

**Criminal Court Rules**  
**of the**  
**High Court of Jharkhand**

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**CRIMINAL COURT RULES**  
**OF THE**  
**HIGH COURT OF JHARKHAND**  
Volume I.  
*Preliminary*

[ These General Rules are in supersession of all such General Rules which are contrary to these Rules.]

1. The Court hours shall ordinarily be from 10:30 A.M. to 4:30 P.M. standard time. It is expected that the Judges will so arrange the business of their Courts as to supply work for these hours.

**Note 1.**-Between the 1st of April and 30th of June, the exact dates being settled in consultation with the heads of the offices in the station, the Courts may commence their sittings at **7.00 A.M.** or as soon thereafter as convenient. When this arrangement is in force, the Session 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 Civil Judge (Senior and Junior Division), 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 **9:30 A.M.** in the case of morning sittings).

**Note- 3**      **In case of demise of judicial officer or any practicing advocate, or staff of the civil court of the judgeship, business of the court work will remain suspended after 4.00 P.M and after 11.30 A.M. during morning Court.**

2. Every Session Judge and Magistrate (Civil Judge, Junior Division) 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) 8] .

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.

**Note 1 - The entry in the diary (Supra) shall be uploaded in the Computer of the Court, as well as in the main server of the District Court.**

**Note 2** -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 Rule 106, Chapter VI of the 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 advocates. 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.

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. The dates of every case shall be shown in the cause list and shall be published on the notice board.

**Note 1 - Five Copies of Cause List shall be generated through and saved in Computers, as well as uploaded in the main server of the District Court.**

**Note-2 - The entry of the cause list shall be stored in computer for three months.**

5. Magistrates (Civil Judge, Junior Division) and other officers entrusted with the disposal of criminal business shall refrain and strictly interdict to entertain on the part of those subjects within their authority or public transaction at their private residences, instead of courts. A Magistrate (Civil Judge, Junior Division) can as far as possible be less accessible in his own house as at his Court.

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 holiday.

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 Session 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 Session 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.
10. The **Principal District Judges/ Principal Judicial Commissioner, Ranchi** and the Chief Judicial Magistrates are required to maintain a watchful and intelligent control over the works of the “**Judicial Officers**” 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 dispatch.
11. **The court language in state of Jharkhand shall be “Hindi” to be written in “Devanagri” character or in English;**

### **PART 1**

#### **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, **“or in Computer print out”** if possible. No petition or *pairvi* shall be filed in the Court unless copies thereof have been previously served on the **Advocates including prosecutors** for each set of parties whose interests are not joint. **Advocates** 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.
- 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.
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.
15. Every summons issued under the Code of Criminal Procedure shall be (in duplicate] signed and sealed by the Presiding Officer of the Court or in his absence by any other Judicial Officer of equivalent rank exercising jurisdiction within the local area of the Court.

**Note 1 : If practicable apart from the summons issued under Cr. P.C. the court may even send summons by**

electronic mode.

**Note – 2 : While issuing summon in cases falling under Section 265-A to an accused, he must be informed in writing to the provisions of plea Bargaining contained in chapter XXI A of the Code of criminal procedure -Vide Memo No-562 - 83 (P&S) JHC Dated. 2.7.07**

**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 **“with certificate of service or the report as the case may be, endorsed by the Registrar/Judge-in-Charge”** 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.

**18.** In every such case the **Judge in charge / Registrar”** 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.

**Note :- Service Report of notices issued from the Supreme Court of India shall not be returned directly to the Supreme Court. It shall be forwarded to the High Court with proper certificate by Judge In-Charge/ Registrar expeditiously for its onward transmission to the Supreme Court.**

## 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, address including PIN number of the area and mobile number, if any and such further description as will serve to identify him.

**Note-** (i) In the case of service or execution of process to be effected in big towns, the name of the street or Sector of the town, pin code of the area and the number of the house (if known) should be given.

(ii) In case where notice / process has been sent by electronic mode, the same shall be send at the correct e-mail address as available in the official record.

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:

21 . (i) Process to foreigners should be issued along with an English translation thereof.

(ii) **Any notice issued to be served on the parties to the litigation residing outside India, be routed through the Ministry of Home Affairs, Govt. Of India which is the nodal Ministry and Central Authority for Mutual Legal assistance in criminal matter (including service of summons and other judicial processes outside India) and is also in charge administration of Criminal Law including Cr.P.C.**

22. In a proceeding instituted upon a complaint made in writing, every process issued shall be accompanied by a copy of such complaint. In case of process issued by electronic mode a soft copy of the complaint petition shall be the part of the process.

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 of the relief of the witness summoned.

25. 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.

26. Whenever any document/s which is/are required to be produced in a case, is/are in the custody of the 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 Lok Sabha/Rajya Sabha/Vidhan Sabha/Vidhan Parishad or any duly informed officer of the Secretariat of the 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.

### CHAPTER III

#### Confession and Statements of Accused-Section 164, Cr.P.C.

27. (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 officer 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 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 **Chief Judicial Magistrate or by**

## **Magistrates.**

(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.

## **CHAPTER IV**

### **Complaints under Section 200-203, Cr.P.C.**

**28. All complaint cases , Criminal appeals and like matters shall be filed at the centralized filing counters at fixed hours ordinarily at the commencement of the day's sitting and wherever practicable a soft copy of the complaint or the appeal and the like matters with the scanned copies of the documents, if any, shall also be filed with the hard copy and appropriate entries shall be made in the computer of the centralized filing counters.**

**Note 1 : Form (R)1, G.R. Register, complaint Case Register and other Misc. Register be also opened in computer. The feedback from different courts and the final results of the cases every month be also entered in the above computers regularly.**

**28 A. In all complaint cases, the complainant must mention Mobile or Base Phone No. , e –mail id of him/herself and the person sought to be arraigned as accused and witness(es), if available.**

**29. The examination of the complainant and the witnesses present, if any, is not to be a mere formality, but an enquiry into the subject-matter of the complaint, as provided in the Code of Criminal Procedure, be followed to enable the Magistrate to form an opinion as to whether there is or not sufficient ground for proceeding.**

**Note -** (i) Statement of complainant, should ordinarily be recorded on the back of the petition.  
(ii) In case of E- filing, the statement of the complainant has to be recorded on computer and videographed.

**30. Magistrate 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.**

**31. Final orders in proceedings under Sections 145 and 147 of the Code of Criminal Procedure should be drawn up in 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 section 476 of the Code, as the circumstances of each case may require.

## CHAPTER VI

### Commitment of cases to the Court of Session

**32.** A Magistrate making a commitment to the Court of Session, shall notify the same in Form no. (M-7, Vol. II) without delay and shall also fix a date in presence of all the accused persons for their appearance in court of session. The names of all the witnesses to be examined in the Court of Session, shall be appended to the said notice along with their full address and mobile number, if any. 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 Session, a list of witnesses whom he wants to be summoned in the case. The Session Judge shall then fix the date for trial and send intimation of the date along with the summonses to be served on the witnesses to the Superintendent of Police of the district and the public prosecutor. On receipt of the summonses, the Superintendent of Police shall have then served on the witnesses in accordance with the provisions of Section 62 of the Criminal Procedure Code. The Superintendent of Police, the Public Prosecutor and the local police shall be responsible to ensure the attendance of the witnesses on the dates fixed in the case.

Note 1 : The transfer or commitment of records to the court of session shall also be entered in the CIS forthwith.

**33. (i) The Magistrate while committing the case to the court of session shall send the entire record with respect to appearing and non appearing accused. The Session court will then split up the case of non appearing accused persons and will issue the processes against them for appearance. The Magistrate, while committing the case to the court of session, will attach Set of Police papers for each non appearing accused.**

**Note - In case of e-filing of challans and police papers where the police papers are voluminous only soft copies of the police papers may be supplied as austerity measure with the consent of the defence, so far as practicable by the courts but printouts may also be supplied on the cost of the state, if the defence so demands.**

**(ii) When the case of appearing accused is disposed of and the record is called for in appeal preferred by the convict, then before sending the L.C.R, its authenticated paper book (shadow record) shall be prepared with signature of Presiding Officer, for the purpose of its use in commencing the trial of the absconding accused on his appearance without summoning the original L.C.R. from the appellate court.**

Note – The commitment of the case to the court of session will not amount to disposal for the purposes of calculating the disposal of the Magistrate in a particular month or quarter.

