charge, after the examination prescribed by rule 284, shall be dealt with under rule 317.

(2) At the time of passing the application in Form No. (A) 3 the Magistrate-in-charge shall have an endorsement written on the back of the application in Form No. (A) 2 to the following effect—

"Certified that an application to the Accountant-General in form No. (A) 3 has been prepared and passed by me on (date).

(Signed) X. Y.

Magistrate-in-charge."

LAPSED DEPOSITS

REFUNDS UNDER HEADS (B) TO (G) OF RULE 267

288. (a) When an application is made for the refund of a fine or a miscellaneous receipt [heads (b) and (d) to (f) of rule 267] the payment order shall be prepared by the Accountant in Form No. (A) 4 after checking the application by

a reference to the fine. Register or Miscellaneous Receipt Register (rule 320) and the Magistrate-in-charge at the time of passing the refund order, shall note the repayment against the entry of the receipt in such register. The payment order shall also be noted in the Register of Payment Order [Form no. (A) 9] and initialled by the Magistrate-in-charge.

(b) When an Appellate Court orders a fine to be refunded, it shall be the duty of the Court which imposed the fine, immediately on receipt of the Appellate Court's order for the refund, to prepare a payment order on the Treasury, if the fine has been levied, attaching a copy of the Appellate Court's order thereto, and to deliver it to the payee, whether he applies for it or not with instructions to duly receipt the bill and present it for payment at the Treasury. In such cases no written application shall be required from the payee; and should such an application be made, it shall be exempted from stamp-duty by virtue of the notification of the Government of India, no. 3389-S.R., dated the 6th August, 1896.

(c) The same procedure shall also be followed in respect of cases dealt with on revision.

(d) In cases in which a sentence of fine passed by a Magistrate is confirmed by a Court of Sessions, but set aside by the High Court on revision, it shall be the duty of the Sessions Judge to whom the order of the High Court is certified immediately to appraise the Magistrate concerned of the order of the High Court by sending him a certified copy of such order.

Note—Compensation fines are repaid under the procedure laid down in rule 279 of this part.

REFUNDS OF CRIMINAL DEPOSIT WHEN THE AMOUNT DOES NOT EXCEED Rs. 100

289. Notwithstanding anything contained in the rules in this Chapter, refunds of criminal deposits or amounts deposited in excess where the amount involved does not exceed Rs. 100 may be paid by postal money-order subject to the following rules—

(1) On receipt of a refund order passed by the District Magistrate or other officer concerned, the Treasury Officer may, at his discretion, issue a notice (a) inviting the person to whom the refund is to be made, to receive payment at the Treasury; and (b) intimating that on failure to comply with the invitation within one month (or such longer period as may appear necessary) the amount of the refund will be remitted to the payee by postal money-order at *his expense*.

(2) When the payee appears in person at the Treasury, the Treasury Officer should see that no avoidable delay occurs in getting the voucher for the refund signed by the payee who may then receive the payment personally or by a duly authorized agent, or by money-order at his own expense.

(3) When a money-order is issued under clause (d) of the notice referred to in rule (1), the purpose of the remittance should be stated briefly by the Treasury Officer on the acknowledgment portion of the money-order form in continuation of the printed entry there "Received the sum specified above on" sufficient space being left below the manuscript entry thus made for the signature or thumb

impression of the payee. The amount of the money-order should not be remitted in cash to the post office but the Treasury Officer should send a money-order form duly filled in together with a certificate that the amount of the order and the money-order fee thereon have been credited to the Post Office in the Treasury accounts by *per contra* transfer. The Post Office will accept the money-order on the authority of the Treasury Officer's certificate.

(4) On receipt of the money-order acknowledgment duly signed by the payee, it should be attached to the usual receipt in form 13 or 31 as the case may be, in which the full amount of the refund and the deduction made therefrom on account of the money-order fee should be shown clearly; the receipt will then be disposed of in the usual way. The Accounts Department will accept such voucher with the money-order acknowledgment as a valid receipt for the full amount of the refund entered therein.

290. In so far as it concerns the accounts system, it is invariably necessary to trace each item of payment under the Court's orders back to its corresponding item of receipt; in other words, to connect each item of a Court's debit in the Treasury with the corresponding item of credit, however far in time the two may be separated from each other. Accordingly the Court must take care to furnish itself and the Treasury with the necessary particulars for this purpose.

CHAPTER IV

Account-keeping and Remittance to Treasury

Courts Near Treasuries

291. The *Nazir* shall, after the close of business each day, make the proper entries in the Treasury Pass Book [Form no. (A) 10] showing in detail the sums received from the public in cash.

292. Every *chalan* for money received under heads (a) to (g) shall be shown in detail in the pass-book, and the head of account shall be noted against each, so as to enable the Treasury Officer to bring the transactions in detail upon his books, and classify them correctly.

Note—It is necessary to show in the pass-book the totals only of each *chalan*. Each *chalan* may contain any number of items provided they belong to the same head of account.

DAILY REMITTANCE

293. The balances of the Cashier's account in respect of diet money and other peremptory receipts should be observed every day by the Magistrate-in-charge in passing the General Cash-Book. To prevent excessive accumulations under this head, the Magistrate-in-charge shall fix the amount which the balance in the hands of the Cashier shall not be permitted to exceed. He shall for this purpose regularly transfer to deposit such amount as will keep down the balance within the limit prescribed. Should the money be subsequently required it shall be withdrawn from deposit in the manner described before and credited in the General Cash-Book. If such sums remain in deposit for three years they must be carried to credit of Government under rule 314 relating to lapsed deposits.

Note—*Chalans* for such deposits should be kept in a guard file.

294. (a) Having initialled the accounts of the day and signed the cash-book, the Magistrate-in-charge shall send the pass-book to the Treasury* together with the net amount in cash and all the *chalans*. This remittance must be entered in the cash-book as a payment of the day upon which it is made.

(b) it is important that this be done before the business of the new day commences, and the Cashier should have in hand, after each such remittance, only the balance of the peremptory cash transactions and the other balances referred to in rule 278.

TREASURY ADVICE LIST

295. At the close of business each day, the Treasury Officer shall prepare Advice List, in Form (A) 6 of all such *chalans* and payment orders of the Magistrate-in-charge as have been brought upon the Treasury Accounts in the course of the day, and shall forward them to such Magistrate-in-charge together with the *chalans* referred to in rule 275. In these lists shall be entered in details such *chalans* and payment orders as have been received or paid at the Treasury or Sub-Treasury in cash.

Note—It the District Magistrate's Court is close to the Treasury, so that the Magistrate's registers referred to in rule 297 can be sent daily to be compared and initialled by the Treasury Officer, this procedure may be adopted in lieu of the Daily Advice List, if found more convenient.

296. The list prepared at the Sadar Treasury for the District Magistrate shall include, besides the money received and paid on account of the Magistrate's own Court, those transaction also which belong to his subordinate Courts.

COMPARISON BY MAGISTRATE

297. On receipt of this Advice List, the Magistrate-in-charge shall cause the particulars of the payment orders shown in it to be compared with the details recorded in his Register of Payment Orders (Form no. (A) 9], and shall further cause the date of actual payment as certified by the treasury officer, to be entered in the column prescribed for that purpose.

298. These entries must be initialled by the Magistrate-in-charge when he checks the posting in the Deposit Registers, as prescribed in rule 36.

CHAPTER V

Deposit and Repayment Registers

Separation of Petty Deposits

299. Two Registers of Deposit Receipts shall be kept in Form no. (A) 11 and two of Deposit Repayments in Form no. (A) 12. One of these shall be termed the Register of a Deposits, and there shall be entered therein all deposits originally exceeding Rs. 5. The other shall be termed the Register of B Deposits, and there shall be entered therein all deposits not originally exceeding Rs. 5. Both registers shall be kept in the same form and shall be posted in the same manner but with separate series of number (see next rule) distinguished by the initial letters A and B, respectively.

* Or to a Branch bank.

POSTING

300. As soon as the Treasury Advice List is received (rule 295), the Deposit Register will be posted for the date to which it refers. The transactions shall be written up from the Advice List, *Chalans* and Register of Payment Orders.

Note—the date of granting the payment order should be entered in the repayment columns in the Register of Deposit Receipts, and the date of actual payment in column 4 of the Register of Deposits Repaid.

REGISTERS OF RECEIPTS

301. All items of deposit in these registers must, as directed above, be numbered in an annual consecutive series of numbers commencing on 1st April and ending with the last day of March in each official year. Only the first eight columns shall be filled in at first, the other columns being intended for the record of subsequent repayments.

NOTES OF CLAIMS, ETC.

302. As it is important that the Deposit Registers in the Accounts Department should set forth in respect of each item all information necessary in order to deal at once with applications to draw money, all attachment processes and all orders, as to the substitution of parties which affect money in deposit, shall be noted at the time in the Deposit Register. The Office Superintendent or some other specified subordinate under his supervision, shall be made responsible for this duty.

Note—Whether the Office Superintendent's responsibility is or is not to end with the communication to the Accountant is a matter left to the discretion of each Court, but some specific order should be recorded.

REGISTERS OF REPAYMENT

303. The Register of Deposit Repayments [Form no. (A) 12] shall be posted from the Treasury Advice List and the Payment Order Register as directed above.

304. (a) The Registers of Deposit Receipts and Deposit Repayments in Courts as a Sadar station shall be totalled and closed on the last day of each month upon which the Sadar Treasury remains open, in such a way that the period and the transactions included in the Court's books and returns may correspond exactly with those included in the Treasury books and returns.

(b) Care must be taken to make the final remittance to the Treasury in such time that it may be entered in the accounts of the Treasury for the month to which it belongs.

(c) In each of the Registers of Deposit Receipts prescribed by rule 299, a plus and minus memorandum must be drawn up at the end of the month's entries in the following terms:—

Balance of Deposits from last month	.....
Received during the month, as per Register	.....
	TOTAL
Repayment, as per Register	_____
Balance of Deposits at end of month	_____

CHAPTER VI*Control over Subordinate Courts***Responsibility**

305. Every Magistrate is responsible for all payments of deposits made on his certificate or under his orders. In the case of receipts and payments of petty or B Deposits, no detailed check is exercised over his proceedings the accounts which he is required to render of these showing totals only. In the case of A Deposits, however, all sums received and not paid out during the month in which they have been received and the balance of such of these deposits as have been partly paid out, must be reported to the District Magistrate, and must be included in that officer's accounts, and in his return to the Accountant-General.

CHAPTER VII*District Monthly Returns***Returns of Deposits Received**

306. On the 12th of each month an Extract Register of Deposit Receipts exceeding Rs. 5 shall be prepared by the District Magistrate in Form no. (A) 8 and forwarded to the Treasury Officer for transmission after a comparison with his cash accounts, to the Accountant-General. This Extract Register will be a copy of the entries made during the month in his Register Form No. (A) 11 and will contain all such items of more than Rs. 5 each as were deposited in his own Court, and in Courts subordinate to him, omitting all those which were wholly repaid during the month and showing, in the case of those partially repaid during the month, the unpaid balance only. The Sadar Court entries should appear first, then after a line or break,—the entries of each Subordinate Court separately headed by the name of the Subordinate Court. At the foot of this register, deposits received and repaid during the month, and deposits received for sums of Rs. 5 each and less, are to be shown in separate totals for each Court without details. This Extract Register should be despatched punctually on the 12th of the month, unless in the case of the larger districts a later date is fixed. The whole of the entries for each Court should be consecutive and separated from those of the other Courts by a space and heading.

Returns of Deposits Repaid

307. A monthly extract from the Register of Deposit Repayments in Form No. A (12) of sums above Rs. 5 shall be forwarded in the same Form by the Magistrate to the Treasury Officer for transmission, after comparison with his lists of payments, to the Accountant-General. The District Magistrate shall include in this extract (1) the details of repayments on account of deposits of previous months, whether made in his own Court or in the Subordinate Courts, (2) a single total for each Court of the repayment of the current month's deposits, whether made at the District or Subordinate Courts which must agree with the total of receipts on the same account, (3) the total for each Court of the repayments on account of deposits of Rs. 5 and less received during the year of account and the year next preceding.

Like the Extract Register on Receipts, this return will keep each Court's entries in separate series. The extracts will be prepared on the same printed form as the register, and should be posted as shown below, columns 7 and 8 of the printed form not being used—

Details of Deposits			Dates as to present repayment			Number of payment voucher	To whom paid.	Received in all previous years.	Received last year.	Received during current year.				
Date of receipt	Number as per Register of Receipt	Amount or balance of deposit	Date of cashing payment order whether at Court or at Treasury	Date of granting payment order as per Courts Register	Number of payment voucher					Received during current year.	Received last year.	Received in all previous years.	Received last year.	Previous months.	Current month.	Initials of Accountant.	Initials of Magistrate-in-charge.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	
7th September 1898.	...	Court A Rs. P. 15.50	3rd September 1901.	2nd September 1901.	176	...	Rs. P. 15.50	Rs. P. ...	Rs. P. ...	Rs. P. ...	Rs. P. ...	Rs. P. ...		
3rd January 1901.	...	6.78	...	...	177	...	...	6.78	...	...	...	...
7th June 1901.	...	108.62	...	3rd September 1901	178	...	...	...	108.62	...	...	...
						Total— Add—Re-pay- ment of deposit of current month. Add—B Deposits repaid. Total— Court A.	15.50 ... 9.37 24.87	6.78 ... 3.50 10.28	108.62 108.62 ... 117.81	... 29.73 6.19 35.92				

308. (a) A plus and minus memorandum in the form given below but including the figures of the Subordinate Courts, as well as those of District Magistrate’s own Court, shall be appended to the Statement of Deposit Receipts, prescribed in rule 306 :—

		Rs. P.
Balance of last month		
Amount of A Deposits received during the month.	Repaid during the month Not repaid during the month	
Amount of B Deposits received during the month.	Repaid during the month Not repaid during the month	
	Total	
Amount of A Deposits repaid during the month	Received in all previous years Received last year Received during the current year.	Previous months. Current months.
Amount of B Deposits repaid during the month	Received during 19 —19 Received during 19 —19	
	Total	

BALANCE OF DEPOSITS OUTSTANDING

Certificate

Certified that, on a comparison of Treasury advices with the postings therefrom in the Registers of Payment Order, of Deposit Receipts, and of Repayment, the amounts entered above as received and paid are correct.

