



REPORT NO.
247

**PARLIAMENT OF INDIA
RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON HOME AFFAIRS**

**TWO HUNDRED FORTY SEVENTH REPORT
ON
THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023**

**(PRESENTED TO THE CHAIRMAN, RAJYA SABHA ON 10TH NOVEMBER, 2023)
(FORWARDED TO THE SPEAKER, LOK SABHA ON 10TH NOVEMBER, 2023)**



**Rajya Sabha Secretariat, New Delhi
November 2023/Kartika, 1945 (Saka)**

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**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HOME AFFAIRS
(re-constituted *w.e.f.* 13th September, 2022)**

1. **Shri Brij Lal** - **Chairman**

RAJYA SABHA

2. Shri Biplab Kumar Deb
3. Shri N. R. Elango
4. Dr. Anil Jain
5. Shri Sujeet Kumar
6. Shri Neeraj Shekhar
7. Shri Digvijaya Singh
8. Shri Rakesh Sinha
9. ¹Shri Derek O'Brien
10. ²Shri P. Chidambaram

LOK SABHA

11. Shri Sanjay Bhatia
12. Shri Adhir Ranjan Chowdhury
13. Dr. (Shrimati) Kakoli Ghosh Dastidar
14. Shri Dilip Ghosh
15. Shri Dulal Chandra Goswami
16. Shrimati Kirron Kher
17. Thiru Dayanidhi Maran
18. Shri Raja Amareshwara Naik
19. Shri Ranjeetsingh Naik Nimbalkar
20. Shri Jamyang Tsering Namgyal
21. Shri Gajendra Singh Patel
22. Shri Lalubhai Babubhai Patel
23. Shri R. K. Singh Patel
24. Shri Vishnu Dayal Ram
25. Shrimati Sarmistha Kumari Sethi
26. [≠]Shri Rahul Ramesh Shewale
27. Shri Ravneet Singh
28. Dr. Satya Pal Singh
29. Shrimati Geetha Viswanath Vanga
30. Shri Dinesh Chandra Yadav
31. [¥]Vacant

¹ Shri Derek O'Brien, MP, Rajya Sabha nominated *w.e.f.* 23rd August, 2023.

² Shri P. Chidambaram, MP, Rajya Sabha nominated *w.e.f.* 28th August, 2023 in place of Shri P. Bhattacharya, who retired from the membership of Rajya Sabha on the 18th August, 2023.

[≠] Shri Rahul Ramesh Shewale, MP, Lok Sabha nominated *w.e.f.* 19th October, 2022 in place of Shri Gajanan Chandrakant Kirtikar, MP, Lok Sabha.

[¥] Consequent upon disqualification of Shri Faizal P. P. Mohammed from the Membership of Lok Sabha *w.e.f.* 11th January, 2023 in terms of the provisions of Article 102(1)(e) of the Constitution of India read with Section 8 of the Representation of the People Act, 1951, he ceases to be a Member of the Committee.

DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HOME AFFAIRS
(re-constituted w.e.f. 13th September, 2023)

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13. Dr. (Shrimati) Kakoli Ghosh Dastidar
14. Dr. Nishikant Dubey³
15. Shri Dilip Ghosh
16. Shri Dulal Chandra Goswami
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28. Dr. Satya Pal Singh
29. Shrimati Geetha Viswanath Vanga
30. Shri Dinesh Chandra Yadav
31. Vacant

³ Dr. Nishikant Dubey, MP, Lok Sabha nominated w.e.f. 5th October, 2023 in place of Shrimati Kirron Kher, MP, Lok Sabha.

SECRETARIAT

Shri S. Jason, Joint Secretary
Shri Ravinder Kumar, Director
Shri Sreejith V., Deputy Secretary
Smt. Neelam Bhatt, Under Secretary
Smt. Vartika Vaidya, Assistant Committee Officer
Ms. Payal Narendra Ingole, Secretariat Assistant

ACRONYMS

BNSS	Bharatiya Nagarik Suraksha Sanhita
BNS	Bharatiya Nyaya Sanhita
CrPC	Code of Criminal Procedure
FIR	First Information Report
e-FIR	Electronic-First Information Report
NLU	National Law University
SP	Superintendent of Police

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Home Affairs, having been authorised by the Committee to present the Report on its behalf, present this Two Hundred Forty Seventh Report of the Committee on The Bharatiya Nagarik Suraksha Sanhita, 2023 (**Annexure-I**).

2. In pursuance of Rule 270 of the Rules of Procedure and Conduct of Business in the Council of States relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha in consultation with the Hon'ble Speaker, Lok Sabha had on 18th August, 2023 referred The Bharatiya Nagarik Suraksha Sanhita, 2023, as introduced in the Lok Sabha on 11th August, 2023 and pending therein, to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report within three months.

3. The Committee held 12 meetings during the course of examination of the Bill. In its first sitting held on 24th August, 2023, the Home Secretary made a presentation on the Bill. Thereafter, in the meetings held on 25th and 26th August, 2023, the views and opinions of the Members of the Committee were gathered. On the 11th, 12th, 13th, 22nd, 23rd September, 2023 and 3rd October, 2023, the Committee heard the views of domain experts. A list of domain experts who appeared before the Committee is at **Annexure- II**. The Committee held a clause-by-clause consideration of the Bill on 4th and 5th October, 2023. Further, on 27th October, 2023, the Members of the Committee again expressed their views on the Bill.

4. The Committee in its sitting held on 6th November, 2023, considered the draft 247th Report on the Sanhita and adopted the same.