## CHAPTER VII

### **Session Business**

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

**Note**                      **The Session Judge will submit quarterly report to the High Court showing under the appropriate heads the number of commitment cases received in that quarter and the number of such cases transferred to different Session Courts.**

**35.** When it is duty of a Session 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 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.

**36.** The Judge shall maintain a Register of session cases in Form no. (R) 23 and shall also enter the data of Form No. R- 23 in the main server (Computer) of the district.

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

One nomenclature shall be used for indicating a particular nature of case through out the state and the year of institution shall never be changed showing the age of the case record from the age of its institution. There shall be no change in the case number for the reason that the same has been transferred from one court to the other.

**Note : The Session Register (R)[23] be also opened as separate file in computer.**

**38.** Column .4 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.

**39.** In the column of remarks of Register (R) 23, Session 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 Session, 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, 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 Chapter XXX of the Criminal Procedure Code.

**40.** 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 Session Judge should enter in the column for remarks the date of each previous conviction, the offence charged, and the sentence passed, on each occasion.

**41.** (a) Session 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) Session 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

**42.** 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, 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 11.30 a.m. during day sitting and 7.30 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 not 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 find entry in the register of the attendance of witnesses which is to be written up by the Bench Clerk.

Attendance of accused or necessary steps on his behalf shall not be filed later than 11.30 am during day sitting and 8.30 am during morning sitting.

Likewise attendance of any witness by the complainant or the prosecution shall not be barred to such witness being examined if presented for examination after 11.30 a.m during the day sitting and 8.30 a.m during morning sitting.

**43.** The trial, 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.

44. 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.

#### **CHAPTER IX** **Mode of Recording Evidence- [Chapter XXIII], Cr.P.C.**

45. Deposition should be written /typed as far as possible on both side of the paper, only a margin of one-fourth “**at both sides**” of the sheet being left blank.

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

47. If a type writing machine “**official computer**” 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.

Note : The deposition either prepared on typing machine or on official computer shall be made in triplicate. The copy of deposition generated through computer or through typing machine, on demand, shall be handed over to the advocates of party or parties concerned on payment of a nominal charge of Rs. 2/- per page in the court itself after the end of the proceeding in that case. The copy so generated shall not be treated as certified copy.

48. Every Session 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 [nationality, religion], profession and age of the witness *or* accused person and the village, police station and district in which the witness or accused person resides 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.

49. (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 important bearing on the offence with which the accused is charged, the words actually used should be 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.

50. All communications from witnesses regarding their attendance in the Court of Session 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 Session Judge for orders. The orders passed thereon should be communicated to the witness through the same channel.

**51.** 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.

**52.** 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.

**Note :- 1**

**Examination of medical officer :-**

- (a) **In order to avoid the necessity of summoning medical officer too often, the trying magistrate should fix a single date for a number of cases in which the same medical officer may be required to give evidence, as far as practicable.**
- (b) **Similar measures shall be adopted in Session cases as well as if the evidence of the same Doctor is required in more than one Session courts at the same station e.g., in the court of the Session Judge and in the court of an Additional Session Judge or an Assist. Session Judge.**

**Note :- 2**

**Examination of Hand writing & Finger Print Expert**

- (I) **As soon as a case is transferred to a Magistrates for trial; he should fix a clear date (about a month in advance) for the appearance of the Expert witness, if any.**
- (II) **In fixing a date for the Expert, the trial court shall consider any advance programme which the Expert concerned have sent for visit to that District/Station in other case.**
- (III) **The summons issued by the court to the expert should clearly indicate the name and designation of the particular Expert and the details of the case in which he has to be examined.**
- (IV) **The Expert concerned should also adhere to the date fixed as far as possible.**

**Note :- 3 :-**

**Evidence through Video Conferencing with respect to the Under Trial Prisoners:**

**If the presiding officer thinks fit and proper to record the evidence of the witness, through the video conferencing facility, the actual physical presence of the Under Trial Prisoner before the Court may be dispensed with and the evidence of the witness shall be recorded in the Court in the manner detailed in foregoing Rules with the aid of such video conferencing facility. and a audio video recording may also be preserved where the witness is present through electronic mode.**

## CHAPTER X

### Judgment and Sentence

**53.** Judgments should be written legibly and on both side of the paper, as far as Practicable, only a margin of one-fourth of each sheet being left blank.

**Note-1:-**                    **The name of the parties, the age of accused along with the case number must be noted on the top of the first page of the judgment.**

**Note-2 :-**                    **Full name of the Judicial Officer with designation should be given at the top of the Judgment.**

**54.** A type writing machine” **or the official computer/Laptop**” may be used for the purpose of recording judgments in criminal cases. The type writing machine “**or the official computer/Laptop**” must be used by the Presiding Officer himself or by his stenographer or person authorized by the Presiding Officer and a certificate to the effect that the judgment has been dictated and corrected by him must be given. The final order and judgment shall be up loaded in the CIS forthwith in pdf format and shall be digitally signed, if the digital signatures are available.

**55.** (a) Whenever an enhanced sentence is passed on conviction on a charge within the-terms of Section 75 of the Indian Penal Code, the Session 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.

(b) When a Session Judge has occasion in any judgment, whether at session trial, or on appeal or in revision, expressly to condemn or to praise the action of the police or of any particular police officers, a copy of such judgment should be forwarded to the Magistrate of the district for his information.

**56.** (a) Session Judges and Magistrates should forward to the Defence Ministry of the Government of India copies of judgments of all cases in which Commissioned Officers have been tried for criminal offences.

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 proper authority dealing with the pension of Military Personnel.

(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.

**57.** Session Judges and Magistrates shall forward to the Registrar of the Medical Council of India, Jharkhand 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 unfavorable 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 to the Medical Council of India, Jharkhand.

## CHAPTER XI

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### Execution (Chapter [XXXII] Cr.P.C.)

**58.** 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.

**59.** 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 Chief Judicial Magistrate must arrange that this note be made by a competent officer, and be attached to the warrant.

**60.** (a) When a Magistrate passes an order to give security under 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 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.

(b) Where a superior Court, on a reference being made to it under 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 Form no. 17 of Schedule II of Criminal Procedure Code.

**61.** When the record of a case tried at the Session is submitted to the High Court, the Session Judge shall 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.

**62.** The date mentioned by the Session 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..

**63.** 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.

**64.** All recommendations for remission or suspension of a sentence made under 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.

**65.** In the case of a convict against whom an order is passed under [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 Section 418 of the Code.

**66.** If in any case a claim is made to the property attached ,under 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.

**67.** When a Court of Session 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 Chief Judicial Magistrate or to the concerned Court with an endorsement thereon to the effect that the fine has been realized.

## **CHAPTER XII**

### **Appeals- [Chapter XXIX, Cr.P.C.]**

**68.** Petitions of appeal against the sentence or orders of Session Judges, presented to officers in charge of jails shall be forwarded by such officers directly to the “**Registrar General**” 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 General with a forwarding memo.

**Note** - Session Judges need not send the records of such cases to the High Court until they are directed to do so upon the admission of the appeal.

**69.** In the case of appeals preferred to the Court of Session 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 Session 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 Chief Judicial Magistrate.

**70.** When an Appellate Court, or a Court of Revision directs 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.

**Note - In case of not furnishing the bail bond by the accused within one week from the order to enlarge him on bail, the Court in appropriate cases may have regard to the provision of the Explanation of Section 436 Cr.P.C. release him on his executing a bond without sureties for his appearance.**

**71.** 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.

**72.** (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 same direct to the officer in charge of the jail in which the appellant is confined.

(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 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.

(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.

**73.** 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.

**74.** 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.

(a) 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.

(b) 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 to the Court which tried the case, with directions to retry the prisoner for the offence charged.

(c) 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. 11 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.

(d) 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 dispatched 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 with direction to commit him to custody as in cases (3) and (4) of Proviso 1.

**75.** 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.

**Note** - When an appeal is preferred to the High Court against the conviction and sentence passed by the Session 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 Session Judge to be filed with the Session record.

**76.** Where the High Court simply modifies a sentence passed by a Session 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.

### CHAPTER XIII

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#### Reference and Revision- [Chapter XXX] Cr.P.C.

77. The Magistrate of district / Deputy Commissioner must be deemed in respect of his judicial functions and in this respect only to be subordinate to the Session Judge.

78. Session Judges are to be guided by but not to go beyond the following Instruction in communications with the Executive Magistrates.