Note—The repayments of B Deposits received in the year of account and in year next preceding, should be shown separately.

(b) This plus and minus memorandum is to show as repayments the actual repayments at the Treasury, and is further to show the Treasury Balance outstanding.

Note—It will be found convenient to keep in a separate register a copy of this plus and minus memorandum, with further memoranda of the details from which the figures have been arrived at. It is important that there should be no difficulty at any time in reconciling the figures of the Court with those of the Treasury.

CHAPTER VIII

*Annual Clearance Register of Deposits.*¹

Clearance Registers

309. (a) At the end of each year the Registers of A Deposits received in the next preceding year shall be closed by transcribing into the last column, headed “Transferred to Clearance Register” every balance which exceeds Rs. 5. An annual Clearance Register shall then be drawn up in Form No. (A) 13 showing all these balances against their original numbers—showing in other words, all the unpaid balances of a Deposits of the preceding account year next but one. For

1. The words “Clearance Register” whenever they occur in these Rules, were substituted for the original words “Account Particulars” by High Court.

example, the Clearance Register of April, 1903 will show all unpaid balances of A Deposits in 1901-02.

(b) Of balances which do not exceed Rs. 5 a separate list shall be made out under rule 314 below.

310. The items in this account having been carefully compared with the corresponding balances in the original Register of Deposits received. Form No. (A) 11, the last named document shall be laid aside and future repayments recorded only on the Clearance Register.

Note—If against any of the items transferred to Clearance Register a repayment order has been issued and cancelled under rule 286 (c) a note to that effect must be made in the Clearance Register, so that if application for repayment is again made, an order may not be issued without recalling the original cancelled one.

RETURN BY DISTRICT MAGISTRATE

311. The Clearance Register of the District Magistrate necessarily includes the items of the Subordinate Courts, and a copy of it shall be sent to the Accountant-General. The due date for its despatch shall be the 30th April.

VERIFICATION OF PETTY DEPOSIT BALANCE

312. In order to verify the balance of B Deposits each Court shall make a list of the unpaid balances of receipts of the past twelve months, and by actual summation of these balances, find the total amount outstanding on account of the past year's deposits. Each Court is required to submit along with the Clearance Register of A Deposits, a certificate that the balance of B Deposits of the past year has been found by actual summation to be Rs.

313. The balance found under the last rule, together with the total of the list prepared under rule 314 (2), must equal the total balance of petty deposits on March 31 and must be so verified by each Court with the forward balance in the plus and minus memorandum.

CHAPTER IX

Lapse of Deposits.

314. On the 31st March of each year, the following unpaid balances of deposits lapse to Government, and are to be written off in the Clearance Registers and Registers of Receipts respectively:—

- (1) Of A deposits, *first*, all balances which do not exceed Rs. 5 in respect of deposits made during the last three years including the year then closing; *secondly*, all balances of deposits outstanding over three complete years, that is, all balances in the Clearance Register prepared two years before.

These balances should be marked "lapsed" in the last column of the Register of Receipts or the Clearance Register, as the case may be.

- (2) Of B deposits, *first*, all deposits outstanding over one complete year; *secondly*, all balances of deposits which are remaining after part payment during the year. These balances are to be marked "lapsed" in the last column of the Registers of Receipts.

Example.—The balances which lapse on the 31st March, 1931, are—

- (a) all balances of A Deposits received in 1927-28.
- (b) all balances of A Deposits received in 1928-29, 1929-30 and 1930-31, which do not exceed Rs. 5 after repayments made during 1930-31;
- (c) all outstanding B Deposits received in 1929-30;
- (d) all balances of B Deposits received in 1930-31, which have been partly repaid in 1930-31.

315. Four statement of the balances to be written off shall be prepared in Form No. (A) 7. One for each of the four classes (a), (b), (c) and (d) is specified in the example under rule 314. These statements shall be submitted along with the Clearance Register. The District Magistrate's statements must include, under the District Magistrate's numbers, the lapsed balances of A Deposits the Subordinate Courts.

Note—The note under rule 310 applies to these statements of Lapsed Deposits also.

CORRECTION OF BALANCE

316. These statements must all be submitted during April, and the totals thereof must be deducted by a separate entry from the plus and minus memorandum drawn up at the end of April, so that the plus and minus memorandum may show only the balance actually outstanding upon the Registers of the Court concerned.

REFUND OF LAPSE DEPOSITS

317. In the case of payment of a deposit lapsed under rule 314 the application prepared by the Accountant in Form no. (A) 3 under rule 287 shall after examination by the District Magistrate be forwarded to the Accountant-General. Several deposit numbers may be included in a single application, if they are payable to the same person. The Accountant-General's letter of authority, when received, shall be noted against the items in the Clearance Register, or original register in case of deposits not transferred to the clearance Register, so as to prevent a second application. This letter shall then be passed for payment at the Treasury, as prescribed in the form. No other record of these refunds is necessary; and such payments are not to be shown in the plus and minus memorandum.

318. If the letter of authority received from the Accountant-General is not claimed by the payee within twelve months from the date thereof, it shall be returned to that officer.

CHAPTER X

Supplementary Rules as to Receipts under Heads (b) to (g) of rule 267 Fines under head (b) of rule 267

319. The procedure for Magistrate's Courts in respect of the realisation and refund of fines is prescribed by the orders of the Bengal Government, published in 1896 and produced in Appendices IV and V annexed to these rules. The rules of the Account Code, which prescribe a monthly statement to be sent by Subordinate Magistrate to the District Magistrate and by the District Magistrate to the Accountant-General are reproduced in appendix VI.

Note—The monthly statement should continue to be sent in the form now in use (Accountant-General's No. 122-A, dated the 22nd April 1881).

320. Every Magistrate-in-charge shall maintain a Register of Miscellaneous Receipts in Form no. (A) 14. In this Register all receipts are to be posted which do not come under head (a) (Deposits) or head (h) (Peremptory Receipts) of rule 267. The entries shall be made and checked in the same way as the entries in the Register of Deposit Receipts of the Subordinate Courts. The amounts of petty receipts under (f) and (g) are to be shown only in a single total for each day.

Note—No register of stamp duty and penalties need be kept by the District Magistrate. There is no refund of Court-fee stamps in the District Magistrate's Courts.

CREDITS TO GOVERNMENT

321. It is the duty of every Magistrate to see that sums which are in deposit, but which under any rule or law are forfeited or become the property of Government are duly credited to Government. In every such case there shall be prepared simultaneously (1) a Payment Order addressed to the Treasury Officer and directing payment of the deposit "by transfer as per *chalan* no. of this date." and (2) a *challan* crediting it to the proper head. Such payment order shall be registered.

322. With regard to unclaimed property it will be seen that Register no. (A) 14 deals only with receipts under this head which have remained in deposit for the prescribed period. A Register showing the property in detail must be kept in Criminal Courts in the form prescribed in the rules for Court Inspectors (*vide* Police Manual Form no. 19).

323. Under head (e) (other general fees, fines and forfeitures) of rule 267 shall be comprised all receipts not falling within any of the other principal heads of receipt, e.g., forfeiture of earnest money, etc.

324. Receipts under the head of account, mentioned in rule 323 are at once credited at the Treasury to Government. They are not to be retained intermediately in deposit either at the Court or at the Treasury.

MONTHLY RETURNS

325. At the close of the month every Magistrate-in-charge shall prepare a list in Form no. (a) 14 of all the miscellaneous receipts, paid by him into the Treasury. Subordinate Courts shall forward their lists in duplicate to the District Magistrate, and the District Magistrate shall add the totals of these lists at the foot of his own list, and appending one of the copies received by him from each Subordinate Court shall forward the whole to the Accountant-General for check against the Treasury accounts.

Note—As regards fine in Magistrates' Courts, this is done under separate set of rules.

CHAPTER XI

Miscellaneous

Accountant and Cashier

326. In carrying out these rules care must be taken by all Judicial Officers, that, in respect of each transaction in Court, distinct officers are employed as

Accountant and Cashier. In other words, the same officer shall not keep the Registers of Payment Orders, Deposit Registers, etc., and also receive the money.

327. Every Judicial Officer shall keep his account in English; and it must be distinctly recorded by him whether the Office Superintendent is or is not responsible for a general control and supervision over the Accountant.

328. Manuscript Account forms are prohibited. All accounts books should be paged before they are brought into use.

DAILY EXAMINATION OF ACCOUNTS

329. The Accounts and Registers of which list is given in appendices I and II annexed to these rules, must be compared daily by the Magistrate-in-charge, and this rule is on no account to be neglected, as its observance is essential to the integrity of the transaction and the correctness of the books. The notes at foot of the forms indicate how the verification is to be made.

APPENDIX I

LIST OF REGISTERS TO BE COMPOUND DAILY BY MAGISTRATE IN CHARGE

For Judicial Officers	Kept by the Accountant	(1) Register of Payment order	...	Form no. (A) 9	
		(2) Register of Judicial deposits received,	Part I	...	Form no. (A) 11 (i) and (ii)
			Part II		
		(3) " " repaid,	Part I	...	Form no. (A) 12 (i) and (ii)
			Part II		
	(4) Register of Miscellaneous Receipts	...	Form no. (A) 14		
	Kept by the Cashier	(5) Clearance Register of A Deposits	...	Form no. (A) 13	
		(1) General Cash-book	...	Form no. (A) 16	
		(2) Counterfoils of receipts granted by Cashier for peremptory Cash Receipts	...	Form no. (A) 15	
		(3) Treasury Pass-book	...	Form no. (A) 10	

APPENDIX II

TRANSACTIONS AT TREASURY

Comparison of Treasury Advice with postings therefrom in the Registers of Payment Orders, of Deposit Receipts and Miscellaneous Receipts.

Comparison of Treasury Advice with Treasury Pass-Book.

MAGISTRATE'S MONTHLY EXAMINATION OF ACCOUNTS

1. The proper closing and totalling of all registers.
2. Comparison of outgoing Statements with Office Registers.

3. Comparison of plus and minus memorandum with totals of Registers.
4. Ascertainment and verification of outstanding Payment Orders.

APPENDIX III

LIST OF RETURNS

FROM THE DISTRICT MAGISTRATE THROUGH THE TREASURY OFFICER

Extract Register of Deposit Receipts with plus and minus memorandum enfaced (Rules 306 and 308)	...	Monthly.
Register of Deposit Repayment (Rule 307)	...	Monthly.

FROM THE DISTRICT MAGISTRATE TO THE ACCOUNTANT-

GENERAL DIRECT

Clearance Register of A Deposits (Rule 311)	...	Annually.
Statement of Lapsed Deposits of his Court and of the Courts subordinate to him, with certificates of the examination of B Deposits enfaced (Rule 269)	...	Annually.

APPENDIX IV

RULES RELATING TO FINES*

1. A Register of criminal fines in Form No. (A) 17 and another in Form No. (A) 17-A shall be maintained in the office of every District Magistrate and Subdivisional Magistrate for the purpose of keeping an account of all Judicial fines, and all sums which under any law are realizable as fines. Only one Register in each of these forms shall be maintained at each office. The Registers will ordinarily be kept by the Magistrate's *Peshkar*, who, for the purposes of these rules, is hereinafter described as "The clerk in charge of the Fine Register". [G.L. 2/59.]

Note 1—In these rules the term "District Magistrate" includes a Deputy Commissioner.

Note 2—Fines levied under Act VI (B.C.) of 1870 and creditable to the head XXIII-Police—Recoveries on account of village Police, in Bihar should be entered in a separate register like that prescribed for the record of criminal fines [Form No. (A) 17].

These fines should be excluded from the General Fine Register and from the body of the return made to the Commissioner and remitted to the treasury for credit to the head 'XXIII-Police—Recoveries on account of village Police, in Bihar, vide letter no. 1107-P., dated the 25th March, 1937, of the Government of Bihar, Political Department.

* Also See—

- (1) H.C. Memo No. 12413–29, dated 28th November, 1963.
- (2) H.C. Letter No. 9932–52, dated 29th September, 1964.
- (3) H.C. Letter No. 2237–69, dated 16th February, 1965.
- (4) H.C. Letter No. 11392–407, dated 22nd October, 1965.
- (5) H.C. Letter No. 7899–931, dated 8th August, 1966.
- (6) H.C. Letter No. 8019–51, dated 10th August, 1966.

N.B.—The above list is not exhaustive.

Note 3—For the accounting procedure in respect of fines, penalties, etc., for offences committed under certain Acts or Statutory Rules or Bye-laws framed thereunder in the State of Bihar, vide the following Circular letters—

Circular letters no. 5275-F., dated the 29th May, 1939, and no. 1107-P., dated the 25th March, 1937 of the Government of Bihar.

2. (a) In the Register of Criminal Fines (A) 17 shall be entered in a consecutive *quarterly* series all fines imposed by any of the Magisterial Officers of the station including Honorary Magistrates and Benches within the jurisdiction of the station. (For other fines to be entered in this register see rule 5 of these Rules and rule 4 of the Rules relating to fines imposed by Benches at outlying stations, see Appendix V.)

(b) At the end of each quarter the outstanding balance in each case shall be shown in column 15 of the Register and all the outstanding entries (*i.e.*, those in respect of which there is a balance in column 15) brought forward in red ink before the entries for the current quarter are made. The balance in column 15 will be entered in column 6 for the current quarter. The original quarterly serial number shall be shown below the new quarterly serial number of the outstanding fines like this :—

1

—————
15 of first quarter of 1916

3. Realization during the same quarter in which the fine was imposed shall be entered in the proper column of the Register of Criminal Fines opposite the original entry. Realizations of outstanding fines shall be entered against their red ink entries for the quarter in which the realizations are made. When more than one realization is made within a quarter in respect of any fine, a total should be struck in the body of the page. The clerk in charge of the Fine Register after the amount realized in the Register of Criminal Fines shall submit it to the Magistrate, who will initial the entry of realization.

4. When any fine or part of a fine is remitted in any *quarter* subsequent to that in which it may have been imposed, whether on appeal or otherwise, or becomes irrecoverable in consequence either of the lapse of six years from the date of sentence or of imprisonment having been suffered in lieu of fine in the cases mentioned in rule 11, the amount remitted or lapsing shall be entered in column 19 under the *quarter* in which it is so remitted or lapses. When a fine is remitted in the same *quarter* in which it may have been imposed, the entry will be made in the appropriate column (column 19) of the Register of Fines.