5. The Committee relied on the following documents in finalizing its Report:-

- i. The Bharatiya Nagarik Suraksha Sanhita, 2023;
- ii. The Code Of Criminal Procedure, 1973
- iii. Background Note on the Sanhita received from the Ministry of Home Affairs;
- iv. Presentation, clarifications and oral evidence of Home Secretary and senior officials of Ministry of Home Affairs and Ministry of Law and Justice;
- v. The Constitution of India;
- vi. Suggestions received on the Sanhita from serving and former Members of Parliament, various private individuals/associations/organisations/experts, State Governments and replies of the Ministry on such suggestions;
- vii. Oral evidence and written submissions by various stakeholders/experts on the Sanhita; and
- viii. Replies received from the Ministry of Home Affairs to the questions/queries raised by Members and the domain experts during the meetings on the Sanhita.

6. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee and also those who gave their valuable suggestions to the Committee through their written submissions.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

6th November, 2023
New Delhi
Kartika, 1945 (Saka)

Brij Lal
Chairman
Department-related Parliamentary
Standing Committee on Home Affairs

REPORT
CHAPTER-I
INTRODUCTION

1.1 India's criminal justice system has been predominantly shaped by laws and regulations inherited from the British colonial era. In the post-independence years, these legal foundations underwent alterations and amendments to align with the evolving requirements of modern times. The experience of seven decades of Indian democracy calls for comprehensive review of our criminal laws, including the Code of Criminal Procedure and adopt them in accordance with the contemporary needs and aspirations of the people. This need for change is reflected in the Bharatiya Nagarik Suraksha Sanhita, 2023, which is set to replace the Code of Criminal Procedure, 1973.

AbriefChronology

1.2 The evolution of the Criminal Procedure Code for India can be traced back to 1861, when the British rulers enacted the said Code in India, following the passage of the Indian Penal Code in 1860. In 1882, the Code of Criminal Procedure provided uniform procedures for all of India, including the Presidency-towns and mofussils, and was subsequently supplanted by the 1898 Code. The Code underwent multiple amendments. After independence, the Law Commission conducted a thorough review of the old Code, resulting in recommendations detailed in their 41st report, which was submitted in September 1969. Based on these recommendations, the Code of Criminal Procedure was drafted, and came into force on April 1, 1974. Over the years, this legal framework underwent a remarkable number of amendments, to align it with contemporary needs and practices.

Genesis of The Bharatiya Nagarik Suraksha Sanhita, 2023

1.3 The need to reform and rationalize the Code of Criminal Procedure, as also the need to undertake a comprehensive review the criminal justice system of the country has been expressed from many quarters. The Law Commission of India in its various Reports has recommended several amendments in the criminal laws. Also, Committees like Bezbaruah Committee, Vishwanathan Committee, Malimath Committee, Madhava Menon Committee, etc. recommended for section-specific amendments in criminal laws and general reforms in criminal justice system.

1.4 The Department-related Parliamentary Standing Committee on Home Affairs in its 111th Report (2005), 128th Report (2006) and 146th Report (2010) has also pressed upon the need to reform and rationalize the criminal law of the country.

1.5 In 2019, the Prime Minister of India advocated for the need to revamp all the legislation enacted across all departments during the British era. As informed by the Ministry of Home Affairs, 18 States, 6 Union Territories, the Supreme Court, 16 High Courts, 5 Judicial Academies, 22 Law Universities, 142 Members of Parliament, around

270 MLAs and public have given their suggestions on these new laws viz. the BNSS, the BNS and the Bharatiya Sakshya Bill, and intense discussions were held for about 4 years.

1.6 The Ministry of Home Affairs, through a notification dated May 4, 2020, constituted a Committee headed by Prof. (Dr.) Ranbir Singh, former Vice Chancellor of National Law University (NLU), Delhi to review the codes of criminal law, and thereby took a momentous step towards reforming criminal laws. The other members of the Committee included —G.S. Bajpai (Registrar, National Law University Delhi), Balraj Chauhan (first Vice-Chancellor, Dharmashastra National Law University, Jabalpur), Mahesh Jethmalani (senior advocate, Supreme Court) and G.P. Thareja (former District and Session Judge, Delhi).

1.7 On 27th February 2022, the Committee submitted its recommendations on the criminal law amendments. It had engaged in extensive consultations with stakeholders from various quarters, conducted in-depth research, and submitted its report containing a comprehensive set of recommendations for the reform of the criminal justice system in India.

1.8 Accordingly, the government has proposed a legislation, namely ‘The Bharatiya Nagarik Suraksha Sanhita, 2023’, which was introduced in the Lok Sabha on 11th August, 2023. It proposes to replace ‘The Code of Criminal Procedure, 1973’ which *inter alia* regulates the procedure for arrest, investigation, inquiry and trial of offences under the Indian Penal Code and under any other law governing criminal offences.

1.9 In the CrPC there are 484 Sections, whereas in the BNSS, which is proposed to replace the CrPC there are 533 Clauses. It proposes changes in 160 sections from its predecessor, the addition of 9 new sections and the deletion of 9 others.

Major Changes introduced in the BNSS

1.10 According to the Statements of Objects and Reasons of the BNSS, it proposes to repeal the CrPC, 1973 and provides for the use of technology and forensic sciences in the investigation of crime and furnishing and lodging of information, service of summons, etc., through electronic communication. Specific time-lines have been prescribed for time bound investigation, trial and pronouncement of judgements. Citizen centric approaches have been adopted for supply of copy of first information report to the victim and to inform them about the progress of investigation, including by digital means. In cases where the punishment is seven years or more, the victim shall be given an opportunity of being heard before withdrawal of the case by the Government. Summary trial has been made mandatory for petty and less serious cases. The accused persons may be examined through electronic means, like video conferencing. The magisterial system has also been streamlined.