Deputy Commissioner are to comply with all requisitions for records, returns and informations made by Session Judges with regard to any case appealable to or revisable by them. The Deputy Commissioner are also to render any explanation which the Session Judges may require from them and to obtain and submit any explanation which Session Judges may require from the Executive Magistrates.

79. When the record of a proceeding in the Court of Executive Magistrates is called for by the Session Judge under Section 397, Criminal Procedure Code, it shall always be done through the District Magistrate / Deputy Commissioner. If the case relates to the Court of Judicial Magistrate, the record shall be called for from that Court.

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

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### CHAPTER XIV

#### Provisions as to Mentally Disabled Accused [Chapter XXV], Cr.P.C.

81. 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 [Section 335], Criminal Procedure Code the said (.....) be kept in safe custody in the       ".

Provided a Magistrate cannot consign a mentally disabled to any asylum or jail on his own unprofessional opinion. He must have before him the statements of the medical officer reduced to writing. The medical officer should

be called as a witness and carefully examined.

## CHAPTER XV

### Commissions for Examination of Witnesses-Chapter XL, Cr.P.C.

**82.** 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.

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.

**83.** 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.

## CHAPTER XVI

### Disposal of Property- [Chapter XXIV], Cr.P.C.]

**84.** (a) Criminal Courts in making orders under 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.

(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 XVII

### Miscellaneous-Chapter XLVI, Cr.P.C.

**85.** (1). Where a person subject to military or air force or Navy Act is brought before a Magistrate and charged with an offence for which he is liable, under the provisions of the Army Act or the Air Force Act or the Navy 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 a tribunal constituted under the above Acts or to inquire with a view to his commitment for trial by the Court of Session, 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 naval or Air force authority **or tribunal constituted under the above Acts**, 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 relevant provision of the Code of Criminal Procedure; or

(b) frame in writing a charge against the accused under the provisions of the said Code; or

(c) make an order committing the accused for trial by the Court of Session under the provisions of the said code.

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 under 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 under 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, competent air force authority' means the Air Officer Commanding, Air Force and Naval Commanding Officer, Indian Navy.

## **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.

**86. The following forms of oath and affirmation are prescribed by the Jharkhand High Court under Section 7, of the above Act.**

## 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.

*Affirmation*

I solemnly declare that the evidence which I shall give in this case shall be true, 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.

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

**88.** 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

**89. The Rules Framed under the Juvenile Justice (Care and Protection of Children) Act, 2000 shall be applicable with respect to the Juvenile in conflict with law.**

## CHAPTER III

**The Indian Stamp Act, 1899**

**90. (a)** When a Judicial Officer sees reason to doubt the genuineness of a stamp filed before him, the stamp should be forwarded to the Deputy Commissioner 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 Deputy Commissioner under the above orders.

### **PART III**

#### **Records**

### **CHAPTER I**

#### **Arrangements of Records of Criminal Proceedings**

91. "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**

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

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

- (i) Title-page
- (ii) Table of Contents
- (iii) Order-sheet
- (iv) Papers showing how the proceedings were initiated together with any sanction to the proceeding granted under Sections 195, 196 or 197, Criminal Procedure Code, 1973 [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 under Section 173 of the Criminal Procedure Code and the order of commitment.
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) (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 Section 299 of the Criminal Procedure Code or otherwise, e.g., Depositions of witnesses taken on commission; Dying declarations admitted in evidence;
- (ix) Deposition of a medical witness admitted under Section 291, Criminal Procedure Code.
- (x) Report of the Chemical Examiner, or Assistant Chemical Examiner to Government, admitted under Section 293, Criminal Procedure Code.
- (xi) Any confession, or statement of the accused recorded under Section 164, Criminal Procedure Code, and admitted in evidence.
- (xii) The examination, if any, of the accused before the Session Court.
- (xiii) Any written defence that may be laid before the Court.
- (xiv) The depositions of the witnesses examined for the defence in chronological order.
- (xv) Written Memorandum of argument, if any, submitted under Section 314 of the Code of Criminal Procedure.
- (xvi) The judgment and final orders.
- (xvii) 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).
- (xviii) The following papers shall be subsequently added to complete the record'
  - (a) Copy of the judgment, or order of the Appellate, or Revisional Court.
  - (b) Warrant returned after execution by the Jail authorities.
  - (c) If the sentence has been remitted in whole, or in part, by the President, or the Governor, a copy of-the order of remission.

**94.** File B shall contain

- (i) Title-page,
- (ii) Table of Contents, and
- (iii) 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*

**95.** 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.

**96.** The following papers shall be included in the File A in the following order

- (i) Title-page.

- (ii) Table of Contents.
- (iii) Order-sheet.
- (iv) 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.
- (v) Statement, if any, of the accused under Section 252, Criminal Procedure Code, in Summons cases only.
- (vi) (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.
- (vii) Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under Section 293 Criminal Procedure Code, in Warrant cases-For Warrant cases only.
- (viii) 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.
- (ix) 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.
- (x) 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.
- (xi) Any confession or statement made by the accused before a trial and recorded under Section 164, Criminal Procedure Code-For Warrant cases only.
- (xii) Examination of the accused under Section 254, Criminal Procedure, Code, in Summons cases or under Section 313 Criminal Procedure Code, in Warrant cases and any written statement filed by the accused during the trial.
- (xiii) The deposition of the witnesses examined for the defence in chronological order.
- (xiv) Memorandum of argument, if any, submitted under Section 314 of the Code of Criminal Procedure.
- (xv) Judgment, finding and sentence.

The following papers shall be subsequently added to complete the record.

- (a) Copy of the judgments or order of the Appellate or Revisional Court or Courts.
- (b) Warrant returned by the Jail authorities after execution of sentence.
- (c) Any petition, or other paper bearing on the offence charged and material to-elucidate, or justify the decision in Warrant cases only .

97. 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.

### **Complaints dismissed under Section 203, Criminal Procedure Code**

**98. (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, 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.

### ***Summary Trials***

**99.** 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***

**100.** 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.

**Note :- Record of Juvenile Justice Board - The rule for record of Warrants Case and the Summons Case, as the case may be, shall be followed. In addition to the other papers as listed in Rule 114, the following papers shall form part of file A :**

- (i) Inquiry Report by Juvenile Police.**
- (ii) Report of Probation Officer.**
- (iii) Final report by the J.J. Board.**

**Note :- Record of Lok Adalat (Pre Litigation Stage Cases) - The record of criminal matters disposed of at Lok Adalat (Pre litigation stage) shall consist of only one file as 'File-A'.**

**The following papers shall be included in File-A:-**

- (i) Title Page,**
- (ii) Table of Contents,**
- (iii) Order Sheet,**

- (iv) **Application given by parties and written reply there of, if any,**
- (v) **The Settlement Paper /Award.**

### **C.-RECORDS OF APPELLATE AND REVISIONAL COURTS**

**101.** 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".

#### ***(a) Documents Exhibited as Evidence***

**102.** 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.

**103.** 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

**Exhibit 1/1, 1/2, 1/3, etc., etc, etc.**

**Exhibits A/a, A/b, A/c, etc., etc.**

**Note - 1 :-** **Relating to Electronic evidence**

**If any evidence is filed in form of electronic evidence which includes computer evidence, digital audio, digital video, cell phones or digital fax machines, the expert opinion with regard to the same will be given by the examiner, as specified by the Central Government by notification in official gazette as mentioned in section 79-A of the Information Technology Act 2000 (Amended Act -2009).**

**Note - 2 :-** Implication of amended provisions of Indian Evidence Act in sections 3(a)(b),17, 22, 34, 35, 39, 47, 59, 65,67, 73, 81, amendments made in sections 29,167, 172, 173, 175, 192, 204, 463, 464, 466, 468, 469, 470, 471, 474, 476,and 477A of Indian Penal Code shall be given effect to.