5. When a warrant for realization of a fine is received from the Sessions or any other Court not under the control of the Magistrate of the district and not being a Magistrate's Court in another district, the fine shall be entered in the Register of Criminal Fines, the entry being in black or red ink according as it was imposed in the current or in any preceding quarter and shall be treated in all respects as a fine imposed by the Magistrate of the district which the offender has declined to pay and for the realization of which a warrant has issued.

Note—If the fine mentioned in this rule was imposed in any previous quarter,

it shall for all purposes be treated as an outstanding fine brought forward in red ink from the previous quarter.

- (a) In cases in which the Sessions Court itself realizes the fine it has imposed, it shall prepare the usual warrant for the realization of the fine and forward it to the Magistrate of the district, with an endorsement to the effect that the fine has been realized and the fine shall thereupon be entered in the Register of Criminal Fines.
- (b) When an order of fine is confirmed on appeal, the fine will continue to be shown in the register in which it was originally entered and be treated as one imposed by the Court which originally tried the case. If the fine is enhanced on appeal or a new fine is imposed in modification of a sentence of imprisonment, the additional fine or the new fine will be entered in the Register of Criminal Fines of the Court originally trying the case as a fine imposed by the Appellate Court and for the purpose of its realization, will be treated as a fine imposed by the original Court. When a fine is enhanced on appeal, the entry of the original fine in the Register of Criminal Fines will remain unchanged, a note being made against it of the order of the Appellate Court.
- (c) The entries made under this rule may be conveniently distinguished by prefixing to them in red ink the letters S. or H.C. (Sessions or High Court).

Procedure on a Sentence of fine being passed

6. When an offender is sentenced to a fine by a Magistrate or a Bench of Magistrates at the headquarters of a district or subdivision, a small printed form, called the fine cheque, shall be at once filled in by the Bench Clerk or other Bench Officer with the particulars, and sent by him with the person fined in charge of a constable, to the *Nazir*, i.e., the clerk who is employed as the Cashier. [G.L. 2/63, G.L. 4/64.]

7. The printed forms prescribed in the above rule will be bound together like a cheque book, each book containing 100 forms with the serial numbers printed on both foil and counterfoil. The foil or outer section will be torn off and sent with the person fined to the *Nazir* and the counterfoil retained in the Magistrate's office. The form should be used by the Magistrate in all cases, whether the fine is imposed by himself or by the Sessions or High Court. The counterparts will enable the Register of Criminal Fines to be easily checked.

8. (a) The *Nazir* will call upon the prisoner to pay the amount of fine. If the fine be paid in full the person fined should be released unless he be also sentenced to substantive imprisonment. The *Nazir* will then report the fact to the Court on the foil received by him from the Bench Clerk. If the sentence be one of fine only without any imprisonment in default of payment and the fine be paid in part the prisoner will be released and the *Nazir* will report the fact on the foil to the Court which passed the sentence in order that a warrant may be issued for the realization of the balance. If the sentence be one of fine only and the fine be not paid at all, the *Nazir* shall apply for a warrant for the realization of the whole amount and other necessary orders. No person, not also under sentence of imprisonment, alternative

or otherwise, shall be detained on account of inability to pay the fine. Where the sentence is one of fine, with or without a substantive term of imprisonment, but with an alternative sentence of imprisonment in default of payment of the fine, if the fine be not wholly satisfied at once, the *Nazir* shall report to the Court which imposed the sentence for its orders as to the term of imprisonment proportional to the amount still unpaid which, under Section 69 of the Indian Penal Code, the convicted person has yet to undergo. In such cases the fact of the payment of the fine, in whole or in part should be noted on warrant of imprisonment by the Magistrate who issues it. Where however the fine has not been paid, the fact of non-payment should be noted in the warrant of imprisonment in every case.

(b) The clerk in charge of Fine Register who will ordinarily be the Magistrate's *Peshkar*, will make the necessary entries in the Register of Criminal Fines. The foil with the *Nazir's* report thereon shall be shown to the clerk in charge of the Fine Register without delay. [G.L. 2/59.]

9. A receipt should be granted to the person paying a fine by the *Nazir* in ¹[Form No. 511] of Schedule XIV (Board of Revenue Forms).

Procedure on realization of fine when the person fined is in Jail

10. Any payment made during the currency of the term of imprisonment must be at once reported by the *Nazir* to the Magistrate, who after satisfying himself that the necessary entries relating to the payment have been made in the Fine Register, shall immediately give notice of such payment to the Superintendent of the District Jail in which the prisoner was first confined after conviction with a view to the amendment of the sentence of imprisonment or the release of the prisoner, as the case may be. The fine realization statement shall be drawn up by the Court in the prescribed form and in the English language and shall be sent in duplicate, with the Court Seal affixed thereto, to the Jail, the original being sent on the first opportunity and the duplicate on the following day. The responsibility of the Court shall not cease until it has received back the duplicate statement with an acknowledgment from the Jail showing that the necessary corrections have been made in the release diary. [G.L. 2/42.]

Notes—If the fine is paid before the transfer of a prisoner from the subsidiary Jail in which he was first confined to the District Jail, the fine realisation statement should be sent to the subsidiary Jail.

Imprisonment in lieu of fine

11. In any case when, under any special or local law, imprisonment in lieu of fine is to be taken as a full satisfaction of the penalty, if the convicted person is sentenced to undergo the imprisonment, the clerk in charge of the Fine Register shall at once obtain a certificate from the Court imposing the sentence that the fine is not to be realized, and the amount of the fine shall, if entered be struck out of the Register of Criminal Fines. Nothing here laid down shall interfere with any special directions of law for the attempted realization of fine by distress or otherwise before carrying out any sentence of imprisonment upon the offender.

12. (a) All fines or part of fines received by the *Nazir* must be paid in by him daily to the Treasury (or to the local branch of the State Bank where there is no

1. Subs. by C.S. No. 1.

District Treasury). The *Chalan* sent with them should be in detail and accompanied by the Register of Criminal Fines and at the district headquarters also by the Pass-Book and the Treasury *Muharrir* receiving them will check each entry in the *Chalan* by the register putting his initials to each in the proper column thereof. [G.L. 4/64.]

Note 1.—At the headquarters of districts where it is found inconvenient, owing to the Treasury work being done in a Branch Bank or for other reasons, to send the Fine Register with the *chalan*, the *chalan* should be in duplicate and accompanied by the Pass-Book as usual. The duplicate *chalan* duly receipted by the Treasury is to be given to the clerk in charge of the Fine Register, the *Nazir* keeping the Pass-Book, as his acquittance. In subdivisions the *chalans* may be in duplicate, and the duplicate *chalan* will be the *Nazir's* acquittance as no pass book is kept there.

Note 2.—In Subdivisions having no treasury, however, the remittance will be made at convenient intervals.

(b) Fines imposed before and tendered during the *Dashahara* holidays should, both at district and subdivisional headquarters, be paid to the *Nazir* who will receive any fine that may be paid during the holidays, and will, if necessary, get a release warrant signed by the Subdivisional Magistrate or by the Magistrate in charge for him if the fine is paid in a subdivision, or if it is paid at district headquarter, by any Magistrate who may be available at the Sadar. The Treasury need not be kept open for the sole purpose of receiving such fines, which may remain in the custody of the *Nazir* unless the amount is exceptionally large, in which case the orders of the officer in charge of the district or subdivision should be taken.

13. The *chalan*, receipted by the Treasury, will be kept filed by the clerk in charge of the Fine Register as his authority for making necessary entries in the Fine Register, where the Fine Register is not sent to the Treasury with the money.

14. In no case any disbursement is to be made from realized fines in the hands of the *Nazir* to meet contingent or other expenses of the Court. Any refunds of fines will be made by the Treasury Officer on the order of the Magistrate.

CHECKING OF THE FINE REGISTERS

15. In each Court one of the *Muharrirs*, to be known as “the Fine *Muharrir*”, shall be specially charged with the duty of looking after fines or other sentences passed by the Court. It shall be the duty of the Fine *Muharrir* of each Court to examine daily the Fine Register and to ascertain that each necessary entry is made, and made correctly. He will certify this by his initials in the proper column. He is also responsible for the speedy preparation of warrants. It is the duty of the Fine *Muharrir* of the principal Courts, i.e., the Magistrate’s own Court as Sadar station, and the Subdivisional Magistrate’s Court where there are more than one at a subdivision, to check the monthly statement of fines forwarded to the Accountant-General and the totals in the cash column of the Fine Register.

16. Each Magistrate should examine the Fine Register daily and check his own fines, signing his initials to each entry. He should see that warrants are issued, and remittances paid in and acknowledged without delay.

17. The Magistrate who is entrusted with the duty of keeping the Magistrate's accounts at the headquarters of the district shall once a week compare the entries in the register of Criminal Fines and the fine cheque counterfoils with the Trial Register in all Courts in which this register is maintained and with the register of complaints, general register of cognizable cases, register of unimportant cases and register of miscellaneous cases in all other Courts. He should satisfy himself that the entries of the amount of balance outstanding have been correctly brought forward from the preceding quarter and check the totals of the Fine Register.

- (a) In subdivisions the Subdivisional Officer will be held responsible for exercising the check.
- (b) At the time of this weekly checking of the entries in the Fine Registers, the Magistrate entrusted with this duty at the Sadar Station, or the Subdivisional Officer should carefully ascertain that all fines purporting to have been remitted or written off under the orders of competent authority, and should certify that he has done so.

18. (a) Compensation awarded under Section 250 of the Criminal Procedure Code and under Section 22 of the Cattle Trespass Act, cost of processes, etc., recoverable under Section 31 of the Court-Fees Act, and such amount of a fine as is awarded as compensation under Section 545 of the Criminal Procedure Code shall be entered in red ink in the Register of Criminal Fines. The balance, if any, of the fine imposed after compensation has been awarded under Section 545, Criminal Procedure Code, should be credited to Government, the entry in the Register being made in black ink.

(b) On realization, in whole or in part, these compensation fines and costs, whether paid on the spot in open Court or not, shall be entered in red ink in the Register of Criminal Fines. Such sums shall be credited as criminal deposits, and the fact of their having been so credited shall be noted in red ink in the remarks column of the Register. All other entries which it may be necessary to make in the registers relating to such fines and costs shall likewise be in red ink.

(c) The amounts credited as deposits should be excluded from the monthly fine statements forwarded to the Accountant-General and a note made at the foot of the Register of Criminal Fines explaining the difference between it and the fine statement.

19. After realization of the fine, the disbursement of the compensation will in every case be made from the Treasury on the Magistrate's order.

20. (a) In non-appealable cases, however, should the *Nazir* report that the fine or amount of award has been paid to him before the parties leave the Court, the Magistrate may direct payment to be made to the person entitled to compensation from his permanent advance, such payment being afterwards adjusted at the Treasury against the fines account as though originally disbursed there.

(b) When costs of process under Section 31 of the Court-Fees Act are realized from accused persons at once, they should then and there be paid over in open Courts to the complainant, a note being made in the records to show that this has been done.

(c) In all other cases, the Magistrate will give an order on the Treasury for the amount as prescribed in rule 19.

21. In subdivisions where there is no Subdivisional Treasury and the fine collections remain in the hands of the *Nazir* till the close of the month, payment of compensation, where this can legally be given, may be made by the *Nazir* on the Magistrate's order in any case in which the fine has not formed an item in the *chalan* to the District Treasury. Where the fine has been *chalaned*, the Magistrate may order payment of the compensation from his permanent advance, adjusting it afterwards as prescribed in rule 20. In these subdivisions, however, column 16 of Register No. (A) 17 should be sub-divided so as to show separately amounts paid by the *Nazir* as compensation out of realized fines, and amounts remitted to the Treasury.

QUARTERLY SHEET OF FINES

22. A quarterly balance sheet in the following form should be prepared in a book kept for the purpose—

Balance sheet of fines for the	quarter of	19
		Rs. P.
(1) Opening grand balance of fines outstanding		
(2) Amount imposed during the quarter, i.e., total of entries in column 6 of the Register of Criminal Fines excluding the entries brought forward in red ink from the previous quarter.		_____
Grand total realizable ...		_____
(3) Amount remitted on appeal, etc., or written off by Magistrate's order, i.e., total of column 19 of the Register of Criminal Fines including the red ink entries mentioned in (2)		
(4) Amount realized—		
(a) Of <i>new fines</i> , i.e., total of column 14 of the Register of Criminal Fines excluding the red ink entries mentioned in (2).		
(b) Of <i>old fines</i> , i.e., total of red ink entries in column 14 of Register of fines mentioned in (2).		
Grand Total realized and remitted		_____
(5) Balance—		
(a) Of <i>new fines</i> , i.e., total of entries in column 15 of the Register of Criminal Fines excluding the red ink entries mentioned in (2).		
(b) Of <i>old fines</i> , i.e., total of column 15 of the red ink entries of the Register of Criminal Fines mentioned in (2).		
(6) Closing grand balance of fines outstanding		_____

(7) Amount of fine which remained stayed till the end of the quarter.

(8) Amount credited as Criminal deposits _____

Certified that the total of the above realized fines, plus Rs. balance in hand of the preceding quarter minus Rs., credited as Criminal Deposits and Rs. balance in hand, has been brought to credit in the Treasury Accounts.

Initial of the Treasury Officer.

Initial of the Nazir.

Initial of the Fine Muharrir of the principal Court.

District

The

19

Magistrate.

23. A copy of each subdivisional balance sheet must be sent to the Magistrate of the district within two days after the end of each quarter and the balance sheet of the Sadar station ought to be ready within the same time.

24. A General District Balance Sheet in the form prescribed by rule 22 above shall be sent to the Commissioner of the Division within ten days of the close of each quarter.