1.11 The Home Secretary made a presentation before the Committee, highlighting the significant changes in the proposed Sanhita for the Amendment of the Code of Criminal Procedure. The important changes are as below:-

1. **Special Laws Supersede General Criminal Procedures-** The BNSS clarifies that in the case of special laws conflicting with the Code of Criminal Procedure (CrPC), the provisions of the special law take precedence.
2. **Integration of Technology in Legal Processes-** The Sanhita introduces the use of technology in various legal proceedings, such as serving summons, notices, and warrants electronically, enhancing efficiency and reducing paperwork.
3. **Modernization of Court Structure-** It simplifies the court system by eliminating British-era designations like "Metropolitan Magistrate" and "Metropolitan Area".
4. **Introduction of Special Executive Magistrates-** The Sanhita allows the appointment of police officers as Special Executive Magistrates for specific areas or functions.
5. **Appointment of Public Prosecutors in Delhi-** In the National Capital Territory of Delhi, the Central Government, in consultation with the High Court can appoint Public Prosecutors for trial, appeal, and other proceedings, ensuring efficient legal representation.
6. **Establishment of Directorate of Prosecutions-** The BNSS defines the roles and powers of the Directorate of Prosecutions, headed by a Director Prosecution, functioning under the administrative control of the Home Department of each state.
7. **Increase in Maximum Fines and Arrest Conditions-** The BNSS raises the maximum fines that Magistrates can impose and introduces conditions for arrests, including the requirement for permission in specific cases.
8. **Designated Police Officers for Information on Arrested Persons-** The BNSS mandates the appointment of designated police officers in each district and police station to provide information about arrested individuals to the general public.
9. **Medical Examination of Arrested Persons-** The Sanhita requires medical practitioners to promptly examine arrested persons and forward examination reports to the investigating officer.
10. **Arrest Procedures for Women-** The BNSS stipulates that information about the arrest of a woman must be provided to her relatives, friends, or designated individuals.
11. **Use of Handcuffs during Arrests-** It provides guidelines for police officers to use handcuffs when making arrests, considering the nature and gravity of the offence.
12. **Service of Summons on all Adult Family Members-** To promote gender parity, the BNSS allows service of summons to any adult family member, including women, in the absence of the person to be summoned.
13. **Declaration of Proclaimed Offenders-** The Sanhita expands the category of "proclaimed offenders" to include offences punishable with imprisonment of 10 years or more, life imprisonment, or the death penalty.

14. **Forfeiture of Property of Proclaimed Offenders who are staying Abroad-** The BNSS introduces provisions for identifying, attaching, and forfeiting the property of proclaimed offenders located outside India.
15. **Videography of Search and Seizure Operations-**It mandates the videography of search and seizure operations, ensuring transparency and adherence to procedures.
16. **Protection for Armed Forces Personnel-** The Sanhita introduces safeguards to prevent the registration of cases against armed forces personnel for acts performed in the line of duty without prior consent from the Central or State Government.
17. **Introduction of "Zero FIR"**- The BNSS facilitates the filing of "Zero FIRs" for offences occurring outside the jurisdiction of a police station but within the State.
18. **Procedures for Non-Cognizable Offences-** The Sanhita outlines procedures for handling non-cognizable offences, requiring the police to forward case details to the Magistrate weekly.
19. **Forensic Evidence Collection for Serious Offences-**It mandates forensic teams to visit the crime scene to collect evidence for offences punishable by imprisonment of seven years or more.
20. **Protection of Vulnerable Witnesses-** The BNSS provides safeguards for witnesses, including videoconferencing for recording statements and protection for witnesses' identities.
21. **Recording of Confessions and Statements-** The Sanhita requires Judicial Magistrates to record statements of witnesses brought before them by police officers in cases with severe penalties.
22. **Recording of Statements of Rape Victims-**It stipulates that the statements of rape victims should be recorded by female Judicial Magistrates or, in their absence, by male Judicial Magistrates in the presence of women.
23. **Limitation on Police Custody Duration-** The BNSS sets limits on police custody, specifying maximum periods for detention during different stages of investigation.
24. **Types of Custody Defined-** The Sanhita defines various forms of custody, including police custody and judicial custody, clarifying their legal status.
25. **Production of Accused before Magistrate-**It mandates that an accused person must be produced before a Magistrate during the filing of charge sheets, preventing arbitrary arrests.
26. **Informing the Informants and Victims about Progress of Investigation-** The BNSS requires police officers to inform informants and victims about the progress of investigations, including through digital means.
27. **Supply of Documents to Accused-** The BNSS streamlines the supply of documents to the accused, ensuring timely access to case-related materials.
28. **Time Limits for Completion of Investigation-**It sets timeframes for the completion of investigations, with provisions for extensions under certain circumstances.