**Note - 3 :-** Mode of marking the electronic evidence as mentioned in the above rule (Supra).

The following mode may be prescribed for marking the e –evidence –

<b>Computer evidence –</b>	<b>If the computer itself is produced, the same may be marked as material exhibits.</b>
<b>print out of computer - As</b>	<b>‘e’ - series</b>
<b>Digital audio - As</b>	<b>‘e’-digital audio series</b>
<b>Digital Video - As</b>	<b>‘e’-digital video series</b>
<b>Cell phone - As</b>	<b>‘e’-cell phone series</b>
<b>Digital fax machine – As</b>	<b>‘e’-digital fax machine series</b>

**104.** 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.

**Note :- Documents marked for identification Only**

**The documents referred to by a witness from the record, but not admitted at the time of evidence, and subject to further evidence for admission, be marked identification provisionally as ‘X’ and X-series on behalf of prosecution and as Y and Y-series on behalf of the defence, respectively.**

**105.** 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.

**106.** 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.

**107.** 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, shall be included in this file.

***(b) Documents not Admitted as Evidence***

**108.** 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 “**Advocate**” after he has signed the receipt for the same in the appropriate column of the list Form no. (M) 22A. An “**Advocate**” 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***

**109.** 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.

**110.** 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.

**111.** 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.

**112.** 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**

**113.** 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.

**114.** To each file of every record there shall be prefixed a combined title page and table of contents in Form No. (M) 21, Volume 11.

**115.** 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
1	(i), (ii), (iii) and so on	Order-sheet	<b>Rs.</b>		
2	1-2	Petition of complaint			
3	2-3	Confession of accused before trial			
	6	Charge			
	7-9	Judgment			
	10-11	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 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 Courts of Session*

- 116.** 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.
- 117.** 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 Session Judge, after he has satisfied himself of the correctness of all the entries made therein.
- 118.** It shall contain
- (1) An abstract of the charge or charges, and, if any amendments are made by the Session Judge under 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) 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.
  - (4) The names of the witnesses for the prosecution, as they are examined.
  - (5) 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.

**Note** - This should include-any examination, or confession, of the accused or of any of the accused.

- (6) 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 Section 233.
- (7) A note of the fact that the prosecutor sums up his case (as the case may be) before, or after any defence made

Sections 233, 234.

(8) If accused or his pleader addresses the Court, a note of such fact.

(9) The names of any witnesses examined for the defence, and particulars of any documentary evidence, or articles, admitted for the defence.

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

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

(11) 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 under Section 363, Criminal Procedure Code.

### ***B. -Order-sheet for Magistrates Courts***

**119.** 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.

**120.** The Order-sheet shall include every interlocutory order, from the date of complaint, or the date on which the F I.R. as received in the office of the Magistrate concerned] is laid before him, and shall also contain the substance of the final order.

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

## **CHAPTER III**

### **Inspection of Record**

**122.** No record not deposited in the Record Room shall be inspected without the permission of the Court concerned.

**123.** All the pending record not deposited in the record room shall be inspected in the Ijlas of the Registrar-cum-Judge In-charge of the district and similarly all applications for inspection of the record shall be filed before the Registrar and the same shall be sent to the office concerned through dispatch register. The court concerned shall sent the required records along with the applications to the Ijlas of the Registrar for inspection after making entries in Register No. R-23, Column No. 1 to 5..

## **CHAPTER IV**

### **The transmission of Records to the District Record-Room**

**124.** The records of all criminal proceedings after disposal / decided cases will be kept in the record room of the District Court.

**125.** The **District Judge in the Judgeship** shall fix the dates on which the records from each Court shall be dispatched to the **District Judges** Record-Room endeavoring 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

**126.** A list in Form No. R-14 Volume II shall accompany all records sent to the District Court Record Room and a list in Form No. (R), volume II, shall accompany all records sent to the Session Judge's Record Room.

One list only shall be prepared for all the classes into which the cases have been classified under Rule 129. The records of cases mentioned in proviso to Rule 129 shall be entered in a separate list. .

**Note - The list so prepared be also entered in the computer.**

**127.** 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 record room of District Court. They shall be preserved for the same period as the record to which they relate.

**128.** The lists required by rule 126 shall contain an entry of every case disposed of during the period to which they relate and be generated in duplicate through the computer. One copy of each list shall be forwarded with the records. The second copy shall be sent to the Judge or Magistrate In-charge of the record room under 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 copies shall, on return, be preserved by the issuing court for five years from the dates of dispatch of the original copies to the record room.

**The records after disposal may also be transferred in the CIS to the record-room as disposed of cases and the digital copies may be preserved accordingly.**

**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 129 if and when destruction is carried out.

**Note- 3 – The above note 1 & 2 be entered in the computer.**

**129.** 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:

#### *Class I-To be preserved for 14 years*

- (a) Files A and B of Session 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 Session 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.

- (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 Chapter X, Criminal Procedure Code.
- (b) File A of 'security cases under Chapter VIII, Criminal Procedure Code, other than those mentioned in 1(b) above.
- (c) File A of appeals and applications for revision in respect of the cases mentioned in (a) and (b) above.
- (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 Session has passed an order of discharge, under Section 227, Criminal Procedure Code.
- (e) File 'A' of cases where Police has submitted final form under section 173 Cr.P.C. and the same has been accepted.
- (f) File 'A' of cases in which quashing / setting aside of the case has been ordered by Superior Courts.

***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 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 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.
- (iii) Record of any case in which an order for maintenance has been made under 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 this rule with a view to the destruction of those that have become liable to destruction under the instructions contained in note to it.

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

**Note – 1:- Record of Bail Petition, to be preserved for 3 years.**

**Note – 2:- Record of Lok Adalat(Pre litigation stage) in Criminal Matters.**

**Such records shall be preserved for (As determined by the Hon'ble Committee).**

#### *Return of Exhibits*

**131.** 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 or any information contained in an electronic record in terms of Section 65A of the Evidence Act, 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 in case the data stored in the computer, laptop, mobile or fax is the evidence the same may be preserved in soft form in an image or other format to avoid any alteration in the same even by its revisit alone. 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.

**132.** (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 advocate, 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.

**133.** 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.

**134.** The destruction of records, in accordance with these rules, shall take place at the end of each calendar year, **by the use of Shredding Machine in the manner given below**

**(a) The present mode of destruction of record and other used requisitions of copying Dept. shall be by Shredding Machine in the presence of the record keeper, under the supervision of Judge-in-Charge/Registrar.**

**(b) The shredded paper shall be auctioned sold by open tender and its amount be deposited in favour of Govt. with intimation to the Hon'ble Court.**

**(c) Similarly, the confidential records becoming useless may also be destroyed by the specific order of District Judge, by keeping a record of same, by the same method of shredding.**

**Note- Session Judges will note in his Annual Reports whether these rules have been duly observed.**

## **CHAPTER VI**

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

**135.** 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 XII I, 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.]

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

**137.** (a) The Record Rooms of the Criminal Courts are not open to the public generally, but public officers of the district Courts, including Head Clerks, may, with the permission of the Session Judge, 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) “Advocate, duly authorised by any person in that behalf, may, under similar conditions, and at a place to be provided for the purpose in the court of Registrar / Judge In-charge examine any specified record; but in doing so, shall make only brief notes. If any extract from the record is required, it shall be obtained through the Copying Department in the usual way.

**138.** The examination of records by **Advocate** shall be allowed only on office days and during such office hours as the Principal District Judge / Session Judge may prescribe.

**139.** 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.

**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' [Court of Session 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.

**Note-(3) Register (R) 14 A, be also maintained in Computers**

**140.** **When a case record is requested to be inspected for satisfying as to whether the Government should be moved to direct an appeal against an original or appellate judgment of acquittal under section 378 or an application for enhancement of sentence under section 399 or 401 of the Code of Criminal Procedure, the Session judge, may allow the Public Prosecutor or the Assistant Public Prosecutor, as the case may be, to inspect the same.**

**141.** 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 Session Judge should forward to the commission, on requisition, the original record of the decided session case in question.

#### *Access to Records in Courts of Session*

**142.** Session Judges should give every facility to Executive Magistrates and Gazetted Police Officers authorised by the Deputy Commissioner and Superintendent of Police concerned for inspecting the records of cases of the Courts of Session, 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 Session Judge and, if possible, should be type-written /**Computer print out/photocopy so far as practicable at the usual copying charges**".

#### *How Records should be transmitted from one Court to another*

143. (a) The following instructions should be observed in transmitting records from one Court to another- ,
- (i) If the two Courts are situated in the same station, the record should be dispatched 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.
  - (ii) Records relating to different cases may, if not inconvenient, be packed in the same parcel provided such records are separately tied up.
  - (iii) 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.
  - (iv) A letter of advice should be forwarded simultaneously with the dispatch 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 proceeding clause should be quoted.
  - (v) 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** - For forms of covering letter and of letter advising dispatch of records, *see* Forms nos. (M) 24 and (M) 25, Volume II.

(b) 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 **Jharkhand High Court** for production of the record of a case appertaining to, and in the custody of, a Court subordinate to **Jharkhand High Court** should be complied with unless such requisition is transmitted through the **Jharkhand High Court** 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 be not in Hindi.