REALIZATION OF FINES BY THE POLICE

25. At each *thana* a Register in Form No. (A) 19 shall be kept of all warrants received by the Police for realization of fines within its jurisdiction. Careful attention should be paid to the rules framed by the Governor in Council under Section 386 (2) of the Code of Criminal Procedure, which are to be found in the note to this rule. Every such warrant shall specify the time within which it should be returned, which ordinarily should not exceed six months. The Police must return the warrant in due time, whether the amount of the fine imposed, or any part of it, be realized or not. They should not retain time expired warrants in their possession nor, after the warrant has been returned, pay any domiciliary visit to a defaulter with a view to the realization of any portion of the fine outstanding, unless fresh orders to that effect are issued. Any enquiries they may make when they have no warrant to authorize their action should be made only under the order of a Magistrate with a view to ascertaining whether there are grounds for the issue of a fresh warrant. Such enquiries should not ordinarily be made by an officer of lower rank than a Sub-Inspector.

Note—In exercise of the power conferred by sub-section (2) of Section 386 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor in Council is pleased to make the following rules to regulate the manner in which warrants under sub-section (1), clause (a) of the said Section are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant, namely:—

- (1) A warrant issued under sub-section (1), clause (a) of Section 386 of the Code of Criminal Procedure, 1898, for the levy of a fine shall ordinarily be directed to a Police Officer (see Form No. XXXVII,

Schedule V of the said Code). The authority issuing it shall specify a time within which the attached property is to be sold and for the return of the warrant.

- (2) The Police Officer or other person to whom a warrant is directed under rule 1 shall attach any movable property belonging to the offender.
- (3) If no person claims the property attached, the Police Officer or such other person directed to execute the warrant, shall sell it within the time specified in the warrant without any previous reference to the Magistrate.
- (4) if any person makes any claim in respect of the property attached, then the ownership of such property shall be determined by the Magistrate who issued the warrant, or his successor in office or the Magistrate in charge of the accounts. The services of junior Deputy Magistrate or Sub-Deputy Magistrate or Circle Officer may be utilized, if necessary, for the investigation of such claims.
- (5) Subject to the proviso to Section 386 (1) of the Code of Criminal Procedure, 1898, if at any time subsequent to the return of the warrant, and within the period of six years from the passing of the sentence, the fine, or any part thereof, remains unpaid (see Section 70 of the Indian Penal code), and the Court has reasonable ground for believing that any movable property belonging to the offender is within its jurisdiction, it may issue a fresh warrant for the attachment and sale of such property. Such warrant shall be made returnable within a time to be definitely fixed therein.

(Vide notification no. 251-J.R., dated the 17th May, 1927.)

26. If it appears that a defaulter can in all probability pay the amount of fine outstanding against him, the Police Officer shall forthwith report the matter to the Magistrate having jurisdiction with a view to the issue of a warrant. In all other cases he will merely note "no assets" in the remarks column, dating the entry.

27. (a) Section 70 of the Indian Penal Code gives power to levy a fine within six years from the passing of the sentence or during the term of imprisonment of the offender if this exceeds six years. The law, however, must now be read with the proviso to Section 386 (1) of the Code of Criminal Procedure.

(b) When a substantive sentence of fine only has been passed and imprisonment in default has been ordered a warrant may be issued forthwith, unless the Court elects to proceed under the provisions of Section 388 of the Code of Criminal Procedure. Should the fine be paid or levied by process of law whether in whole or in part while the offender is undergoing imprisonment in default Sections 68 and 69 of the Indian Penal Code will apply. When, however, efforts made to realize the fine in full have proved unsuccessful and the offender has undergone the whole of the imprisonment awarded in default of payment of the fine the Court must proceed according to the proviso to Section 386 (1) of the Code of Criminal Procedure. Before issuing a warrant in such a case the Court must record

in writing the special reasons which in its opinion make the issue of a warrant necessary. It would, for example, be open to the Court to take into consideration such a fact as the persistent refusal to pay a fine by an offender who is well able to do so. On the other hand it would also be open to the Court to consider whether the circumstances of the case or the means of the offender justify any further action. In case the Court do not find any special reason to issue the warrant the clerk in charge of the Fine Register shall at once obtain a certificate from the Court that the Fine is not to be realized. The relevant entry shall then be struck out of the Register of criminal fines and the amount of the fine shall be shown as remitted in the relevant column.

(c) In cases where a substantive sentence of imprisonment is awarded in addition to a sentence of fine a warrant for the levy of the amount by distress and sale of movables should, if the Court elects to adopt this particular method, be issued with as little delay as possible. Realisation or payment of the fine in whole or in part while the offender is in jail whether under the substantive sentence or the sentence in default will under Sections 68-69 of the Indian Penal Code cancel or proportionately reduce the sentence of imprisonment awarded in default. When, however, the offender has undergone the full term of imprisonment awarded in default and the fine still remains unrealised the Court must proceed as indicated above in accordance with the proviso to Section 386 (1) of the Code of Criminal Procedure. [G.L. 4/65].

28. Warrant of this description, subsequent to the first, must be entered in the *Thana* Register in red ink but be treated as a fresh entry, a reference being made in the remarks column to the year and number of the original warrant.

29. In the event of the death of a defaulter being reported, one final and formal enquiry should be made as to whether he has left anywhere any property of any kind liable for his debt.

30. All fines realized should be remitted with the returned warrant at once to Magistrate's *Nazir*. The *Nazir* shall send the returned warrant to the clerk in charge of the Fine Register noting on it the amount received and the date of receipt.

31. (a) The Magistrate should call for the register of each *thana* at least once a quarter, and have it compared with the Fine Registers of his Court. He should also note that the Police enquiries have been regularly made and properly recorded. The comparison must never be made by the *Nazir*. It should, when possible, be done by a Magistrate, and if not, by some other of the Magistrate's *amla*.

(b) Entries in the *Thana* Register regarding realizations of fines imposed in other districts, or in a subdivision of the same district should be compared with the entries of the fine warrants in the Court Sub-Inspector's register of processes and with the Magistrate's Cash Book once a quarter.

WRITING OFF IRRECOVERABLE FINES

32. Subject to the control and supervision of the Commissioner of the Division District Magistrates may, at their discretion, give orders for the writing off of all fines which, in consequence of the death of the defaulter, or of its having been ascertained after due enquiry that there are no assets, may be irrecoverable. [G.L. 5/2.]

(a) A half-yearly statement* of irrecoverable fines written off by a District Magistrate should be forwarded to the Commissioner of the Division so as to reach his office by the 15th January, and the 15th July of each year.

REALIZATION OF FINES IMPOSED IN OTHER DISTRICTS

33. In cases of fines imposed in one district but realized in another, the following procedure is to be observed:—

- (a) The Court imposing the fine will issue a distress warrant direct to the Magistrate of the district or districts where the property of the prisoner is supposed to be. The Magistrate of the district, on receipt of this warrant, will deal with it as if the fine was imposed in his own district. This warrant shall contain the following particulars:—Name of prisoner, sentence, date of sentence, name of the District Jail in which the prisoner was first confined after conviction, name of Court issuing the warrant.

Note—If the prisoner has not been transferred from the Subsidiary Jail in which he was first confined to the District Jail, then the name of a subsidiary jail.

- (b) The proceeds of all fines so realized will be paid into the local treasury, with the realizations of the Court that makes the recovery. The amount should be carefully distinguished from local fines, and will be separately acknowledged by the Treasury Officer. No entry of these fines will be recorded in the Fine Registers of the district where the fine was recovered, but the amount realized must be credited in the Magistrate's Cash Book and in the Register of Criminal Fines of other districts and a footnote made in his Fine Statement of the total amount realized on account of other districts, the sums relating to each district being carefully distinguished for comparison and check in the Accountant-General's office. The Magistrate in charge of fines should examine and sign the Register of Criminal Fines of other districts daily and should see that realizations are promptly acknowledged.
- (c) The clerk in charge of the Fine Register is responsible for seeing that the realization of all such fines is immediately communicated to the Magistrate of the district or sub-division in which the fine was imposed by the despatch to him of both the Treasury receipt and the warrant. The use of remittance transfer receipts is strictly prohibited. This Magistrate will at once send an acknowledgment of the receipt of the Treasury receipt and warrant to the Magistrate of the district where the fine was realized. He will also note the realization in his Register of Criminal Fines and include the amount in the Monthly Statement of Fines which he renders to the Accountant-General, with a note against the item, showing into what treasury the amount has been paid and the date of payment.

*This return may be dispensed with or may be made annual under the orders of the Commissioner. (Bengal Government letter no. 994-J.D., dated the 19th May, 1904).

The rule is applicable *mutatis mutandis* in respect of fines imposed by a Magistrate at headquarters and realized in a subdivision, or imposed in one subdivision and realized in another of the same district.

- (d) The fact of recovery will then be reported to the Superintendent of the Jail referred to in clause (a) by the Magistrate of the district or subdivision in which the fine was imposed : provided that if the fine is realized in the district in which the prisoner is confined, the Magistrate of the district should also immediately send intimation direct to the Superintendent of Jail in which the prisoner is confined.
- (e) In all cases of communicating the realization of fines by the despatch of the treasury receipt to the district or subdivision where such fines were imposed, it will be the duty of the clerk in charge of the Fine Register to send reminder whenever acknowledgments of receipts of such communications are unduly delayed.

Note—When the distress warrant is issued to the Magistrate of a district in another Part 'A' State, or 'C' State a clear note should be made on it as to the manner in which the amount is to be credited, i.e., whether to Government, or to a Municipality or to Cantonment fund, or to any other local body, or whether it is to be held as a criminal deposits. If the amount is creditable to Government or to criminal deposits, the proceeds of the fine should be paid into the local Treasury for credit to Government, as required by clause (b), and an intimation should be sent to the Magistrate of the district as laid down in clause (c). If the amount is creditable to a Municipality or to a Cantonment fund or to any other local body, the proceeds of the fine should be remitted by a remittance transfer receipt to the Magistrate of the district on account of which the fine has been collected. He will endorse receipt to the Treasury Officer, if the Municipality or Cantonment fund or other local body banks with the district Treasury for credit to its account; otherwise the receipt should be endorsed to the Chairman or Secretary of the Municipality or local body concerned.

MISCELLANEOUS

34. All officers receiving and remitting money from the officer who actually realizes the fine to the officer who finally remits the same to the treasury, are in all cases bound to demand receipts from the payees. The responsibilities of officers remitting money will not cease until acknowledgments of receipts have been duly received.

35. All fines, under whatsoever law they may be imposed, are payable to the Court imposing the fine, to the Magistrate of the district in which the prisoner is confined, or to the officer entrusted with the warrant for its realization. The receipt of fines by the Jailor is unauthorized, and Jailors are therefore prohibited from receiving payments on account of fines under any circumstances whatever.

36. When a fine or a portion of a fine, which has been entered or should, according to these rules, be entered in the Register of Criminal Fines maintained at the headquarters of a subdivision of a district, is received by the District Magistrate, the amount so received will be shown in the District Magistrate's Cash Book, but not in his Fine Register, and a copy of a *chalan* of payment and of the

fine realization statement sent to the Jail will be forwarded to the Sub-divisional Officer in order that the amount may be written off as paid in his Register of Criminal Fines.

APPENDIX V

¹ [x x x x]

APPENDIX VI

Account Rules

Civil Account Code, Volume I, Chapter 2—Fine Returns

1. (a) In the case of fines the duty of checking the receipts is laid upon the Accountant-General, to whom a monthly return of all fines realized, and of all remittances of fines to the Treasury, should be transmitted by every Court having the power to fine.

(b) Fines which under competent authority are credited to a Municipal or other local fund, will be excluded from this return.

2. (a) In order to secure that returns are received from every Court having such power, it will be convenient to arrange for their collection by the head of every department in the district (the Collector, the Judge, and the Magistrate), and their transmission by that officer. If it be more convenient for him to embody all in his own return, there is no objection to his doing so, but the collective return must be based on the record or accounts of the Courts, and not on those of the Treasury, though it should be compared with the Treasury figures before being despatched. The best means of ensuring this comparison will probably be for the Court to despatch its return through the Treasury Officer, who will certify to the agreement with his books, or will have the return corrected by the Court before he transmits it.

(b) If precautions are taken against double refunds of fines or refunds of fines not actually paid into the Treasury, a simple memorandum of the collections of each Court and of its remittances to the Treasury for check with the Treasury credit, would suffice; in the absence of such precautions, a detailed list of the fines collected and paid into the Treasury must be transmitted in order to facilitate check in case refunds are claimed. The form of the return will be settled by the Accountant-General.

(c) If the several Courts submit to any controlling officer returns of the fines imposed, the returns of the realization may with advantage be despatched to the Accountant-General under flying seal through the said controlling officer, but if this course be found to cause delay, the Accountant-General should instead send the controlling officer a memorandum of the monthly credits which appear in the Treasury Account.

(d) When fines are received in another district or Part 'A' State or 'C' State an intimation should be given by the receiving officer to the officer concerned, who should note the fact in his Fine Statement.

1. Omitted by C.S. No. 88.

APPENDIX VII**List of Army Reserve Centres Referred to in Sub-Rule (b) of Rule 66**

The following are the Reserve Centres:—

1. The Punjab Regimental Centre, Meerut.
2. The Madras Regimental Centre, Wellington.
3. The Granadiers Regimental Centre, Nasirabad.
4. The Marhattas Regimental Centre, Belgaum.
5. The Rajputana Rifles Regimental Centre, Delhi Cantt.
6. The Rajput Regimental Centre, Fatehgarh.
7. The Jat Regimental Centre, Bareilly.
8. The Sikh Regimental Centre, Ambala.
9. The Dogra Regimental Centre, Jullundhur.
10. The Gerhwal Rifles Regimental Centre, Landsdowne.
11. The Kumaen Regimental Centre, Ranikhet.
12. The Assam Regimental Centre, Shillong.
13. The Bihar Regimental Centre, Dinapore.
14. The Mahar Regimental Centre, Saugor.
15. The Sikh Light Infantry Regimental Centre, Ferozepore.
16. 1st Gorkha Rifles Regimental Centre, Dharamsala Cantt.
17. 3rd Gorkha Rifles Regimental Centre, Dehra Dun.
18. 4th Gorkha Rifles Regimental Centre, Bakloh.
19. 5th Gorkha Rifles Regimental Centre, Dehra Dun.
20. 8th Gorkha Rifles Regimental Centre, Dehra Dun.
21. 9th Gorkha Rifles Regimental Centre, Dehra Dun.
22. 11th Gorkha Rifles Regimental Centre, Palampur
23. Armoured Corps Centre and School, Ahmednagar.
24. Artillery Centre, Deolali.
25. Madras Engineer Centre, Bangalore.
26. Bengal Engineer Centre, Roorkee.
27. Bombay Engineer Centre, Kirkee.
28. Signal Training Centre, Jubbalpur.
29. Army Service Corps Centre (South), Bangalore.
30. Army Service Corps (North), Meerut.
31. Remount, Veterinary and Farms Corps Centre and School, Meerut.
32. Army Medical Corps Centre (South), Poona.
33. Army Medical Corps Centre (North), Lucknow.
34. Electrical and Mechanical Engineering Centre, Jalahalli.
35. Army Ordinance Corps Centre, Poona.
36. Intelligence Training School and Depot, Mhow.
37. Pioneer Corps Centre, Mathura.
38. Army Educational Corps Centre and School, Pachmarhi.