29. **Expanded the scope for complaints regarding contempt of lawful authority-**
The BNSS broadens the scope for lodging complaints regarding contempt of lawful authority, allowing other public servants to file such complaints.
30. **Revised Threshold for Petty Offences-** The BNSS increases the threshold for petty offences subject to summary disposal, reducing the burden on the judicial system.
31. **Timeframes for Committal Case Proceedings-** The BNSS establishes timeframes for committal cases, limiting the duration of proceedings and mini-trials.
32. **Time Limits for Filing Discharge Applications in Session Cases-**It sets time limits for filing discharge applications in session cases, expediting the legal process.
33. **Timeframe for Framing Charges in Session Trials-** The BNSS introduces a timeframe for framing charges in session trials, promoting procedural efficiency.
34. **Timeframes for Pronouncing Judgments-**It prescribes timeframe for judges to pronounce judgments, ensuring timely resolution of cases.
35. **Procedures for Filing Discharge Applications in Warrant Cases-** The BNSS outlines the procedures for filing discharge applications in warrant cases, streamlining the legal process.
36. **Discharging Accused in Absence of Complainant-**It allows for the discharge of accused persons in the absence of the complainant under specific circumstances.
37. **Recording Statements through Electronic Means-** The BNSS permits the recording of statements through electronic means, enhancing convenience and accuracy.
38. **Limitation on Trial Adjournments-** The BNSS places restrictions on the adjournment of trials, ensuring the expeditious resolution of cases.
39. **Sampling for Investigation without Arrest-**It introduces provisions for collecting samples for investigation without the necessity of arresting the accused.
40. **Trials in Absentia for Proclaimed Offenders-** The BNSS allows trials in absentia for proclaimed offenders.
41. **Victim's Right to Be Heard in Case Withdrawal-** The BNSS grants victims the right to be heard before any withdrawal or compromise in criminal cases.
42. **Time Limits for Pronouncing Judgments and Online Publication-** The Sanhita mandates specific time limits for pronouncing judgments and promotes online publication for transparency.
43. **Witness Protection Schemes-**It establishes witness protection schemes to safeguard witnesses who are under threat.
44. **Central Government Concurrence for Sentence Remission-**It requires the concurrence of the Central Government for the remission of sentences awarded by military courts.
45. **Release of Undertrial Prisoners to address overcrowding-** The Sanhita addresses prison overcrowding by allowing the release of undertrial prisoners on personal bond.

46. Disposal of Properties in Pending Trials- The BNSS outlines procedures for the disposal of properties that are the subject of pending trials, thereby preventing misuse.

CHAPTER-II

GENERAL OBSERVATIONS/RECOMMENDATIONS

The Department-related Parliamentary Standing Committee on Home Affairs examined 'The Bharatiya Nagarik Suraksha Sanhita, 2023', and the general Observations/Recommendations of the Committee in respect of the BNSS are as follows:-

2.1 The Committee takes note of a significant change in the BNSS, where the term 'lunatic' has been replaced with the word 'mental illness' as mentioned in 'Chapter XXVII' of the BNSS. This modification has been consistently applied throughout the subsequent clauses. Additionally, the 'Indian Lunacy Act, 1912,' has been replaced with the 'Mental Healthcare Act 2017,' where the term 'asylum' has been appropriately substituted with 'public mental health establishment,' and relevant sections have been suitably amended. The Committee commends this progressive change, aligning legal language with the evolving norms of society. It views this adjustment as a positive step forward and welcomes it.

2.2 The inclusion of a provision for attachment of property of a proclaimed offender, in Clause 86 of the BNSS, as well as the provision for investigation in a place outside India, as provided in Clause 112(1) is an appreciable step. The Committee believes that these provisions will serve as a potent tool for deterring criminal activities, facilitating the recovery of ill-gotten gains, and will also encourage international cooperation, making it an invaluable aspect of the legal framework.

2.3 The Committee notes that the Sanhita provides for acceptance of trials in electronic mode as provided in 'Clause 532' wherein all trials, inquiries, and proceedings may be held in electronic mode by production of electronic communication devices, likely to contain digital evidence, for investigation, inquiry, or trial. Electronic communication includes communication through devices such as mobiles, computers, or telephone, etc. The Committee notes the enhanced technological integration in the Sanhita, emphasizing increased utilization of technology in legal proceedings, and considers it as a welcome change.

2.4 The Committee also notes that while the increased utilization of technology offers numerous advantages, it also creates opportunities for manipulation and misuse. The collection and storage of electronic evidence raise concerns about data security and the possibility of unauthorized access or breaches. The Committee, therefore, recommends that the adoption of electronic means for communication and trials should proceed only after the establishment of robust safeguards to ensure the secure usage and authentication of electronically available data. This will help safeguard the integrity of the justice system and ensure that justice is administered fairly and accurately.

CHAPTER-III

RECOMMENDATIONS ON CLAUSES

3.1 During the course of examination of the Sanhita, the Committee received numerous recommendations from various sources, including law firms, Members of Parliament, advocates, subject matter experts, and other stakeholders. Additionally, the Committee engaged in discussions with a broad spectrum of domain experts who presented their views to the Committee, providing written feedback and suggestions on different aspects of the Sanhita. The Committee also solicited feedback from all State Governments regarding the Sanhita. The inputs and recommendations gathered from these stakeholders and State Governments were forwarded to the Ministry of Home Affairs for their response. After conducting a thorough review of the Sanhita, the Committee believes that certain provisions need to be reconsidered, and specific errors in the text should be corrected to better align with the intended objectives of the BNSS. The Committee's findings and suggestions, as outlined in the report, reflect a comprehensive assessment of the submissions and viewpoints presented by various organizations, experts, and State Governments. During its meeting on 4th and 5th October, 2023, the Committee undertook a detailed clause-by-clause discussion of the Sanhita. In the succeeding paragraphs, various amendments to the Sanhita proposed by the Committee in relation to its clauses are discussed.