Note-The above procedure will apply when a Criminal Court subordinate to the **Jharkhand High Court** calls for a record appertaining to and in the custody of any other High Court or Court subordinate thereto.

## PART IV

### **Information and Copies**

#### **CHAPTER I**

#### **Preparation and issue of copies and supply of information**

144. 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.

**Note** - The copying work of the Session Judge's Court is done in the Copying Department of the District Judge

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

**146.** 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

**147.** 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;

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 Criminal case which is being heard the procedure laid down in rule 357 of the Civil Court Rules, Vol. I shall be followed.

**Note** - Police reports, on which proceedings are instituted under Part I of this rule, form a portion of the record of trial.

**148.** 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.

**149.** 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.

**150.** 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 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. –

**151. (a) Copies on requisition may also be prepared through Xerox machine kept in the Copying Department at Xerox copy rate of Rs. 1/-(One) per page apart from the usual stamp as copying charge for urgent and ordinary copy.**

**(b) Much care should be taken in**

preparation of copy of the documents like hand written depositions, order sheets like documents, which are not easily readable. In such cases instead of issuing certified copy in the form of photocopy, typed copy shall be issued.

(c) Register showing earning from photo-copying machine, expenditure incurred in maintenance thereof and final deposit of the balance yearly in the Govt. shall be maintained and regulated in accordance with the directions envisaged in Letter No. 5326(Rules) Ad. Misc. LVIII-15-92 dt. 07.10.97 given in detail in Rule 384 of Civil Court Rules.

**152.** 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;

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.

## PART V

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

#### CHAPTER I

##### A.-Process Fees

**153.** The fees hereinafter mentioned shall be chargeable for serving and executing the Processes to which the fees are respectively attached, viz

	<b>Rs.</b>	<b>P</b>
(1) Warrant of arrest-		
For the warrant in respect of each person named therein	10	00

(2) Summons			
For the summons in respect of one person, or of the first two persons residing in the same place or in respect of every additional person named therein – one fee	10	00	
 (3) Proclamation for absconding party			
under Section 82 of the Criminal Procedure CodeFor the proclamation	30	00	
 (4) Proclamation for witness not attending			
Section 82			
For the proclamation	20	00	
 (5) Warrant of attachment			
For the warrant	20	00	
Where it is necessary to place officers in charge of property attached, for each officer so employed, per diem	50	00	
 (6) Written order			
For the order	10	00	
 (7) Injunction			
For the injunction	10	00	
 (8) Notice	10		
For the notice in respect of one to four persons residing in the same village or		00	

10

Note 1- Rules framed by the High Court of Jharkhand in Clause II of Section 20 of the Court Fees Act, 1870 declaring the fees chargeable for the service and execution of process issued by the courts of Magistrate.

However, it is made clear that no process fees shall be legally charged for the issue of processes and execution of processes involving cognizable offence be it on police Report or on a complaint as to whether a case is involving cognizable offence or not should be determined by the court.

**Note 2** – This rule apply only to processes served and executed by Magistrates establishment. By this, however, it was not intended that processes issued under the orders of a court of session, should be served without charge, as it was contemplated that such processes should always be issued at the discretion of the Session Judge.

**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 Section 359 of the Code of Criminal Procedure, 1973.

**Note 4-** The provisions of the Section 359 Cr. P.C., and of Rules 154 and 155 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.

#### **P.**

**Note 5:- The court fee and stamp prescribed in Court Fee Act, Stamp Act and respective rules of the Govt. of Jharkhand shall be applicable so far as the list of process, mentioned in the chart of this rule, subject to the changes made in the aforesaid rule, as and when notified in official gazette.**

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

**155.** No process which comes within the operation of rule 153 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.

**156.** Cost awarded under Section 359 Cr. P. C. and compensation awarded under 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.

**157.** 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.

**158.** 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 issued under Section 35  
of the Court-Fees Act*

**159.** Under Section 35 of the Court-Fees Act, 1870 (VII of 1870), as amended by Act XXXVIII of 1920 and in suppression of all previous notifications under that Section, it is hereby notified that, in exercise of the power to reduce or remit, all or any of the fees mentioned in the First and Second Schedules to the said Act, the Government of Jharkhand has been pleased to make the reductions and remissions hereinafter set forth, namely :

(1) 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;

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

(3) 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;

(4) 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.

(5) to remit the fees chargeable on the following documents, namely-

(a) copy of a charge framed under Section 211 of the Code of Criminal Procedure, 1973, 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 363 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 367 of the said Code is in jail;

(e) copy of an order of maintenance, when the copy is given under Section 128 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 preceding sub-clauses without the payment of a fee, but is a copy which, on its being

applied for under Section 363 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 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;

(6) 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;

(7) 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;

(8) to remit the fees chargeable on applications for copies of documents detailed in clauses 1 and 5 *supra*;

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

(10) to remit the fees chargeable on applications for the grant of licenses issued in accordance with the provisions of any rule made under Section 9 of the Indian Petroleum Act, 1944, for the possession of dangerous petroleum for use on motor vehicles and for its transport thereon for the purpose of use therein;

(11) To remit the fees chargeable on copies of judgments or relevant extracts therefrom furnished to the Registrar of the Medical Council of India, Jharkhand 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.

### **C.-Searching and Copying Fees**

**160.** 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		
	<p>(1) For information whether the record is deposited in the Record room or not.</p> <p>Note-This is the only fee to be paid on such application.</p>	5.00	By a Court-fee stamp to be affixed to the application.
	<p>(2) For inspection of the record of a decided case.</p> <p>Note-No searching fee to be charged to Advocates for looking at the records of pending cases.</p>	10.00	Ditto.
	<p>(3) For copy where the record is deposited in the Record room.</p>	10.00	Ditto.

	<p><b>Note 1.</b>-One searching fee shall be charged for any number of copies taken from the same record and included in the same application.</p> <p><b>Note 2.</b>-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>		
2. Copying Charges	(a) Manuscript Copies	<p>1.00 Per folio consisting of 150 words English [ or Hindi in Devanagri script] or 300 words vernacular [other than Hindi in Devanagri script] four figures counting as one word</p>	<p>By means of an impressed stamp of Rs. 1.00 on each sheet of paper corresponding with the folio to be provided by <b>the</b> applicant for a copy</p> <p>Note : In place of typed copy preference should be given to provide computerized copy and accordingly the charge will be as above.</p>
	(b) Typed copies containing – (i) Not exceeding 150 words	5.00	<p>By means of an impressed stamped paper of Rs. 1.00</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>

	(ii) Exceeding 150 but not exceeding 300 words	10.00	By means of an additional impressed stamped paper of Rs. 5 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
	(iii) Concluding portion of documents beyond 300 words	10.00	By means of an additional impressed stamped paper or papers of Rs. 5 for every additional 150 words .  Note 1 – The adhesive stamp will be supplied loose by the parties and affixed in the Copying Department according to necessity.  Note 2 – Impressed stamped sheets should never be received and cancelled in lieu of adhesive stamps.
	(c) Expedition fee for urgent applications-		
	(i) For inspection or information	1.00	By means of Court – fee stamp to be affixed to the application
	(ii) For Copies – (1) Not exceeding 600 words English [for Hindi in Devanagri Script] or 1,200 words vernacular [other than Hindi in Devanagri Script]	1.00	Ditto
	(2) Exceeding 600 words English [or Hindi in Devnagri Script] or 1,200 words vernacular. [other than Hindi in Devanagri script]	1.00 For every 150 words English [or Hindi in Devanagri script] or 300 words vernacular [other than Hindi in Devanagri script] or part thereof	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 211, 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 363 of the Code, in case other than summons cases, to a copy of the judgment absolutely free of 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 Section 280 of the Code should also be referred to.

**Note 3** - See also Rule 159 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.

**Note (ibid):**                    **the court fee and stamp prescribed in Court Fee Act, Stamp Act and respective rules of the Govt. of the Jharkhand shall be applicable so far as the list of fees mentioned in the chart of this rule, subject to the changes made in the aforesaid rule, as and when notified in official gazette.**

**161.** (i) No fees are to be required or paid for searching, or copying papers wanted by public officers for public purposes.