- 39. Army Physical Training Corps Centre, Poona.
- 40. General Service Corps Dept., Belgaum.
- 41. Army Postal Service Centre, Kamptee.
- 42. Corps of Military Police Centre and School, Faizabad.

APPENDIX VIII

1[* * * * *]

No. 2392/XLIXD—6-48.

FROM

B.P. JAMUAR, Esq., BARRISTIER-AT LAW,
REGISTRAR OF THE HIGH COURT OF JUDICATURE AT PATNA,

To

THE DISTRICT JUDGE OF PATNA,

Dated Patna, the 20th April, 1948.

SUBJECT—Issue of copies of records of criminal cases tried by Judicial Officers empowered with magisterial powers.

SIR,

With reference to your letter no. 726, dated the 30th March, 1948 [and in supersession of the Court's letter no. 329, dated the 13th January, 1948] on the subject noted above, I am directed to say with a view to ensuring prompt issue of copies from the records of criminal cases on the file of the Judicial Officers vested with magisterial powers the Court direct that when an application for copy is made to the civil court, the Civil Court should prepare a copy and supply it if the record is still in the Civil Court. If the record has been sent back to the Collector's office, the Copying Department of the Civil Court should return the application with a direction to present it in the Copying Department of the Collectorate for the preparation and issue of copies also *vice versa*.

I have the honour to be,

Sir,

Your most obedient servant,

B.P. Jamuar,

Registrar.

MEMO No. 2393—420.

Dated 20th April, 1948.

Copy together with a copy of the letter of the District Judge of Patna to which it is a reply forwarded to the District Judge (except D.J., Patna/Judl. Commr, of Chotanagpur/Deputy Commissioner/District Magistrate in supersession of the Court's memo no. 330—11, dated 13th January, 1948 for information and guidance and for communication to and guidance of the Courts subordinate to him.

By order of the High Court,

(SD.) ILLEGIBLE,

Assistant Registrar.

1. Deleted by C.S. No. 89.

D.O. No. 3697-A.
GOVERNMENT OF BIHAR,
APPOINTMENT DEPARTMENT.

Patna, the 19th April, 1950

SUBJECT— Separation of Judiciary from the Executive.

MY DEAR T.P.,

I am desired to refer to para. 3 of your D.O. letter no. 618, dated 9th February, 1950 and to say that Honorary Magistrates in the districts of Patna and Shahabad will continue to hold miscellaneous enquiries and other magisterial functions relating to investigation of cases in addition to their duties as judicial magistrates. Care may, however, be taken to see that these additional duties do not interfere with their judicial work.

Yours sincerely,
T.C. PURI.

T.P. SINGH, Esq., I.C.S.,
COMMISSIONER, PATNA DIVISION.

D.O. MEMO. No. 3697-A.

Patna, the 19th April, 1950.

COPY (with copy of paragraph 3 of D.O. letter under reference) forwarded to the Registrar, High Court/District Magistrate, Patna/Shahabad/District and Sessions Judge, Patna/Shahabad/all S.D.Os., Patna/Shahabad for information.

By order of the Governor of Bihar,
T.C. PURI,

Addl. Secretary to Government.

(—) to all except
Regr. H.C.

COPY of paragraph 3 of D.O. no. 618, dated 9th February, 1950, from the Commissioner, Patna Division to the Addl. Secretary to Government, Bihar, Appointment Department, Patna.

* * * * *

3. The services of the Honorary Magistrates have been transferred entirely to the Judicial side. Besides disposal of cases the Honorary Magistrates were useful to the Subdivisional Officers in several respects, such as miscellaneous enquiries of which there are heaps at present, holding T.I. parades, recording dying declaration, remanding accused to custody in the absence of the stipendiary Magistrates, etc. The Hony. Magistrates, as a rule, do not hold court for more than two days in the week and have plenty of time to attend to the miscellaneous duties entrusted to them by the Subdivisional Officers. The latter would have no control over the judicial work, but I see no objection from the point of view of scheme of separation to their being employed on other duties in spare time. In view of the reduction of number of Magistrates on the executive side, it is necessary that the parttime services of the Honorary Magistrates should be available to the Subdivisional Officers. I would, therefore request that necessary instructions clarifying the position may be issued by Government as early as possible.

No. 3879—83.

FROM

REGISTRAR OF THE HIGH COURT OF JUDICATURE
AT PATNA,

To

THE DISTRICT AND SESSIONS JUDGE OF PATNA/GAYA/SHAHABAD/
SARAN/MONGHYR.

Patna, the 30th June, 1950.

SIR,

I am directed to enclose a copy of letter no. 4595 P.P. dated the 21st June, 1951, together with copies of its enclosures, from the Additional Secretary to the Government of Bihar, Political Department and to request you to see that necessary co-operation in the matter as desired by Government is given to the Superintendent of Police.

Yours faithfully,
S.N. Imam
Registrar.

No. 4595 P.P.
1/MI-1087/51.

GOVERNMENT OF BIHAR POLITICAL (POLICE) DEPARTMENT.

FROM

T.C. PURI, Esq., I.C.S.,
ADDITIONAL SECRETARY TO GOVERNMENT.

To

THE REGISTRAR,
HIGH COURT OF JUDICATURE AT PATNA.

Patna, the 21st June, 1951.

SIR,

I am directed to say that the attention of Government was drawn by judicial orders and from other sources also that police officers were not punctual in attending courts when summoned to give evidence and the attention of Inspector General of Police has been drawn from time to time to this complaint. The last instructions on the subject were issued in my letter no. PPR 160, dated 28th September, 1950 a copy of which with its enclosures is enclosed.

2. While conceding that the complaint in some cases is justified, the Inspector General has also drawn attention of Government to the increasing number of cases where police officers who attend courts in response to summons, have to go back disappointed without their evidence being recorded. He has given a list of such cases of Monghyr district in the month of March, 1951, a copy of which is enclosed. As there is separation of executive and judicial functions in that district a list was sent by the Superintendent of Police to the Sessions Judge. The

Court may like to look into the matter and to enquire why in cases where the Magistrate could foresee that the evidence was not likely to be recorded that day, timely steps were not taken to inform the police officers not to attend court that day.

3. In this connection, I am also to enclose a copy of my D.O. letter no. 4594 P.P.-I/MI—1087/51, dated the 21st June, 1951 where instructions have been issued that the Superintendents of Police should prepare every month statements of instances (a) where police officers were summoned to attend but did not appear and (b) where they attended Court in response to summons without their evidence being recorded. Instructions have been issued that these two statements should be discussed with the District Magistrates, but in districts where the scheme of separation of the executive and judicial functions is in operation it is only the Sessions Judge who can deal with the subject. I am to request that if the Court see no objection, the Sessions Judges of those districts may be asked to give the necessary co-operation to Superintendents of Police so that such instances may be reduced to the minimum.

Yours faithfully,
T.C. PURI
Addl. Secretary to Government.

GOVERNMENT OF BIHAR, POLITICAL (POLICE) DEPARTMENT.

Patna, the 21st June, 1951.

4594 P. P.
D.O. No. I/MI-1087/51.

MY DEAR HAMID,

I am desired to refer to Mr. M.K. Sinha's D.O. letter no. 1736 D/XLIII-10-1-51, dated the 11th June, 1951, regarding attendance of Police witnesses in Courts and to request that all the Superintendents of Police may be asked to prepare every month lists of instances (a) where Police Officers were summoned to give evidence but did not appear and (b) where they attended court in response to summons without their evidence being recorded. The lists so prepared may be discussed with the District Magistrate as required in my D.O. letter no. Misc. 76/50 PPR 160, dated the 28th September, 1950 (copy enclosed for ready reference).

2. In districts where there has been separation of executive and judicial functions, the list should be sent to Sessions Judges. The High Court are being requested to ask the Sessions Judges to offer the necessary co-operation to Superintendents of Police so that there may be no cause for complaints from any side.

Yours Sincerely,
T.C. PURI,
Addl. Secretary to Government.

A.F.A. HAMID, Esq., I.P.,
Inspector-General of Police,
Bihar, Patna.

No. Misc.—76/50-PPR—160.
GOVERNMENT OF BIHAR.
POLITICAL DEPARTMENT.
(POLICE BRANCH).

From

T.C., PURI, Esq. I.C.S.,
ADDITIONAL SECRETARY TO GOVERNMENT.

To

All Commissioners/All District Magistrates, Additional Deputy Commissioner, Dhanbad/Additional District Magistrate, Saharsa/Additional Deputy Commissioner, Chaibasa/The Inspector-General of Police, Bihar/All Superintendents of Police/All Deputy Inspectors-General of Police.

Dated Ranchi, the 28th September, 1950.

Sir,

I am directed to say that even as recently as July last, complaints of non-appearance of Police Officers before courts have been received from the District Magistrates in spite of the Inspector-General of Police's Order no. 6 (copy enclosed) issued in August, 1949 on this very subject. It has also been complained by them that even the service returns of summonses were not being received in time. It is thus obvious that Inspector-General of Police's order has not had the desired effect. It may have resulted in some improvement; at any rate, Government hope, it has. But obviously, there has not been all the improvement that is necessary. It would not be, of course, fair to put all the blames on Police Officers. Possibly, the failure of Bench Clerks to issue summonses promptly is partly responsible for the present unsatisfactory state of affairs. Possibly, a large number of cases have been pending of such a long time that many of the Police Officers, who are to be examined in those cases, have been transferred to other districts. Possibly, the Courts are not fixing particular days of the week for examination of Police Officers of particular *thanas*. But even so, if the Superintendent of Police takes interest in the matter, there is no reason why in most cases, Police witnesses should not appear before the courts on the dates fixed.

2. Government, therefore, desire that every District Magistrate and Superintendent of Police should discuss the matter closely, examine some cases of delay brought to notice by the court, see where things had gone wrong and how, and thereafter the District Magistrate should issue clear instructions to the Courts, and the Superintendent of Police to Police Officers. A joint review should be prepared on the subject by the Superintendent of Police and the District Magistrate; and, the Superintendent of Police should forward a copy to the Inspector-General of Police through the Range D.I.G., and the District Magistrate a copy to Government through the Commissioner, to ensure that the matter is given proper and urgent attention by them.

Yours faithfully,
T.C. PURI,
Addl. Secretary to Government.

MEMO No. MISC.-76/50-PPR/160.

Dated Ranchi, the 28th September, 1950.

Copy with copy of Chief Secretary's D.O. No. Misc. 76/50-PPR-116, dated the 12th September, 1950 is forwarded to—

All Secretaries to Government/The Addl. Secretary, Appointment Department/ Political Department (Special Sections./The Under-Secretary, Appointment Department (Mr. B.N. Sinha).

(With reference to his memo no. 2C-9-45/50A—6762, dated 27th July, 1950).

T.C. PURI,

Additional Secretary to Government.

() to Under-Secretary,
Apptt. Department only.

POLICE ORDER No. 6 of 1949

It has been brought to the notice of Government that attendance of Police Officers and men in court is not ensured and that processes, etc., against them are treated mechanically. In future the Headquarters Deputy Superintendents of Police will be made personally responsible for the proper and prompt attendance to processes received in Police Offices. A special register should be maintained to incorporate the postings, transfers, and leave addresses of all officers of the district, whether superior or inferior, and the Headquarters Deputy Superintendents of Police will be responsible for keeping it up-to-date. This register should invariably be consulted before processes are dealt with to guard against such mistakes and delays. All Superintendents of Police are requested to see that the above orders are strictly adhered to.

[XLIII—10-6-1948.]

A.F.A. HAMID,

Inspector-General of Police, Bihar.

No. 7181—85.

FROM

THE REGISTRAR OF THE HIGH COURT OF JUDICATURE AT PATNA.

To

THE DISTRICT AND SESSIONS JUDGE OF PATNA/GAYA/SHAHABAD/
MONGHYR/SARAN.

Dated Patna, the 28th December, 1951.

Subject—Non-attendance of police witnesses in courts.

Sir,

I am directed to forward, for your information, the accompanying copy of letter no. 7987, dated the 19th November, 1951, from the Addl. Secretary to the Government of Bihar, Political Department, addressed to all District Magistrates, and to say that several of the reasons which have led to the detention or non-examination of police-officers in the ordinary courts, should not operate in the

courts of the Judicial Magistrates. The latter should, however, make it a point to examine police officers on the date they attend court and to see that they are given adequate notice. It ought to be impressed upon the *Peshkars* and the *Nazarat* staff that there must be no delay in issuing or serving summons on them.

The above instructions may please be brought to the notice of all the Judicial Magistrates employed under him.

Yours faithfully,
(Sd.) Illegible,
Registrar.

MEMO No. 7186.

The 28th December, 1951.

Copy forwarded to the Addl. Secretary to the Government of Bihar, Political Department, Patna, for information with reference to his letter no. 8089, dated the 24th November, 1951.

By order of the Court,
S.N. IMAM,
Registrar.

No. I/A4-204/51-P.P. 7987.
GOVERNMENT OF BIHAR.
POLITICAL DEPARTMENT.
(POLICE BRANCH).

From

T.C. PURI, Esq., I.C.S.,
ADDITIONAL SECRETARY TO GOVERNMENT,

To

All District Magistrates (Including Addl. Deputy Commissioners, Singhbhum and Dhanbad and Addl. District Magistrate, Saharsa).

Dated Patna, the 19th November, 1951.

Subject—Non-attendance of police witnesses in courts.

Sir,

I am directed to refer to paragraph 3 (III) of my letter no. II/C4-1070/51-P.P. 5985, dated the 8th August, 1951 addressed to the Inspector-General of Police, copy forwarded to you with memo. bearing the same number and date, on the subject of non-appearance of police witnesses in courts on dates fixed.