CLAUSE 1-Short title, extent and commencement

3.2 Clause 1(1) of the BNSS reads as below:--

'This Act may be called the Bharatiya Nagarik Suraksha Sanhita, 2023.'

SUGGESTIONS:-

3.2.1 It was submitted before the Committee that the title of the Sanhita should be in English as per Article 348 of the Constitution.

3.2.2 Although the body of the text was in English, having a Hindi title did not align with the linguistic diversity of the country, and could create complications in regions where Hindi is not widely spoken. Therefore, it was suggested that the title of the Sanhita should be in English, as it is the common link language among all states.

OBSERVATIONS/RECOMMENDATIONS:-

3.2.3 **The Committee notes the wording of Article 348 of the Constitution of India which says that language to be used in the Supreme Court and in the High Courts, as well as for Acts, Bills and other legal documents shall be in English language. The Committee finds that as the text of the Sanhita is in English, it does not violate the provisions of Article 348 of the Constitution. The Committee is satisfied with the**

response of the Ministry and holds that the name given to the proposed legislation is not in violation of Article 348 of the Constitution of India.

CLAUSE 2-Definitions

3.3 Clause 2(1)(a) reads as under:-

‘(a) "audio-video electronic" means shall include use of any communication device for the purposes of video conferencing, recording of processes of identification, search and seizure or evidence, transmission of electronic communication and for such other purposes and by such other means as the State Government may, by rules provide’

SUGGESTIONS:-

3.3.1 It was suggested by stakeholders that while in Clause 2(1)(a), the definition employs ‘means shall include’, the word ‘means’ should be deleted from Clause 2(1)(a), and words ‘shall include’ only be retained therein, as the definition is intended to be inclusive.

OBSERVATIONS/RECOMMENDATIONS:-

3.3.2 The Committee appreciates the inclusion of technology and its usage in the Sanhita. However, the Committee suggests revising the language in Clause 2(1)(a) as the combination of the words 'means shall include' in this clause may cause confusion and is not grammatically sound. The Committee believes that the aforesaid Clause is intended to be inclusive, and when the definition is intended to be inclusive, the term ‘includes’ is typically used. The Committee, therefore, recommends substituting the words 'means shall include' in 2(1)(a) with 'shall include' and to amend the Clause accordingly.

3.3.3 Clause 2(1)(r) reads as under:-

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

SUGGESTIONS:-

3.3.4 The word “Pleader” occurring in CrPC has been substituted with word ‘Advocate’ in many corresponding sections of the Sanhita. In view of the same the definition of ‘Advocate’ may be introduced by assigning the same meaning as assigned to it in The Advocate’s Act, 1961 (Act No. 25 of 1961).

OBSERVATIONS/RECOMMENDATIONS:-

3.3.5 The Committee notes that the word 'Pleader' used in the CrPC has been replaced with 'Advocate' in many corresponding sections of the Sanhita. The Committee recommends that, in other places in the Sanhita, the word 'Pleader' may be replaced with the word 'Advocate' which has been defined in Advocates Act, 1961.

3.3.6 Clause 2(1)(s) reads as follows:-

'(s) "police report" means a report forwarded by a police officer to a Magistrate under sub-section (1) of section 176;'

SUGGESTIONS:-

3.3.7 A cross-referencing error was pointed out in Clause 2(1)(s) by experts during the meetings of the Committee and it was suggested that 'sub-section (1) of section 176' in the said sub-clause may be substituted with 'sub-section (3) of section 193'.

OBSERVATIONS/RECOMMENDATIONS:-

3.3.8 During the examination of Clause 2(1)(s), as also pointed out by stakeholders, a cross-referencing error was identified in the said Clause. The clause defines that a "police report" means a report forwarded by a police officer to a Magistrate under sub section (1) of section 176, whereas, sub-clause (3) of clause 193 deals with such reports. The Committee, therefore, recommends that Clause 2(1)(s) should be amended to rectify the aforesaid cross referencing error.

CLAUSE 23- Sentences which Magistrates may pass.

3.4 Clause 23 reads as below:-

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

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

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

SUGGESTIONS:-

3.4.1 It was suggested that the penalties of "forfeiture of property" and "community service" outlined in Section 4 of the BNS should also be incorporated into Clause 23 of

BNSS for comprehensive coverage, as Clause 23 currently does not encompass these penalties.

OBSERVATIONS/RECOMMENDATIONS:-

3.4.2 The Committee observes that as per Section 4 of the BNS there are 6 types of punishments to which offenders are liable under the provisions of that Sanhita, which are as mentioned below:-

- (a) Death;
- (b) Imprisonment for life, that is to say, imprisonment for remainder of a person's natural life;
- (c) Imprisonment, which is of two descriptions, namely:—
 - (1) Rigorous, that is, with hard labour;
 - (2) Simple;
- (d) Forfeiture of property;
- (e) Fine; and
- (f) Community Service.

3.4.3 The Committee has reviewed Clause 23 of the BNSS and notes that in its present form, the Clause does not empower the Court of a Judicial Magistrate of the first class or the second class to impose the punishment of Community Service. With respect to imposition of community service as a form of punishment, the Committee believes that this approach highlights that punitive actions can also encompass societal restitution and personal growth. The Committee also feels that, it would be necessary and appropriate to award the power to impose this form of punishment, to the Court of a Judicial Magistrate of the first class or the second class. The Committee, therefore, recommends that Clause 23(2) and (3) may be suitably amended to include community service as a form of punishment.