(ii) The existing practice of supplying free of charge, to the Deputy Commissioner / District Magistrate as provided under section 365 of Code of Criminal Procedure, copies of judgment, convicting Government Officers of criminal offences should be continued and that in view the copies of judgement of acquittal and orders of discharge should also be supplied free of charge on the application of the Deputy Commissioner / Public Officers. Whenever a judgment is prepared on electronic media, the same shall be forwarded to the Deputy Commissioner or Public Officer through E-mail.

**162.** 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 / stamps impressed through franking machine / e-payment to be affixed to the map or plan.

**163.** In the case of urgent copies of maps and plans the expedition fee will also be fixed by the Registrar / Judge In-charge in charge to be paid by means of a Court-fee stamp affixed / stamps impressed through franking machine / e-payment to the application for copy.

**164.** For the cancellation of Court-fee stamps on copies reference should be made to rule 196 of this part.

**165.** The charge for obtaining copies of records in Courts of Session referred to in rule 163 (a) Part III, shall be at “usual copying charges”

## **D.-Fees for Affidavits**

### ***Fees for administering Oaths on Affidavits***

**166.** The charge for administering the oath to the deponent in the case of any affidavit- Five rupees subject to change in the Court Fees Act.

- 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.

**167.** The above fee shall be paid by means of a Court-fee stamp / stamps impressed through franking machine / e-payment.

Note--Fees for affidavits are to be entered on daily basis in the Court fee register.

### **E. Cost of Transmission of Records.**

**168.** When a record is called for by a Civil Court from a Criminal Court not in the same campus, at the instance of party the record shall be send through special messenger the cost of which will be borne by a party concerned.

### **F.-Cancellation of Court-fee Stamps**

**169.** Each Judicial Officer should, under Section 30 of the Court-fees Act, 1870, formally appoint an officer for the purpose of cancelling stamps and should see that said officer is allowed to do the work and no other officer.

**170.** The second or triangular punching of Court-fee stamps prescribed in rule 172 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.

**171.** The Record-keeper should, on receiving records from a *Office Clerk* 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 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.

**172.** 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 of the Criminal Procedure Code.

**173.** 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.

**174.** Each Judicial officer should cause an occasional inspection of sufficient number of records 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 in a quarter. The check herein prescribed applies equally to all papers, which require, adhesive level, and they should be subjected to similar scrutiny.

Note :- The above 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.

### **G. .Inspection of Records by Registration Officers**

**175.** Government having directed the Inspector-General and Inspectors of Registration to examine the record-rooms of various Courts in the *mufassil* 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.

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

**177.** (i) 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.

(ii) On the direction of the Hon'ble Supreme Court in Raghuvansh Dewanchand Bhasin Vs. State of Maharashtra as reported in 2011 (4) JLJR 392 (SC) warrant has to be maintained by every Criminal Court in the following format :

S. No.	The number printed on the form used	Case title and particulars	Name & particulars of the person against whom warrant of arrest is issued (accused/witness)	The officer/person to whom directed	Date of judicial order directing Arrest Warrant to be issued	Date of issue	Date of cancellation, if any	Due date of return	Report returned on	The action taken as reported	Remarks

N.B. In the event of cancellation of arrest warrant by the court, the order canceling the warrant shall be entered into the above register a copy thereof shall be instantly issue in favour of the accused and the signature of the said accused or his counsel shall be obtained on the ordersheet of the case.

**178.** All registers shall be kept in **English**.

**179.** 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.

**180.** 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.

## CHAPTER II

### Periodical Returns and Statements

#### *A.-General*

**181.** The forms of Periodical Statements], 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 are also issued, in order to secure the correct and uniform preparation of the statements.

**182.** A part from certain miscellaneous proceedings under the Criminal Procedure Code, the returns have reference to judicial work alone.

183. No person who has not appeared personally or [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.

**Note 2** - Witnesses examined by Magistrates in Court in preliminary inquiries, under 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 Mentally disabled dealt with under 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.

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

#### **CASES RECEIVED OR DISPOSED OF BY "TRANSFER"**

**184.** 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 Section 322 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"**

**185.** 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, cases submitted by Magistrates under Sections 323, 325 and 122 and by Session Judges under Section 366 of the Criminal Procedure Code. Mere reference for trial under Section 192 are not to be entered 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.

**186.** 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 Session, 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**

**187.** In calculating the duration of cases before the 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.

**188.** A case is regarded 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**

**189.** Monthly Statement of pending cases and Quarterly Statement should be dispatched by the Courts of Executive Magistrates to the District Magistrates, 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.

**190.** Quarterly Statements should be submitted by Courts of Session and Chief Judicial Magistrate to the High Court on or before the 15th of the month next succeeding the period to which they relate, and Annual Statements, on or before the 15th February of each year. The punctual dispatch of correct statements is an important duty, the neglect of which will not be overlooked by the Court.

**191.** Punctuality in the submission of Annual Statements and Annual Reports must be insisted upon and officers concerned should be careful to take the necessary steps to insure the accurate compilation and prompt dispatch 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.

### **MISCELLANEOUS**

**192.** 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.

**193.** 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.

**194.** 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.

**195.** 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.

**196.** 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**

**197.** Judicial Magistrates shall submit a monthly statement to the Chief Judicial Magistrate and Executive Magistrates shall submit a monthly statement to the District Magistrate / Deputy Commissioner 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.

**198.** Judicial Magistrates shall submit to the Chief Judicial Magistrate - and Executive Magistrates shall submit to the District Magistrate/ Deputy Commissioner, quarterly a general statement of the business coming up before their Courts.

**199. With the figures submitted by the Magistrates subordinate to him, the Session Judge shall compile a general statement of all the Magistrates and submit it to the High Court.**

**200.** The Principal District Judge and Chief Judicial Magistrate 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 dispatch. 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 out turn of work shown by each of the Subordinate Magistrates and an expression of their opinion on any deficiency apparent in this respect.

**Note 1 - in** case the Sessions Judge considers it necessary, he may express` his own opinion in this respect.

**Note 2 - Principal District** Judge while forwarding the quarterly statements submitted by Chief Judicial Magistrates to the High Court, shall submit a memorandum showing separately the out turn of criminal work of each officer exercising powers of a Chief Judicial Magistrate with an expression of his opinion on his out turn.

201. Principal District Judge shall also submit quarterly statement of cases committed to the Court of Session and of appeals and applications for revision made to them. The Additional or Assistant Session Judge, if any, will furnish a similar return for his own Court to the Session Judge, who will exhibit the figures separately in his return.

202. Principal District Judge shall submit to the High Court along with the Quarterly Statements a memorandum showing separately the out turn of criminal work of each officer exercising the powers of a Session Judge or of an Assistant Session 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.

### ***C.-Annual Statements***

203. 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.

204. Annual Statement 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 commitment to the Court of Session.

205. In the Annual 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 not intended to include cases pending at the commencement of such period.

**Note :-Every such statement referred to from Rule 197 to 205 be also stored in Computers.**

## **CHAPTER III**

### **Annual Reports**

206. Principal District Judge shall submit to the High Court the Annual Statement. Principal District Judge should be careful to secure a correspondence between the figures given in the Tables in the body of his Reports and those contained in the Annual Statements submitted by him and he is expected to see that no discrepancies occur in this regard.

**Note -"The report aforesaid be stored in computer also".**

207. 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 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.

**208.** The character, qualifications, and official merit of Magistrates should be made the subject of a separate report by Session Judge. In such report the work done by each Magistrate should be analysed. This does not debar Session 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.

**Note 1** - Reports on the merits of an officer should invariably state whether he exercises effective control over his office.

**Note – 2** - All such reports referred to above, which are to be sent to the High Court in hard copy, shall also be forwarded in soft copy also i.e. in CD/DVD.

## PART VII

### Miscellaneous

#### CHAPTER I

#### Process Service

#### “Assignment of job of Process Server amongst the peons”

**209.** The Principal District Judge shall order to post required number of process servers amongst the duly appointed peons. In addition the procedure laid down in Civil Court Rules for processes by the Nazarat, the following procedure may be adopted to get the services of processes affected, issued from different Criminal Courts :-

- (a) Warrants and Summons issued from all criminal courts shall be collected from the office of the Chief Judicial Magistrate by the constables of the respective Police Stations so deputed by the Superintendent of Police every day and the constable shall submit the execution report weekly or by the date so fixed in the processes.
- (b) All Criminal Courts in the Judgeship shall submit the processes in G.R. office of C.J.M. which shall be entered into a Receiving and Dispatch Register specially opened for each Police Station within the District. The said constable after service of the processes shall hand over the service report to the court of Chief Judicial Magistrate. Thereafter, the service report of each court shall be forwarded to the court concerned.