2. A number of cases have been brought to the notice of Government recently in which police witnesses appeared before courts on the dates fixed but were not examined. In some cases this may have been due to unavoidable circumstances such as absence of the accused persons, sudden illness of the presiding officer, closure of the court under special orders of Government but, in a large majority of cases, it was the result of lack of planning, or failure to inform the witnesses in time so that they were not examined even on appearance because,

for example the Assistant Public Prosecutor was busy in another court, or the magistrate was busy hearing other cases, or was away on tour, or had been ill or on leave for some time. The waste of time and energy of police officers involved in such cases can be avoided by sending a telegram or other intimation to them even a day before the date fixed, that they need not appear on that particular date. Also, if examination of witnesses on a particular date cannot be completed, efforts should be made to complete their examination on the following day.

3. Government have also noted with concern that, in many cases, even the reasons for adjournment or non-examination of the witnesses are not noted by trying magistrates.

4. Your attention is also drawn to a very common reason for non-appearance of police witnesses, namely, issue of summons by the Bench clerks or the *Nazarat* several days after the trying court has actually fixed the date, so that the summons reach the officer concerned too late for him to appear on the date fixed.

5. I am to request you to impress upon your subordinate magistrates the desirability of eliminating, as far as possible, these avoidable situations causing delay in the disposal of cases and inconvenience to police witnesses. The High Court are being requested to issue similar instructions through the District and Sessions Judges of districts where the executive and judiciary have been separated.

6. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

T.C. PURI,

Additional Secretary to Government.

MEMO No. I/A4-204/51-P.P.—7987.

Dated Patna, 19th November, 1951.

Copy forwarded to—

Appointment Department/Judicial Department/Inspector-General of Police, Bihar*/All Commissioners of Divisions/All Subdivisional Officers

for informaion.

*Consulted

unofficially.

2. The receipt of this memo may kindly be acknowledged.

By order of the Governor of Bihar.

Additional Secretary to Government.

No. II/H-1-301/50-A—10741.

GOVERNMENT OF BIHAR.

APPOINTMENT DEPARTMENT.

From

B.N. SINHA, Esq.,

UNDER-SECRETARY TO GOVERNMENT.

To

The Commissioner,

Patna, Division, Patna.

The 27th November, 1950.

Sir

I am directed to refer to your memo. no. 5159, dated the 7th October, 1950 addressed to the Food Commissioner, Bihar and to say that Government have decided that cases arising out of the violation of Levy Orders should be tried by the Munsifs and Judicial Magistrates in the two districts of Patna and Shahabad where scheme of separation of Judicial and Executive functions is working. For ensuring speedy disposal of these cases the procedure laid down in paragraph 9 of Mr. L.P. Singh's letter no. 10499-A., dated the 27th December, 1949 should be followed.

Yours faithfully,

B.N. SINHA.

Under-Secretary to Government.

MEMO No. II/H-1-301/50-A—10741.

The 27th November, 1950.

Copy forwarded to Mr. B.D. Pande, I.C.S., Food Commissioner, Bihar, the Supply and Price Control Department, the Registrar, High Court, Patna, the District and Sessions Judge, Patna, the District and Sessions Judge, Shahabad, the District Magistrate, Patna, the District Magistrate, Shahabad, for information.

Yours faithfully,

B.N. SINHA,

Under-Secretary to Government.

No. G/PI-24037/51—2319

JUDICIAL DEPARTMENT.

(JAIL SECTION).

From

Lt.-Colonel, M.S. Gupta,
Inspector-General of Prisons, Bihar.

To

The Superintendent of Central Jail, Gaya/Nawadah Sub-Jail/Jahanabad Sub-Jail/Aurangabad Sub-Jail/District Jail, Chapra/Sub-Jail, Siwan/Sub-Jail, Gopalganj/District Jail, Monghyr/Sub-Jail Jamui/Sub-Jail, Begusarai and Sub-Jail Khagaria.

Date the 20th February, 1951.

Subject—Separation of Executive and Judicial functions in the Districts of Gaya, Saran and Monghyr.

Sir,

I am to inform you that the Government of the State of Bihar, have been pleased to approve of the following changes in the administration of the Jail Department brought about by the separation of the Executive and the Judicial functions in the Districts of Gaya, Saran and Monghyr.

- (i) The Superintendent of the Jails and Sub-Jails of the Districts of Gaya, Saran and Monghyr, should report all cases of undertrials admitted

for bailable offences, specifying the names of the persons, who are likely to furnish bail, to the Sessions Judge and not to the District Magistrate as required by rule 848 of the Jail Manual.

- (ii) Fortnightly reminders in Return no. 27 regarding all cases in which prisoners have been detained as undertrials for more than 14 days, should be submitted by the Superintendents of these jails to the Sessions Judges and not to the District Magistrates.
- (iii) Bihar and Orissa Jail form no. 23 should now be submitted to the Sessions Judges instead of to the District Magistrates as required under rule 847 of the Jail Manual.

Yours faithfully,
(Sd.) Illegible,
Lt.-Colonel,

for Inspector-General of Prisons, Bihar.

Memo No. G/PI-24037/51—2319.

Dated the 20th February, 1951.

Copy forwarded to the Registrar, High Court of Judicature at Patna/ Commissioner, Tirhut Division, Bhagalpur Division and Patna Division/District and Sessions Judge, Saran/Monghyr/Gaya/District Magistrate, Saran, Monghyr, Gaya/ Subdivisional Officer, Gaya/Aurangabad/Nawadah/Jehanabad/Gopalganj/Siwan/ Chapra/Monghyr/Khagaria/Begusarai/Jamui,
for information.

(Sd.) Illegible,
Lt. Colonel,

Assistant Inspector-General of Prisons, Bihar.

No. I/MI—2034/51-A—4562.
GOVERNMENT OF BIHAR.
APPOINTMENT DEPARTMENT.

From

B.N. SINHA, Esq.,
Under Secretary to Government,

To,

The Commissioner, Patna/Bhagalpur/Tirhut Division/
Dated, Patna, the 5th May, 1951.

Sir,

I am directed to say that I.A.S. probationers posted for training to the district and subdivisional headquarters where the scheme of separation of "Executive and Judicial" functions is working, are not getting any opportunity of trying criminal cases (both complaint cases and Police cases). It has, therefore, been decided, in consultation with the High Court, that the Subdivisional Magistrates of the districts where this scheme is working will transfer a few criminal cases to the I.A.S.

probationers receiving training in the district. The District Magistrates will ensure that I.A.S. probationers dispose off the cases transferred to their files before they are transferred elsewhere.

2. A copy of this letter is being sent direct to the District Officers and the District and Sessions Judges concerned.

Yours faithfully,

B.N. SINHA,

Under-Secretary to Government.

Memo no. I/MI—2034/51-A—4562.

Dated, Patna the 5th May, 1951.

Copy forwarded to the Registrar, High Court/the District Magistrate, Patna/Gaya/Shahabad/Saran/Monghyr/the District and Sessions Judge, Patna/Gaya/Shahabad/Saran/Monghyr, for information.

2. The District Magistrate, Gaya is requested to direct the Subdivisional Officer, Nawadah to transfer some cases to Mr. V. Balasubramanyam, I.A.S., who is receiving Subdivisional training at Nawadah.

By order of the Governor of Bihar,

B.N. SINHA,

Under-Secretary to Government.

No. II/HI—301/50—A—5696.
GOVERNMENT OF BIHAR.
APPOINTMENT DEPARTMENT.

From

B.N. Sinha, Esq.,
Under Secretary to Government,

To

The Commissioner,
Tirhut Division, Muzaffarpur.

Dated, Patna, the 6th June, 1951.

Sir,

I am directed to refer to your letter no. J-1494, dated the 30th March, 1951 on the working of the separation of Executive and Judicial functions and to reply as follows:—

- (1) The question as to whether the Subdivisional Officer should transfer the case as soon as he has taken cognizance or he should transfer the case after securing the attendance of the accused was discussed with the High Court before issue of the instructions on this point. As a result of the agreed decision between the Court and Government it was decided that the Subdivisional Officer should transfer the case *immediately* after taking cognizance of the case and he should not wait for the attendance of the accused.

- (2) Since the Assistant Sessions Judges cannot exercise any revisional powers, the word "revision" occurring in paragraph 12 of the Appointment Department letter no. 11860, dated the 20th December, 1950 after the word "Appeals" may be deleted. The District and Sessions Judges have been vested with revisional powers under section 425, Cr.P.C. and they will exercise this power in respect of the cases triable by the Judicial Magistrates. The District Magistrates *will not* exercise revisional powers in respect of complaints dismissed by the Subdivisional Magistrates under Section 203, Cr.P.C. In such cases the revisional powers will be exercised by the District and Sessions Judges concerned.

The District Magistrate will continue to issue Commissions under section 506, Cr.P.C.

Yours faithfully,

B.N. SINHA,

Under-Secretary to Government.

MEMO No. II/HI—301/50A—5696.

Dated Patna, the 6th June, 1951.

Copy with a copy of the letter no. J-1494, dated the 30th March, 1951 from the Commissioner, Tirhut Division forwarded to the Registrar, High Court/District and Sessions Judge, Patna, Gaya, Shahabad, Saran and Monghyr/District Magistrate, Patna, Gaya, Saran, Monghyr, Sahabad, for information.

By order of the Governor of Bihar,

B.N. SINHA,

Under-Secretary to Government.

No. 6397—6402.

From

The Registrar of the High Court of Judicature at Patna,

To

The District and Sessions Judge, Patna/Shahabad/Gaya/Saran/Monghyr and Muzaffarpur.

Dated Patna, the 16th October, 1952.

Sir,

I am directed to say that it has been brought to the notice of the Court that Sub-Jails are generally over-crowded with undertrial prisoners. I am, therefore, to request you to impress upon all Magistrates Subordinate to you the necessity of giving preference to and expediting cases where undertrial prisoners are detained in a Sub-Jail for more than three months.

Yours faithfully,

J. NARAIN.

for Registrar.

No. 9419—32.

From

Anant Singh, Esq.,
Registrar of the High Court of Judicature at Patna.

To

All the District and Sessions Judges Including The Judicial Commissioner of
Chotanagpur, Ranchi.

Dated Patna, the 9th September, 1957.

Subject—Delay in disposal of criminal cases for non-attendance of Police
Officers on dates fixed.

Sir,

I am directed to forward a copy of the Government of Bihar, Political
Department (Police Branch) letter no. 1/2-109/55-P.P.—5264, dated the 23rd
August, 1957, together with a copy of its enclosure, for your information.

Yours faithfully,
ANANT SINGH.
Registrar.

No. I/R2-109/55-P.P.—5264.
GOVERNMENT OF BIHAR.
POLITICAL DEPARTMENT.
(POLICE BRANCH)

From

Shri K. Ramanujam, I.A.S.,
Under-Secretary to Government.

To

The Registrar,
High Court of Judicature at Patna.

Dated Patna, the 23rd August, 1957.

Subject—Delay in disposal of criminal cases for non-attendance of Police
Officers on dates fixed.

Sir,

I am directed to refer to your letter no. 3719, dated the 13th April, 1957 on the
subject noted above and to enclose a copy of the instructions issued to Police
Officers in the matters.

Yours faithfully,
K. RAMANUJAM.
Under-Secretary to Government.

POLICE ORDER No. 47.

It has been brought to the notice of Government that attendance of the police officers and men in court is not ensured and that processes, etc., against them are treated mechanically. In future the headquarters Deputy Superintendent of Police will be held personally responsible for proper and prompt attention to processes received in police office. A special register should be maintained to indicate the postings, and leave addresses of all Sub-Inspectors, Assistant Sub-Inspectors, Writer Constables of the district and the Head Moharrir under the supervision of the Headquarters Deputy Superintendent of Police will be responsible for keeping it up-to-date. Likewise, the Subdivisional Police Officer/Circle Inspector should maintain similar registers for officers and men under their charge. This register should invariably be consulted before processes are dealt with to guard against mistakes and delays.

(1) Another register should also be maintained in the office of the Superintendent of Police showing, (1) date of receipt of summons, (2) date of despatch to the persons concerned, (3) returnable date, (4) date of service, and (5) date of return from police office to the issuing Court. A similar register should be maintained by the Subdivisional Police Officers and Circle Inspectors in respect of summonses sent through them.

The service return of the summonses shall be sent to the issuing court through the office from which they were received.

(2) Considerable dislocation of work and expenditure of travelling allowance are caused when officers are repeatedly summoned to appear in Courts to give evidence after they have been transferred to some other district.

Officers proceeding on leave or transfer must themselves give to the Court Sub-Inspectors a list of cases in which they have to give evidence. It should then be the duty of the court officers to arrange for the evidence of such officers being taken on contiguous dates before they leave the district. If this is not possible, such officer should be informed accordingly and they will furnish to the prosecuting officer their addresses. In such cases, the summonses may be sent under registered cover well in advance or telegraphically. Defence lawyers generally desire to examine the investigating officer last. Much harassment is often caused to police officers by the repeated absences of a small number of prosecution witnesses. In such situation prosecuting officers should press for the police officer's evidence being recorded as soon as the majority of the prosecution witnesses have been examined and give the assurance that the investigating officer would be recalled if desired after all the prosecution witnesses have testified.

Every police officer summoned to appear in Court shall, if he cannot appear on the date fixed inform the Magistrate the prosecuting officer of the reason of his failure. This explanation should not be a matter of routine. If the reason for absence is found not satisfactory, the defaulters should be severely dealt with.

It should be the duty of the Court Sub-Inspectors to report to the Superintendent of Police cases of failure on the part of police officers to attend court. Any Court Sub-Inspector/A.D.P. who fails to carry out these instructions should also be suitably dealt with.

Prosecuting officers shall make a note on delay undertrial reports when a police officer fails to attend court to give evidence and a remand is taken in consequence and shall note the reason of his failure, if known. Likewise, the fact of a police officer appearing and not being examined by the court should be noted therein with reasons.

Instructions have already been issued for the strict enforcement of the practice of ear-marking particular days in a week for taking up cases of particular thanas, but in some district they are not strictly followed. Superintendents of Police will take it up with their District Magistrates where the system is not being observed and see that it is acted upon.