CLAUSE 33-Public to give Information of Certain Offences.

3.5 Clause 33(1) states that:-

'Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely:—

- (i) sections 145 to 152 and section 156;*
- (ii) sections 187 and 189;*
- (iii) sections 272 to 278;*
- (iv) sections 101, 102 and 103;*
- (v) section 138;*
- (vi) section 305;*

(vii) sections 307 to 311;

(viii) section 314;

(ix) sections 322 to 326;

(x) section 330;

(xi) section 329; and

(xii) sections 176 to 180,

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

SUGGESTIONS:-

3.5.1 During the meetings of the Committee it was suggested by experts that under Clause 33(1), the sections have been listed in a haphazard manner in the BNSS, and are required to be laid down in a chronological sequence for structural coherency.

OBSERVATIONS/RECOMMENDATIONS:-

3.5.2 The Committee agrees that in order to establish chronological coherence and structural consistency, there is a need for rearrangement of the sections outlined in Clause 33(1).The Committee, therefore, recommends rearrangement of the Sections in the said Clause.

CLAUSE 43-Arrest how made.

3.6 Clause 43(3) states that:--

'The police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who escaped from custody, who has committed offence of organised crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children, offences against the State, including acts endangering sovereignty, unity and integrity of India or economic offences.'

SUGGESTIONS:-

3.6.1 During the examination of the above Clause it was submitted before the Committee that handcuffing will compromise the Right to life of individuals.

3.6.2 It was also suggested that the use of handcuff while effecting the arrest of a person who has committed an economic offence is overboard and will lead to misuse.

OBSERVATIONS/RECOMMENDATIONS:-

3.6.3 The Committee believes that the use of handcuffs, as outlined in Clause 43(3), is appropriately restricted to select heinous crimes, which is necessary for preventing the escape of individuals accused of serious offences and ensuring the safety of police officers and staff during arrests. However, the Committee is of the view that 'economic offences' should not be included in this category. This is because the term 'economic offences' encompasses a wide range of offences, ranging from petty to serious, and therefore, it may not be suitable for blanket application of handcuffing in all cases falling under this category. The Committee, therefore, recommends that Clause 43(3) may be suitably amended to delete the words 'economic offences' from the clause.

CLAUSE 52- Examination of person accused of rape by medical practitioner

3.7 *Clause 52(2) of the Sanhita reads as:-*

'The registered medical practitioner conducting such examination shall, without delay, examine such person and prepare a report of his examination giving the following particulars, namely:-

*(i) ****

*(ii) ****

*(iii) ****

*(iv) ****

(v) other material particulars in reasonable detail.'

3.7.1 Clause 52(5), states as:-

'The registered medical practitioner shall, without delay, forward the report to the investigating officer, who shall forward it to the Magistrate referred to in section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section.'

SUGGESTIONS:-

3.7.2 In clauses 52(2) and 52(5) it has been stated that the registered medical practitioner conducting such examination shall, without delay, examine a person accused of rape and prepare a report of his examination. During the Meetings of the Committee it was suggested that the phrase 'without delay' should be replaced by the words 'without any delay' to bring the said clauses at par with Clause 51 (3).

OBSERVATIONS/RECOMMENDATIONS:-

3.7.3 The Committee suggests harmonizing the language in Clause 51(3) with that of Clauses 52(2) and 52(5), to prevent any ambiguity. Making the language uniform

simplifies the interpretation and application of these clauses, promoting clarity and adherence to procedural requirements. The Committee feels that this is necessary to ensure consistency and eliminate any potential confusion between the phrases 'without any delay' in Clause 51(3) and 'without delay' in Clauses 52(2) and 52(5). The Committee, therefore, recommends that the words 'without delay' in Clauses 52 (2) and 52 (5) may be substituted with the words 'without any delay'.

CLAUSE 65 - Service of summons on corporate bodies, firms, and societies.

3.8 Clause 65(1) states that:-

'Service of a summons on a company or corporation may be effected by serving it on the Director, Manager, Secretary or other officer of the company or corporation, or by letter sent by registered post addressed to the Director, Manager, Secretary or other officer of the company or corporation in India, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.'

Explanation—In this section, "company" means a body corporate and "corporation" means an incorporated company or other body corporate or a society registered under the Societies Registration Act, 1860.'

SUGGESTIONS:-

3.8.1 During the Committee's discussions, it was highlighted that the explanation to Section 65 of BNSS provides a definition for 'corporation' with reference to the Societies Registration Act, 1860. However, the term "company" has been precisely defined under the Companies Act, 2013, and the Limited Liability Partnership Act, 2008. Consequently, it was suggested that the term "company" in the Explanation to the clause should be defined with greater precision, as is provided in the Limited Liability Partnership Act, 2008.

OBSERVATION/ RECOMMENDATIONS:-

3.8.2 The Committee reviewed Clause 65 and recommends amending the 'explanation' part of the clause, to define the word "company" in line with the provisions of the Limited Liability Partnership Act, 2008, to bring the definition in line with contemporary legal standards.

CLAUSE127- Security for good behaviour from persons disseminating seditious matters

3.9 The marginal heading of Clause127 reads as follows:-

'Security for good behaviour from persons disseminating seditious matters'

SUGGESTIONS:-

3.9.1 In this particular Clause, stakeholders have pointed out that the term "sedition" has been rightfully removed from the BNSS, and should therefore be omitted from the marginal heading of this Clause, to maintain consistency.