## CHAPTER II

### Inspections

#### INSPECTION OF MAGISTRATES' COURTS BY SESSION JUDGE

**210.** (a) When convenient, the Session Judges should visit the Courts of Judicial Magistrates. 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 issuance of summonses, warrants for the arrest of witnesses, for adjournments, and so forth.

(b) 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 Session 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 Session Judge's visit has disclosed any facts of unusual interest or importance.

## CHAPTER III

### Miscellaneous Instructions

**211.** (a) Session Judge, Additional Session Judges, and Assistant Session Judges, when presiding in Court, shall wear a **Black** coloured Coat, a Judges' or Barrister's gown made of black alpaca, Barrister's band and white pants or black striped Barrister's pant.

(b) Advocates appearing in the Supreme Court, High Court, Subordinate Courts, Tribunals or Authorities shall wear the following dress

(1) Advocates other than Lady Advocates

(i) a black buttoned up coat, chapkan, achkan, black Sherwani and white bands with Advocates' Gowns, or

(ii) 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 or in a Court of Session;

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

Provided further that wearing of black coat in summer shall be optional in district courts.

**212.** 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,

(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.

#### **SESSION JUDGE NOT TO ISSUE GENERAL INSTRUCTIONS / CIRCULARS**

**213.** Session Judge should not, without permission previously obtained from the High Court, issue general instructions or circular of any kind for the guidance of Magistrates.

**214.** Session Judge 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

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**215.** 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 Principal District Judge.

## JUDICIAL OFFICERS AND THE PUBLIC

216. The attention of all officers is invited to the Rules and orders of the Government regulating the conduct of Public servants in respect of borrowing money, receipt of complimentary addresses and the like **as envisaged in Government Servant Conduct Rules and the moral code of conduct as laid down in several judicial pronouncements of the superior courts.**

## RULES REGARDING ADVOCATE'S REGISTERED CLERKS

**217.** The expression "Registered Clerk means a clerk who is employed by an **Advocate** in -connection with his legal business and who is registered under these rules.

218. 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 practice and to such of its ministerial officers as may in that behalf be designated by the presiding officer of such Court.

**Note** - No person employed by an **Advocate** 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.

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

**220.** At **District Headquarters**, the registering authority in the case of clerks of **Advocate** shall be the Principal District Judge and at other stations such authority shall be the Sub-divisional Judicial Magistrate.

**221.** (a) Every application for the registration of a clerk shall be made to the registering authority by the **Advocate** 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 **Advocate** 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 for their opinion, or
- (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.

**222.** The procedure in rule 221 shall apply to renewal of registrations. No card which has been lost can be renewed without payment of a fee of Re. **10** to be credited to Government. The same fee shall also be levied where an **Advocate** applies for the recognition of a clerk in place of another unless he gives up the card of such other clerk.

**223.** 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.

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

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

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

**226.** The rules regarding registration of **Advocate's** clerks shall also apply to the clerks of Advocates ordinarily practicing in subordinate Courts.

#### RULES REGARDING VAKALATNAMA

**227.** No **Advocate** 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 **Advocate** 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 '(Section 2(q)] of the Code of Criminal Procedure.

#### OFFICE

228. 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			4

**Note** - The card is to be signed by the Principal 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.

229. Provisions of “Jharkhand High Court Case Flow Management in the Subordinate Courts Rules, 2006” shall be applicable, notwithstanding any rules contained in this amendment rules.

**Note** Rules framed for service by other modes in Rules for Civil Court (civil) Appendix IV, shall also apply in sending the same in criminal matters, so far as the **processes issued in cases where the complainant has to take step for it, summons issued through APP’S etc.**

### **PART VIII** **Accounts**

#### **CHAPTER I**

##### **General**

230. 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.

231. (a) In these rules

- (i) "*Principal District Judge*" 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) "*Registrar-cum- Judge-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.
- (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.
- (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 1 st April and to close on the 31st March.

(b) A Principal District Judge 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 Principal District Judge 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***

**232.** The following are the heads of accounts in the pubic 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 253 and Note thereto.

(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 Nazir sells saleable forms and keeps an account in the form prescribed

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

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

**Note 1-As** the peremptory cash-book is no longer required to be maintained by Principal District Judge, 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 235.

**233.** 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 money 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.

**234.** Magistrate will as far as possible in their transaction with the public avoid direct receipt and payment of money under head (a) of rule 232.

**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 357, 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.

**235.** (a) Money under heads (b) and (h) of rule 232 may ordinarily be received in cash in the court of Principal District Judge.

(b) In the court of Principal District Judge repayment under any of the heads of rule 232 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

236. Payment of sums falling under heads (a) to (g) of rule 232 cannot be accepted at the Treasury unless the money is accompanied with a challan in triplicate or when the payment is made by the Nazir with the pass-book and a challan in duplicate.

**Note 1.-** No Challan *is* necessary for paying into Court criminal fines including compensation and costs (*vide* rule 379 read with rules 6 to 9 of Appendix IV).

**237.** 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 challan in each of which he must enter in English the particulars required from him.

**Note-**In the case of deposit challan 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.

**238.** Peremptory receipt under head (h) of rule 232 shall be tendered to the Cashier direct without the intervention of the Accountant. A challan *is* not required in respect of such payments.

### *Receipt of money by Cashier*

**239.** The Cashier on receiving money under rule 9 of appendix IV shall accept it and enter the amount as a receipt in the cash-book.

**240.** On presentation of the *challan* (in triplicate) at the Treasury and on payment of the money, the payer shall receive, as an acknowledgment, one of the three *challans* signed by the Treasury Officer if the amount be Rs. 500 or more, by the Accountant if less than that sum of the two copies of the *challan* retained by the Treasury Officer, one copy shall be forwarded to the Registrar-cum-Judge-in-charge together with the Advice Lists referred to in rule 260.

**241.** When money- is tendered under rule 238 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.

**242.** 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.

**243.** 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 Principal District Judge 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*

**244.** 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.

**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.

### AUDIT OF APPLICATION

**245.** (a) The Head Clerk 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 ..... :., Advocate or to Shri .....the applicant's Advocate 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 Account Particulars (rule 274 and 275), such Account Particulars shall be deemed to be the Register of Deposit Receipts within the meaning of this rule and rules 248 to 251.

**Note-**The Head Clerk 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 Head Clerk and also by the presiding officer.

**246.** If the record of the case has been dispatched to the record room of the Principal District Judge under the orders of the High Court relating to the periodical dispatch of records by Subordinate Judicial Officers, the Presiding Officer of the Court, to which the application is made, shall forward it to the Principal District Judge, whose Record-keeper will certify, under counter-signature of the Registrar-cum-Judge-in-charge of the record-room, that a specified sum of money is due to the applicant. On receipt of such certificate the Head Clerk of the 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 245.

**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 Registrar-cum-Judge-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.

**247.** 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**

**248.** 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 Registrar-cum-Judge-in-charge.

### **APPROVAL BY REGISTRAR-CUM-JUDGE-IN-CHARGE**

**249.** Before passing the application for payment, the Registrar-cum-Judge-in-charge is required to satisfy himself in the first instance, that the requirements of rule 245 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 235 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.

**250.** 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 Registrar-cum-Judge-in-charge, with a certificate, made after examination of the record, as provided in rule 245, 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 Registrar-cum-Judge-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 Registrar-cum-Judge-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.

### **LAPSE OF ORDER**

**251.** (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 31<sup>st</sup> 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 31<sup>st</sup> 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 244.

(d) Immediately after the 31<sup>st</sup> day of March in each year, the Registrar-cum-Judge-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 251.

**252.** (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 Registrar-cum-Judge-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 Registrar-cum-Judge-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.  
Registrar-cum-Judge-in-charge

### **LAPSED DEPOSITS**

#### **REFUNDS UNDER HEADS (b) TO (g) OF RULE 267**

**253.** (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 Registrar-cum-Judge-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 Registrar-cum-Judge-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 Session, but set aside by the High Court on revision, it shall be the duty of the Session 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***

**254.** 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 Session Judge 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 money 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 there from 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.

**255.** 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 maybe 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

**256.** 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.

**257.** Every challan 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 challan. Each challan may contain any number of items provided they belong to the same head of account.