Government have already issued instructions to the magistracy endorsing the necessity and desirability of hearing cases on the dates fixed by the Investigating Officers in accordance with Police Manual Rule 177. Investigating Officers shall rigidly follow this rule and Magistrates have been instructed to co-operate with the police in following this procedure.

Superintendents of Police shall have a monthly statement prepared showing, (a) where police officers were summoned to give evidence but did not appear, and (b) where they attended court in response to summons or on the dates fixed by them, vide Police Manual Rule 177 without their evidence being recorded. The lists so prepared should be discussed with the District Magistrate. If the District Magistrate is not available the Superintendent of Police shall make three attempts (one at least in writing) and in case of failure it should be specifically reported to the Inspector-General of Police through the Range Deputy Inspector-General of Police so that the matter may be taken up with Government. A report in the *proforma* given in Appendix A must reach the Assistant to the Inspector-General of Police by the 10th day of the succeeding month. Where there has been separation of executive and judicial functions the list should be sent to and discussed with the Sessions Judge and avenues explored to effect improvement. The High Court has asked the Sessions Judges in separation districts to offer necessary co-operation to Superintendents of Police so that there may be no cause for complaint from any side. The Government orders on the subject are given in Appendix B for ready reference.

Manual Reference—P.M. Rules 177, 245 and 302, Previous police order reference—P. Os. 20/28, 2/32 and 6/49.

No. I/M1-1044/57-A—15904.
GOVERNMENT OF BIHAR.
APPOINTMENT DEPARTMENT.

From

R.B. Lal, Esq.,
Additional Under-Secretary to Government.

To

The Commissioner of the Bhagalpur Division/Chotanagpur Division/Tirhut Division.

Dated Patna, the 22nd December, 1957.

Subject—Extension of the scheme of separation of Executive and Judicial functions.

Sir,

I am directed to refer to the orders contained in paragraph 2 of the Appointment Department letter no. I/M1—1044/57-A—8630, dated the 3rd July, 1957, and to say that it has been brought to the notice of Government that difficulty is being experienced due to limiting of such deputations “during the holidays” only although actually a few days before and after the holidays are also spent during deputations. It has accordingly been decided, in consultation with the High Court, that two or three extra days, as the case may be, should be made available on either side of the holidays for Muharram, etc., to enable the Judicial Magistrates to go to their assigned destination and return to their headquarters on the expiry of their deputation.

2. These orders are being communicated to all District Magistrates and District and Session Judges (including Assistant Sessions Judge, Saharsa), for their information.

Yours faithfully,

R. B. Lal,

Additional Under-Secretary to Government.

Memo No. I/M1—1044/57-A—15904.

Dated Patna, the 22nd December, 1957.

Copy forwarded to the Registrar, High Court of Judicature at Patna/District Magistrate, Champaran/Darbhanga/Purnea/Bhagalpur/Saharsa/Deputy Commissioner, Hazaribagh/District and Sessions Judge, Champaran/Darbhanga/Purnea/Bhagalpur/Hazaribagh/Assistant Sessions Judge, Saharsa/Law (Judicial Department), for information [with reference to his letter no. 11581/XXIX(S)—3/56, dated the 22nd November, 1957].

[] For High Court only.

R.B. Lal,

Additional Under-Secretary to Government.

MEMO No. 169—74.

Dated the 6th January, 1958.

Copy forwarded to the District and Sessions Judge of Patna/Gaya/Sahabad/Saran/Muzaffarpur and Monghyr, for information.

By order of the High Court,

C.N. TIWARI,

First Assistant Registrar.

No. I/M1—1055/58-A—5142.
GOVERNMENT OF BIHAR,
APPOINTMENT DEPARTMENT.

From

K.K. Shrivastava, Esq., I.A.S.,
Additional Deputy Secretary to Government.

To

All Commissioners of Divisions.
Patna, the 6th May, 1958.

Subject—Separation of Executive and Judicial functions accommodation for the Court of Judicial Magistrates.

Sir,

I am directed to say that instructions were issued in Appointment Department letter no. 8046-A., dated the 22nd June, 1957 (extracts enclosed), that so long as the problem of accommodation continues to be acute, the District Magistrate, the Sessions Judge and the Executive Engineer should mutually work out the details for accommodating the various Courts and that wherever possible, the Judicial Magistrates should sit in the Collectorate buildings.

2. Save in very exceptional circumstances, once certain rooms are set apart for the holding of the Court or for the chamber of Munsif Magistrates, Judicial Magistrates or Honorary Magistrates in separation districts, they should not be taken back by the District Magistrate or the S.D.O. without obtaining the previous consent of the Sessions Judge except in case of an officer whose Court is disbanded and in whose place no substitute is posted. Internal arrangement regarding the change of Court rooms and other things in respect of such Magistrates should be made entirely at the discretion of the Sessions Judge who will issue the necessary directions in the matter.

Yours faithfully,

K.K. SRIVASTAVA,

Additional Deputy Secretary to Government.

MEMO No. I/M1—1055/58-A—5142.

Dated Patna, the 6th May, 1958.

Copy forwarded to All District Officers/All District and Sessions Judges/Registrar, High Court, Patna/Revenue Department/Law Department/All Subdivisional Officers, for information and necessary action.

K. K. SRIVASTAVA,

Additional Deputy Secretary to Government.

Extract from letter no. 8046-A, dated the 22nd June, 1957.

21. Government realise that the problem of accommodation for courts is already acute, and steps are accordingly being taken to effect improvement. It may, however, take some time before new buildings are put up, and in the meantime it is suggested that the District Magistrate, the Sessions Judge and, the Executive Engineer should meet and work out the details for accommodating the

various courts. Wherever possible, the "Judicial" Magistrates may sit in the Collectorate buildings. Officers sitting in the Civil Courts may in some cases have to make some sacrifice in accommodating some "Judicial and Munsif-Magistrates".

No. 1/MI-1036/60A (P) 10797.
GOVERNMENT OF BIHAR,
APPOINTMENT DEPARTMENT.

From

Shri R.A. Singh,
Under-Secretary to Government,

To

All Commissioners of Divisions.

Dated Patna, the 12th August, 1961.

Subject—Trial of cases under the Bengal Ferries Act, 1885 in the districts where the scheme of separation of Executive and Judicial functions has been introduced.

Sir,

I am directed to say that Government have been pleased to decide in consultation with the High Court of Judicature at Patna that in view of small number of cases under the Bengal Ferries Act, 1885 and the offences being minor, such cases under the said Act, in the districts where the scheme for separation of Executive and Judicial functions has been introduced, may be tried by the Magistrates on the executive side, for the present.

Your faithfully,
R.A. SINGH,

Under-Secretary to Government.

MEMO No. 1/M1-1036/60A (P)—10797.

Dated Patna, the 12th August, 1961.

Copy forwarded to the Registrar, High Court of Judicature at Patna/All District Magistrates/All District and Sessions Judges/The Assistant Sessions Judge, Saharsa/All Subdivisional Officers/Law (Judicial) Department, for information.

By order of the Governor of Bihar,
R.A. SINGH,

Under Secretary to Government.

GENERAL LETTER No. 8 OF 1957.
(Criminal).

From

Anant Singh, Esq., B.A., B.L.,
Registrar of the High Court of Judicature at Patna.

To

All the District Magistrates and Deputy Commissioners in Bihar and the District and Sessions Judges of the Separation Districts in Bihar.

Dated Patna, the 24th July, 1957.

Sir,

I am directed to say that with a view to ensuring speedy disposal and regular working in courts of magistrates, the Court are pleased, at the instance of the State Government, to direct that you should have before you each day a report from each magistrate at sadar and weekly report from the magistrates in subdivisions, showing figures of witnesses present, examined and discharged and the number of judgments pending and delivered. This scheme should, however, be give effect to as an experimental measure for a period of two years from the date of the introduction of the scheme. A report about the efficacy of the system should be submitted at the end of this period. [High Court, English Department (Criminal).]

Yours faithfully,
ANANT SINGH
Registrar,

Memo No. W-5-58.

Copy forwarded to the District Magistrate/Deputy Commissioner/District and Sessions Judge, for information and guidance and for communication to and guidance of the courts subordinate to him.

High Court
English Department,
(Criminal).
Kartika, 1879.
The _____
November, 1957.

By order of the High Court,
T.C. Roy,
Second Assistant Registrar.

GENERAL LETTER No. 10 OF 1957.
(Criminal).

From

Anant Singh, Esq., B.A., B.L.,
Registrar of the High Court of Judicature at Patna,

To,

The Sessions Judge of Patna, Gaya, Shahabad, Saran, Muzaffarpur,
Darbhanga, Monghyr, Bhagalpur, Purnea, Champaran and Hazaribagh.

6th Asvina, 1879
Dated Patna, the *28th September, 1957.*

Sir,

I am directed to say that before the introduction of the scheme of separation of judiciary from the executive, criminal courts used to be regularly inspected by the Commissioners, District Magistrates, and even by the Subdivisional Officers. After the separation, the responsibility of such inspections, in the separation districts has devolved upon the Sessions Judges. It is, therefore, desirable that

they should inspect the criminal courts in their, judgeships regularly. The Court, therefore, direct that the Sessions Judge of each district where separation scheme has been introduced, should inspect annually if possible, but if not, at least once in every 18 months, each of the subordinate criminal court in his district and submit a report of his inspection of each court to the High Court. It is further directed that surprise visits to these courts should also be paid frequently. [High Court English Department (Criminal).]

The above instructions should be strictly followed.

Yours faithfully,
Anant Singh,
Registrar.

Memo No. XLIXD-8-57.

Copy forwarded to the Sessions Judge/Judicial Commissioner/District Magistrate/Deputy Commissioner, for information and guidance and for information of the courts subordinate to him.

High Court
English Department,
(Criminal).
Kartika, 1879.
The _____
November, 1957.



By order of the High Court,
C.N. Tiwary,
First Assistant Registrar.

GENERAL LETTER No. 2 OF 1959.
(Criminal)

From

Anant Singh, Esq., B.A., B.L.,
Registrar of the High Court of Judicature at Patna,

To,

All the Sessions Judges in Bihar and all the District Magistrates and Deputy Commissioners in Bihar.

Dated, Patna, the 24th Asadha, 1881.
15th July, 1959.

Sir,

I am directed to say that it has been noticed by the Court that the position with regard to realisation of fines imposed by Criminal Courts is rather distressing and is in a deplorable condition in all the districts of the State. The relevant registers and records are maintained in a most unsatisfactory manner and the amount realised is comparatively small. This often leads to accumulation of heavy arrears. The existing rules on the subject in the Court's General Rules and Circular Orders are, though, exhaustive enough, two important changes since they were framed, namely, (a) a great increase in the number of criminal courts, both at

Subdivisional and district headquarters and (b) the introduction of the scheme of separation of Judicial and Executive functions, have brought in some new complications requiring review of the existing rules and modifications in the practice thereof. The Special Officer Sri (now Sri Justice) Kanhaiya Singh has also dwelt upon this subject and has made recommendations in this regard in paragraph 85 (b) of his report on the separation of judicial and executive functions. Having regard to these circumstances, the court after due consideration of the matter and in consultation with the State Government have been pleased to decide that the procedure mentioned below should be adopted in the matter of realisation of criminal fines imposed by the criminal Courts and direct that the same be strictly followed by all concerned. [High Court English Department (Criminal)].

(a) With regard to Judicial and Munsif-Magistrates in separation districts, a separate fine Register should be maintained which will be in charge of a clerk on the establishment of the District and Sessions Judge. The Registrar of the Civil Courts, where there is the Registrar system, will perform the functions of the Judge-in-charge of Accounts referred to in rule 17 at page 146 of the Court's General rules and Circular Orders, Criminal, Volume I; where there is no Registrar, the Judge-in-charge of Accounts of the Civil Courts will perform the same functions with regard to criminal fines as well. The *Nazir* of the Civil Courts will perform the functions referred to in rules 8 to 14 at pages 142-145 and rules 20 to 22, at pages 147-149 of the Court's General Rules and Circular Orders. Criminal, Volume I, which the Nazir of the Magisterial Court performs with regard to criminal fines. The Sessions Judge in his capacity as Additional District Magistrate in separation districts will be incharge of the registers and functions, so far as the fines imposed by Judicial and Munsif-Magistrates are concerned. The District Magistrates and the Subdivisional Magistrates will continue to maintain their registers so far Executive Magistrates are concerned. The Subdivisional Magistrates will furnish necessary details to the Sessions Judge in respect of the fines imposed by Judicial Magistrates in their respective subdivisions.

(b) In separation district, the Sessions Judge, in his capacity as Additional District Magistrate, should prepare a consolidated statement in the form prescribed in rule 22 at page 148-149 of the Court's General Rules and Circular Orders, Criminal, Volume I, with regard to fines imposed by all Judicial Magistrates. This statement should be sent to the District Magistrate. The District Magistrate will then prepare a consolidated statement for the entire district, including the fines imposed by the Executive Magistrates and sent it to the Commissioner.

(c) In non-separation districts, the District Magistrate or the Additional District Magistrate should be asked to pay more attention to the question of realisation of criminal fines. For that purpose, he should see that the relevant rules in the Court's General Rules and Circular Orders are complied with.

(d) The system of maintaining fine records in the form of an order-sheet, showing the different steps taken for the realization of criminal fines by each criminal Court should be placed on a permanent footing. From these order-sheets, the clerk-in-charge of the Fines Registers will get all the necessary information for filing in the entries in the Register of Criminal Fines in form nos. (A) 17 & (A) 17-A.

(e) The Bench Clerk of each criminal court should be under a duty to give necessary information every week with regard to the imposition and realization of criminal fines to the Fine Department at the sub-divisional or the district headquarters, as the case may be.

(f) A separate register may be opened in form no. (A) 17 or (A) 17-A for Railway cases, the entries concerning which should not be posted in the General Fine Register. The reason for opening a separate register for Railway cases is that a large number of cases result in imposition of fines and in most of these either the fines are not paid or wrong names or addresses are given. If a separate Register is opened for such cases, it will be easier to check the realization of fines imposed in them.