OBSERVATIONS/RECOMMENDATIONS:-

3.9.2 In view of the repeal of the word Sedition/provisions related to Sedition from the BNS, appropriate changes may accordingly be made in the BNSS. The Committee recommends that the marginal heading of Clause 127 may be suitably amended.

CLAUSE 130- Order to be made

3.10 Clause 130 of the BNSS reads as under:-

‘When a Magistrate acting under section 126, section 127, section 128 or section 129, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the fitness for payment of sureties.’

SUGGESTIONS:-

3.10.1 During the Committee's deliberations on the above clause, domain experts pointed out that the phrase "after considering the fitness for payment of sureties" is logically inconsistent with the clause, as the Magistrate can only "consider the fitness for payment of sureties" after issuing an Order under the given Clause.

OBSERVATIONS/RECOMMENDATIONS:-

3.10.2 The Committee examined Clause 130 in light of the suggestions received from the domain experts. The Committee opines that the words "after considering the fitness for payment of sureties" do not convey the intended meaning in this Clause. The accused can produce sureties only once the Order for executing a bond with sureties is passed by the Magistrate, and only then can the Magistrate look into the financial soundness of the sureties so produced. At the time of passing an Order under the concerned provision, the Magistrate can at best impose requirements relating to the financial soundness of the sureties to be produced, such as those relating to its character and class. The Committee, therefore, recommends that Clause 130 may be amended, either by retaining the terms "character and class of

sureties" as used in Section 111 of CrPC, or using other suitable language to accurately convey the intended meaning.

CLAUSE 172 - Persons bound to conform to lawful directions of Police.

3.11 Clause 172(2) of the Sanhita reads as under:-

'A police officer may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction given by him under sub-section (1) and may either take such person before a Judicial Magistrate or, in petty cases, release him when the occasion is past.'

SUGGESTIONS:-

3.11.1 In respect of this clause it was suggested that the time-period for such detention should be specified and the words 'release him when the occasion is past' needs to be clarified, to remove ambiguity.

OBSERVATIONS/RECOMMENDATIONS:-

3.11.2 The Committee is of the view that the phrase "release him when the occasion is past" used in Clause 172(2) should be qualified with a specific time limit to prevent potential misuse of the clause by authorities. The current wording of the Clause 172(2) leaves room for various interpretations, and therefore, the time period for such detention should be explicitly provided within the provision. The Committee, therefore, recommends amending the Clause suitably, to remove any possible ambiguity and establish a clear timeframe for detention in such circumstances.

CLAUSE 173- Information in cognizable cases.

3.12 Clause 173(1) of the BNSS reads as under:-

'Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed may be given orally or by electronic communication and if given to an officer in charge of a police station,—

(i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;

(ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf;

*Provided ****

*Provided further that ***'*

3.12.1 Clause 173(2) of the BNSS states the following:-

'A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.'

SUGGESTIONS:-

3.12.2 It was suggested that the words “as made by rules” should be added after the words “electronic communication” in 173(1) and in Clause 173(1)(ii). It was also suggested that the word ‘physically’ should be inserted before the word ‘signed’ in Clause 173(1)(ii), for further clarity.

3.12.3 There was also a suggestion that a new provision may be added in the said Clause, clarifying that the appropriate government shall make rules in this respect.

3.12.4 It was suggested in respect of Clause 173(2) the words “or both, as the case may be” should be added at the end of the sub-clause and a provision may also be made to supply/provide a copy of FIR to the accused.

OBSERVATIONS/RECOMMENDATIONS:-

3.12.5 The Committee believes that enabling online/electronic FIR registration is a positive step forward. However, it feels that such online/electronic registration should be allowed only through modes specified by the State. Allowing any form of electronic communication for FIR registration can create logistical and technical challenges for law enforcement. Moreover, it could become difficult to track all the FIRs filed, especially if, for example, sending an SMS to any police officer is considered as providing information within the scope of Clause 173 (1).The Committee, therefore, feels that there is a need to insert the words "as specified by rules" after "electronic communication" to grant the government the authority to prescribe specific modalities for electronic FIR registration. To have more clarity and a structured framework for the management of electronic communication related to FIRs, the Committee recommends inclusion of an appropriate provision in this Clause, explicitly stating that the appropriate government shall establish rules governing the procedures for lodging, receiving, and recording information provided *via* electronic communication for the purpose of the said clause.

3.12.6 In reference to Clause 173(2), the Committee notes that in a given case, the informant and victims may be distinct individuals. The Committee feels that in such cases, the information as recorded in Clause 173(1) in relation to the commission of

a cognizable offence, should be communicated to both the informant and the victim. The Committee, therefore, recommends to insert the words 'or both, as the case may be' after the words 'to the informant or the victim' in the Clause. The Committee is also of the view that, in light of the judgment of the Supreme Court in the 'Youth Bar Association v. Union of India', wherein the Court had issued Directions for providing information to the accused, a suitable provision may be included in the Clause.

CLAUSE 175- Police officer's power to investigate cognizable case.

3.13 Clause 175 (1) of the BNSS states that:-

'Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIV:-

Provided that considering the nature and gravity of the offence, the Superintendent of Police may either himself investigate or require the Deputy Superintendent of Police to investigate the offence.'

SUGGESTIONS:-

3.13.1 It was submitted before the Committee, that in regards to the proviso to Clause 175(1), since the Superintendent of Police (SP) holds a supervisory role, the investigation of an offence should be carried out exclusively by officers subordinate to the SP, and not by the SP himself.