#### DAILY REMITTANCE

**258.** The balances of the Cashier's account in respect of diet money and other peremptory receipts should be observed every day by the Registrar-cum-Judge-in-charge in passing the General Cash-Book. To prevent excessive accumulations under this head, the Registrar-cum-Judge-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-Challans for such deposits should be kept in a guard file.

**259.** (a) Having initialled the accounts of the day and signed the cash-book, the Registrar-cum-Judge-in-charge shall send the pass-book to the Treasury or to a Branch Officer together with the net amount in cash and all the challans. 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**

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

**Note** - It the court of Principal District Judge is close to the Treasury, so that the Registrar-cum-Judge-in-charge 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.

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

### **COMPARISON BY MAGISTRATE**

**262.** On receipt of this Advice List, the Registrar-cum-Judge-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.

**263.** These entries must be initialled by the Registrar-cum-Judge-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*

**264.** 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 distinguished by the initial letters A and B, respectively.

#### **POSTING**

265. As soon as the Treasury Advice List is received (rule 295), the Deposit Register will be posted on the date to which it refers. The transactions shall be written up from the Advice List, *Challans* 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**

**266.** All items of deposit in these registers must, as directed above, be numbered in an annual consecutive series of numbers commencing on 1 st 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.**

**267.** 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 Head Clerk or some other specified subordinate under his supervision, shall be made responsible for this duty.

#### **REGISTERS OF REPAYMENT**

**268.** 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.

**269.** (a) The Registers of Deposit Receipts and Deposit Repayments in Courts as a Sadar station shall be totaled 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*

**270.** Every Magistrate is responsible for all payments of deposits made on his certifiabte 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 partly paid out, must be reported to the Principal District Judge, 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*

**271.** On the 12th of each month an Extract Register of Deposit Receipts exceeding Rs. 5 shall be prepared by the Principal District Judge 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 Sader 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 dispatched 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*

**272.** 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 Principal District Judge 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.





273. (a) A plus and minus memorandum in the form given below but including the figures of the Subordinate Courts, as well as those of Principal District Judge 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		Previous months.
	Received last year		Current
	Received during the current		
Current	Year		months
			months.
Amount of B Deposits repaid during the month	Received during 201.. -201..		
	Received during 201.. -201..	_____	
	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 Account Particulars of Deposits**

Account Particulars

274. (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 Account Particulars" every balance which exceeds Rs. 5. An annual Account Particulars 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 example, the Account Particulars of April, 2014 will show all unpaid balances of A Deposits in 2012-2013.

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

**275.** 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 Account Particulars.

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

#### **RETURN BY PRINCIPAL DISTRICT JUDGE**

**276.** The Account Particulars of the Principal District Judge 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 dispatch shall be the 30th April.

#### **VERIFICATION OF PETTY DEPOSIT BALANCE**

**277.** 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 Account Particulars of A Deposits, a certificate that the balance of B Deposits of the past year has been found by actual summation to be Rs.....

**278.** The balance found under the last rule, together with the total of the list prepared under rule 279, 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**

**279.** On the 31st March of each year, the following unpaid balances of deposits lapse to Government, and are to be written off in the Registers and Clearance 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.

**280.** 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 279. 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 the Subordinate Courts.

Note-The note under rule 275 applies to these statements of Lapsed Deposits also.

#### **CORRECTION OF BALANCE**

**281.** 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**

**282.** In the case of payment of a deposit lapsed under rule 279 the application prepared by the Accountant in Form No. (A) 3 under rule 252 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 off 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 in necessary; and such payments are not to be shown in the plus and minus memorandum.

**283.** 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 IX**

#### **Supplementary Rules as to Receipts under Heads (b) to (g) of rule 232**

##### *Fines under head (b) of rule 232*

**284.** The procedure for Magistrate's Courts in respect of the realisation and refund of fines is reproduced in appendix IV and V annexed to these rules. The rules of the Account Code, which prescribe a monthly statement to be sent by Subordinate Magistrates to the Principal District Judge and by the Principal District Judge to the Accountant-General, are reproduced in appendix VI.

**285.** Every Registrar-cum-Judge-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 232. 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.

#### **CREDITS TO GOVERNMENT**

**286.** 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 *challan* no. of this date" and (2) a *challan* crediting it to the proper head. Such payment order shall be registered.

**287.** 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.

**288.** Under head (e) (other general fees, fines and forfeitures) of rule 232 shall be comprised all receipts not falling within any of the other principal heads of receipt, e.g., forfeiture of earnest money, etc.

**289.** Receipts under the head of account, mentioned in rule 283 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**

**290.** At the close of the month every Registrar-cum-Judge-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 Principal District Judge, and the Principal District Judge 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.

## **CHAPTER XI Miscellaneous**

### ***Accountant and Cashier***

**291.** 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.

**292.** Every Judicial Officer shall keep his account in English; and it must be distinctly recorded by him whether the Head Clerk is or is not responsible for a general control and supervision over the Accountant.

**293.** Manuscript Account forms are prohibited. All accounts books should be paged before they are brought into use.

### **DAILY EXAMINATION OF ACCOUNTS**

**294.** The Accounts and Registers of which list is given in appendices I and II annexed to these rules, must be compared daily by the Registrar-cum-Judge-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 Part II	...	Form No. (A) 11 (i) and (ii)
		(3)	Register of Judicial deposits received repaid, Part I Part II	...	Form No. (A) 12 (i) and (ii)
		(4)	Register of Miscellaneous Receipts	...	Form No. (A) 14
		(5)	Clearance Register of A Deposits	...	Form No. (A) 13
	Kept by the Cashier	(1)	General Cash-book	...	Form No. (A) 16
		(2)	Counterfoils of receipts Granted by Cashier or 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 PRINCIPAL DISTRICT JUDGE 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 PRINCIPAL DISTRICT JUDGE TO THE ACCOUNTANT GENERAL

Account Particulars 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 **Session Judge in the District and A.C.J.M. at Sub Division** 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".

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 Magistrates of the station within the jurisdiction of the station.

(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.

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 Session or any other Court, 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. 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 Session Court itself realizes the fine it has imposed, it shall prepare the usual warrant for the realization of the fine 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. (Session or High Court).

#### ***Procedure on a Sentence of fine being passed***

6. When an offender is sentenced to a fine by a Magistrate, a small printed form, called the fine cheque, shall be at once filled in by the Bench Clerk with the particulars, and sent by him with the person fined to the *Nazir*.

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 Session 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.

9. A receipt should be granted to the person paying a fine by the *Nazir* in (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 original 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.

**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 District Treasury). The Challan 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 Staff receiving them will check each entry in the Challan by the register putting his initials to each in the proper column thereof.

**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 challan, the challan should be in duplicate and accompanied by the Pass-Book as usual. The duplicate challan duly receipted by the Treasury is to be given to the clerk in charge of the Fine Register, the Nazir keeping the Passbook, as his acquittance. In subdivisions the *challans* may be in duplicate, and the duplicate challan 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 **Annual** 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 concerned 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 of subdivision should be taken.

13. The challan, 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 “**office clerk**” 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 “**office clerk**” 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 “**criminal Sirestedar**” of the principal Courts and the court of Additional Chief Judicial Magistrate 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 Registrar-cum-Judge-In-Charge of the District Court who 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, Additional Chief Judicial Magistrate will be held responsible for exercising the check.

(b) At the time of this weekly checking of the entries in the Fine Registers, the Registrar-cum-Judge-In-Charge of the District Court or the Additional Chief Judicial Magistrate 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 357 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 357, 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 *challan* to the District Treasury. Where the fine has been *challaned*, 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	20.....
		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 *new fines*, i.e., total of column 14 of the Register of Criminal Fines excluding the red ink entries mentioned in (2).  
 (b) Of *old fines*, i.e., total of red ink entries in column 14 of Register of fines mentioned in (2).

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Grand Total realized and remitted

- (5) Balance-

Rs. P

- (a) Of *new fines*, i.e., total of entries in column 15 of the Register of Criminal Fines excluding the red ink entries mentioned in (2).  
 (b) Of *old fines*, 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  
 Magistrate.

23. A copy of each subdivisional balance sheet must be sent to the Principal District Judge 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.

**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 under Section 421 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.

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 421 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 424 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 421 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 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 421 of the Code of Criminal Procedure.

**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 Nazir of the Court. 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.

#### ***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 in the light of the provision as contained in Section 421 of the Code of Criminal Procedure. 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 dispatch 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.
- 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 dispatch 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 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 acknowledgements 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.

## **APPENDIX V**

### **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 Principal District Judge. 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) 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.

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