(g) It appears that in most of the districts rules in respect of the fines are not fully observed, mainly because the work has increased to such an extent that the officers concerned have not the time to devote to the matter. The Court direct that the clerk-in-charge of the Fine Register in some of the heavy non-separation districts should be divested of all other work so that he may devote his full time to the proper maintenance of Register of Fines.

The above instructions should be strictly followed.

Yours faithfully,
Anant Singh,
Registrar.

MEMO No. XLIXD-51-58.

Dated Patna, the 1959.

Copy forwarded to the Session Judge/Judicial Commissioner/District Magistrate/Deputy Commissioner, for information and guidance and for communication to and guidance of the courts subordinate to him.

High Court
English Department,
(Criminal).
Sravana, 1881.
The _____
August, 1959.

By order of the High Court,
C.N. Tiwary,
First Assistant Registrar.

GENERAL LETTER No. 4 OF 1959.
(Criminal).

From

Sarju Prasad Singh, Esq.,
Registrar of the High Court of Judicature at Patna

To

All The District Magistrates and Deputy Commissioners in Bihar and the District and Sessions Judges of the Separation Districts in Bihar.

Dated Patna, the 26th Agrahayana, 1881.
17th December, 1959.

Sir,

I am directed to invite your attention to the instructions contained in General Letter no. 8 of 1957 (Criminal) and to say that on considering the reports received from the different districts about the efficacy of the system introduced under the above letter, the Court have been pleased to decide that the system should be extended for another two years subject to the modification that the Magistrates at Sadar should now submit report once a week and those in Subdivisions once in every fortnight in the enclosed 'pro forma'. [High Court, English Department (Criminal).]

I am to request that the above instruction should be strictly followed and a report about the efficacy of the system should be submitted at the end of this period.

Yours faithfully,
S.P. Singh,
Registrar.

MEMO No. V-5-59.

Copy forwarded to the District Magistrate/Deputy Commissioner/Sessions Judge, for information and guidance and for communication to and guidance of the courts subordinate to him.

High Court,
English Department,
(Criminal).
Sravana, 1881.
The _____
August, 1960.

By order of the High Court,
M. YAHYA,
Second Assistant Registrar.

PRO FORMA

1. Number of witnesses present.
 2. Number of witnesses examined.
 3. Number of witnesses cross-examined.
 4. Number of witnesses examined and cross-examined.
 5. Total of columns 2 to 4.
 6. Total number of official witnesses present but not-examined and reason for the same.
 7. Total number of non-official witnesses present but not examined and reason for the same.
 8. Number of adjourned judgments.
 9. Number of judgments fixed for the day.
 10. Total of columns 8 and 9.
 11. Number of judgments delivered.
 12. Whether any judgment adjourned beyond 14 days.
-

GENERAL LETTER NO. 1 of 1961.

(Criminal)

From

SARJU PRASAD SINGH, Esq., B.L.,
Registrar of the High Court of Judicature at Patna,

To

The Sessions Judge of Patna, Gaya, Shahabad, Saran, Champaran,
Muzaffarpur, Darbhanga, Monghyr, Bhagalpur, Hazaribagh and Purnea.

3rd Magha, 1882.
Dated the 23rd January, 1961.

Sir,

I am directed to say that at present there are no orders requiring the Judicial, Honorary and Munsif-Magistrates in separation districts to make a periodical inspection of their offices. The Courts are of the view that it is desirable that each Judicial, Honorary and Munsif-Magistrate in separation districts should inspect his office. Such an inspection will not only enable the Presiding Officer to know the condition of his office, but will greatly facilitate the inspection of the Sessions Judge and the Peripatetic District and Sessions Judge and will give them an opportunity of ascertaining as to what extent the Magistrates have interested themselves in the administration of their respective offices. The Court, therefore, direct that the Magistrates in separation districts should make a through inspection of their offices once a year and should submit to the Sessions Judge for his information a copy of their inspection notes. The District and Sessions Judges should pass such orders on these inspection notes as they may think fit and make a mention of it in their Annual Reports on the administration of Criminal Justice whether all the Magistrates have inspected their offices during the year. It will not, however, be necessary to forward either a copy of the inspection note or orders passed thereon to this Court, but where an office has not been so inspected, the name of the Officer, who has failed to make the inspection should be reported and his explanation should be obtained and forwarded. [High Court, English Department (Criminal).]

Yours faithfully,
S.P. SINGH,
Registrar.

Memo No. XLVIA-18-59.

Copy forwarded to the Sessions Judge/Judicial Commissioner/District Magistrate/Deputy Commissioner, for information.

High Court,
English Department,
(Criminal).
Asadha. 1883.

The _____
July, 1961.

By order of the High Court,
C.N. Tiwary,
First Assistant Registrar.

General Letter No. 3 of 1961.
(Criminal).

From

Shambhu Prasad Singh, Esq., B.L.,
Registrar of the High Court of Judicature at Patna,

To

The Sessions Judge of Patna, Gaya, Shahabad, Saran, Champaran,
Muzaffarpur, Darbhanga, Monghyr, Bhagalpur, Purnea and Hazaribagh.

Dated the 22nd Bhadra, 1883.
13th September, 1961.

Sir,

I am directed to say that in order to achieve the desired improvement in the working of magisterial courts and to ensure non-recurrence of defects and irregularities found by the Peripatetic District and Sessions Judges in course of their inspection, the Court direct that each and every Magistrate, even a Magistrate newly posted in the Judgeship, should go through the previous inspection notes, recorded by the Peripatetic District and Sessions Judge, and should submit a report to this effect within a reasonable time to the Peripatetic District and Sessions Judge through the District and Sessions Judge. Instead of every Magistrate sending his report to the Peripatetic District and Sessions Judge individually, each Magistrate should prepare the report in triplicate, keep one as office copy and send two copies to the Sessions Judge, who in return would send one copy of each of the Magistrates report to the Peripatetic District and Sessions Judge after collecting them. [High Court, English Department (Criminal).]

The above directions may be brought to the notice of all the Magistrates subordinate to you.

Yours faithfully,
S.P. SINGH,
Registrar.

Memo. No. XLVIP-13-16.

Copy forwarded to the Sessions Judge/Judicial Commissioner/District Magistrate/Deputy Commissioner, for information.

High Court,
English Department,
(Criminal).
Agrahayana. 1883.

The _____
November, 1961.

By order of the High Court,
V. Mishra,
First Assistant Registrar.

General Letter No. 4 of 1961.
(Criminal).

From

S.P. Singh, Esq., B.L.,
Registrar of the High Court of Judicature at Patna

To,

The Sessions Judge of Patna, Gaya, Shahabad, Darbhanga, Saran,
Champaran, Purnea, Muzaffarpur, Monghyr, Bhagalpur and Hazaribagh.

Dated the 19th Sravana, 1883.
10th August, 1961.

Sir,

I am directed to say that it has been brought to the notice of the Court that the Judicial Magistrates do not maintain the Registers of letters received and issued. No such register has been prescribed by the Court for the use of Criminal Courts. On the civil side, however, Registers nos. 60 and 61, at pages 49 and 50 of the Register and Return Manual, 1932, prescribed by the Board of Revenue, are maintained in accordance with rule 5, at page 178 of G.R. and C.O., Civil, Vol. I.* [High Court, English Department (Criminal) *1955, Edn.]

The Court have, therefore, decided that the Registers of letters received and issued may also be maintained by the Judicial Magistrates in the aforesaid forms, prescribed by the Board of Revenue. The Judicial Magistrates may be directed accordingly.

The above instructions may be followed strictly by all concerned.

Yours faithfully,
S.P. SINGH,
Registrar.

Memo No. XLIXD-6-61.

Copy forwarded to the Sessions Judge of for information and guidance and for communication to and guidance of the Courts subordinate to him.

High Court,
English Department,
(Criminal).
Pusa, 1883.

The _____
January, 1962.



By order of the High Court,
V. Mishra,
First Assistant Registrar.

General Letter No. 3 of 1962.

(Criminal).

From

Shambhu Prasad Singh, Esq., B.L.,
Registrar of the High Court of Judicature at Patna,

To,

All the District Magistrates and Deputy Commissioners in Bihar and the District and Sessions Judge of the Separation Districts in Bihar.

Dated Patna, the 5th Vaisakha, 1884 (S)
25th April, 1962.

Sir,

I am directed to say that with a view to ensure speedy disposal of cases and regular exercise of control over the working of the Magistrates, the Court at the instance of the State Government had issued General Letter no. 8 of 1957 (Criminal) for obtaining a report each day from the Magistrates at Sadar a weekly report from the Magistrates in the Subdivisions, showing figures of witnesses present, examined and discharged and the number of judgments pending and delivered. This scheme introduced in the beginning as an experimental measure for a period of two years, having been found useful, was extended for another period of two years *vide* General letter no. 4 of 1959 (Criminal) with the modification that the Magistrates at Sadar were to submit the report once a week and those in the Subdivisions once every fortnight in the enclosed *pro forma*. [High Court, English Department (Criminal).]

The scheme has again been examined and the reports received from the various districts show that the system introduced under the aforesaid General letters has proved very useful and the scheme has contributed considerably towards the purpose for which it was introduced.


The Court have, therefore, been pleased to decide to place this scheme on a permanent basis but with this modification that the Magistrates whether posted at Sadar or at Subdivisional headquarters should henceforth submit fortnightly reports in the enclosed *pro forma*.

The Court direct that the above instructions should be strictly followed by all concerned.

Yours faithfully,
S.P. SINGH,
Registrar.

Memo No. V-1-62 (Criminal).

Copy forwarded to District Magistrate/Deputy Commissioner/Sessions Judge/ Peripatetic Sessions Judge, for information and guidance and for communication to and guidance of the Courts subordinate to him.

High Court, English Department, (Criminal). <i>Sarvana. 1884.</i> The _____ <i>August, 1962.</i>		By order of the High Court, M.M. Sahai, <i>Second Assistant Registrar.</i>
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PRO FORMA

1. No. of witnesses present.
2. No. of witnesses examined.
3. No. of witnesses cross-examined.
4. No. of witnesses examined and cross-examined.
5. Total of columns 2 to 4.
6. Total number of official witnesses present but not examined and reasons for the same.
7. Total number of non-official witnesses present but not examined and reasons for the same.
8. No. of adjourned judgments.
9. No. of judgments fixed for the day.
10. Total of columns 8 and 9.
11. No. of judgments delivered.
12. Whether any judgment adjourned beyond 14 days.

General Letter No. 4 of 1962.
 (Criminal)

From

Shambhu Prasad Singh, Esq., B.L.,
 Registrar of The High Court of Judicature at Patna,

To

The Sessions Judge of Patna, Gaya, Shahabad/Monghyr/Bhagalpur/
 Darbhanga/Muzaffarpur, Saran/Champaran/purnea and Hazaribagh.

Dated Patna, the 14th Caitra, 1884
 4th April 1962.

Sir,

I am directed to say that with a view to remove the difficulties in making payments of diet and travelling allowances to witnesses attending Courts of Munsif and Judicial Magistrates the State Government, at the instance of the Court, have, in their letter no. A/EXW 306/58/2611-J., dated 7th March, 1959, issued instructions that payments of diet and travelling allowances to witnesses attending Courts of Munsif and Judicial Magistrates should be made from the establishment of the Sessions Judges under the head "27 Administration of Justice—Civil and Session

Courts—Contingencies—Non-contract". They have further modified it by their letter no. 6352-J., dated 4th November, 1960, to the effect that at the stations, where there is no Civil Court establishment, payment shall continue to be made from the establishment of the Subdivisional Magistrates from the head "27-Administration of Justice—Criminal Courts—Contingencies—Non-contract". Although the aforesaid two instructions have removed the difficulties to a great extent it has been suggested by some of the Sessions Judges that they would work to better advantage and would be more convenient to all concerned if the witness expenses are deposited in the Civil Courts and not with the Cashier of the Criminal Courts, as at present in some of the districts. [High Court, English Department (Criminal).]

The Court have, therefore, after due consideration of the matter, decided that in separation districts the expenses of witnesses attending the Courts of Munsif-Magistrates and Judicial Magistrates should be deposited as preemptory deposits in Civil Courts at all stations except where there are no Civil Courts. At such stations the existing practice of making the deposits with the Cashier of the Criminal Courts may continue.

The above instructions should be followed by all concerned.

Yours faithfully,
S.P. SINGH,
Registrar.

Memo No. XLIXD-31-60.

Copy forwarded to the District and Sessions Judge/Judicial Commissioner/Deputy Commissioner/District Magistrate, for information and guidance and for communication to and guidance of the Courts subordinate to him.

High Court,
English Department,
(Criminal).
Sarvana. 1884.
The _____
August, 1962.

By order of the High Court,
V. Mishra,
First Assistant Registrar.



General Letter No. 5 of 1963.
(Criminal).

From

Shambhu Prasad Singh, Esq., B.L.,
Registrar of the High Court of Judicature at Patna.

To,

The Sessions Judge of Patna, Gaya Shahabad, Bhagalpur, Monghyr, Darbhanga, Muzaffarpur, Saran, Champaran, Purnea and Hazaribagh and The Deputy Commissioner of Ranchi, Dhanbad, Singhbhum, Palamu and Santhal Parganas.

Dated Patna, the 8th Asvina, 1885.
30th September, 1963.

Sir,

I am directed to say that it has been brought to the notice of the Court that the magistrates, while trying cases against juveniles, do not take recourse to the provisions of the Reformatory Schools Act, with the result that the population of juveniles offenders in regular jails is increasing to the point of congestion though there is adequate accommodation in the Reformatory School at Hazaribagh. Moreover, it is not advisable for juvenile offenders to be mixed with regular convicts. [High Court, English Department (Criminal).]

I am, therefore, to request you to direct all the Munsif-Magistrates and the judicial magistrates under you to see that, in cases, where they are of opinion that a juvenile offender should be convicted and sentenced to imprisonment and that he should be sent to the Reformatory School, the file should be submitted to the Sessions Judge under section 9 of the Reformatory School Act for necessary orders.

Yours faithfully,
S.P. SINGH,
Registrar.

Memo No. XXVII (S)-3-63.

Copy forwarded to the Sessions Judge/Judicial Commissioner/Deputy Commissioner, for information and communication to the Courts subordinate to him.

High Court,
English Department,
(Criminal).
Agrahayana, 1885.
The _____
December, 1963.

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By order of the High Court,
V. Mishra,
First Assistant Registrar.