OBSERVATIONS/RECOMMENDATIONS:-

3.13.2 As the SP is in overall charge of the district, the Committee is of the opinion that investigation should be done by officers subordinate to him. The Committee, therefore, recommends that Clause 175(1) may be amended suitably to incorporate this suggestion.

3.13.3 Further, Clause 175 (3) states that:-

'Any Judicial Magistrate empowered under section 210 may, after considering the application made under clause (b) of sub-section (4) of section 173 and submission made in this regard by the police officer, order such an investigation as above-mentioned.'

SUGGESTIONS:-

3.13.4 The words 'affidavit' and 'after such enquiry as he may think necessary' should be added in Clause 175(3) at the appropriate places, to provide safeguards against any misuse of the law.

3.13.5 Clause 173(4) is not explicitly divided into sub-clauses, therefore, in Clause 175(3) the reference to 'clause (b) of subsection (4) of Section 173' is erroneous, and the reference should instead be drawn to 'subsection (4) of Section 173'.

OBSERVATIONS/RECOMMENDATIONS:-

3.13.6 The Committee is of the view that adequate safeguards should be inbuilt in Clause 175(3) to prevent its misuse and the Clause may therefore be reframed. The application made under Section 173(4), may be considered by the Judicial Magistrate empowered under Section 210, only if it is supported by an affidavit and after conducting such enquiry as he may think necessary. The Committee, therefore, recommends bringing out a suitable amendment in the said Clause, so that its misuse can be prevented. The Committee further recommends correcting the cross-referencing error in Clause 175(3) by replacing 'clause (b) of subsection (4) of Section 173', with 'subsection (4) of Section 173'.

CLAUSE 179- Police officer's power to require attendance of witnesses.

3.14 Clause 179(1) states:-

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

Provided that no male person under the age of fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place in which such person resides:

Provided further that if such person is willing to attend the police station or at any other place within the limits of such police station, such person may be permitted so to do.'

SUGGESTIONS:-

3.14.1 In respect to the second proviso of the clause, concerns were raised about the potential complication that may arise due to the inclusion of the option for witnesses to be called to 'any other place within the limits of such police station', as it might hinder the Police Officer's ability to question witnesses in a transparent and impartial environment.

OBSERVATIONS/RECOMMENDATIONS:-

3.14.2 The Committee reviewed the second proviso to Clause 179, and appreciates the inclusion of the option for witnesses to appear at the police station when requested by an investigating officer, which was not provided in the CrPC.

However, the Committee feels that the provision allowing witnesses to attend at any other place within the limits of such police station, raises concerns about potential complications, as it may impede the officer's ability to conduct an unbiased examination in some cases. The Committee, therefore, recommends making necessary amendments to the Clause to mitigate such complications.

CLAUSE 187- Procedure when investigation cannot be completed in twenty-four hours.

3.15 Clause 187(2) reads as follows:-

'The Judicial Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration the status of the accused person as to whether he is not released on bail or his bail has not been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Judicial Magistrate having such jurisdiction.'

3.15.1 Clause 187(3) reads as under:-

'The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding—

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.'

SUGGESTIONS:-

3.15.2 Stakeholders have recommended simplifying Clause 187, which is deemed too complex. Additionally, they have pointed out that although the total number of days for police custody remains 15 days, Clause 187(2) mentions that custody can be taken at any time during the initial forty days or sixty days out of the detention period of sixty days or ninety days, as the case may be. This arrangement could potentially be open to misuse and requires more clarity. It was also suggested that as a general rule custody should be

taken in first 15 days of remand. The window of 40 days and 60 days for taking custody should only be utilized as an exception, when the accused is trying to avoid police custody or due to extraneous circumstances, which are not within the control of the investigating officer.

3.15.3 It was suggested that, in order to improve transparency and accountability when seeking police custody, reasons should be recorded to explain why police custody was not attainable during the initial fifteen days of remand. If custody was not feasible during this period, orders should be obtained from the Magistrate within the prescribed sixty or ninety-day window to secure the custody.

OBSERVATIONS/RECOMMENDATIONS:-

3.15.4 The Committee noted that Clause 187(2) stipulates a total of 15 days for police custody, to be utilized in whole or in parts at any time during the initial forty days or sixty days out of the detention period of sixty days or ninety days, as applicable. However, there is a concern that this clause could be vulnerable to misuse by authorities, as it does not explicitly clarify that the custody was not taken in the first fifteen days either due to the conduct of the accused or due to extraneous circumstances beyond the control of the Investigating Officer. The Committee recommends that a suitable amendment may be brought to provide greater clarity in the interpretation of this clause. The Committee also recommends that in Clause 482 of the BNSS, the words ‘the accused may be required for Police custody beyond the first fifteen days’ may be added.

CLAUSE 210- Cognizance of offences by Magistrates

3.16 Clause 210(3) of the BNSS reads as below:-

‘Any Magistrate empowered under this section, shall upon receiving a complaint against a public servant arising in course of the discharge of his official duties, take cognizance, subject to—

(a) receiving a report containing facts and circumstances of the incident from the officer superior to such public servant; and

(b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged.’

SUGGESTIONS:-

3.16.1 It was suggested that the Clause should be deleted as it is against all canons of criminal procedural law. In case it is to be retained, specific time-period should be added within which the report is to be submitted by the superior officer under Clause 210(3)(a) to curb any possible misuse.

OBSERVATIONS/RECOMMENDATIONS:-

3.16.2 Clause 210(3) is a new addition in BNSS and has no analogous provision under the CrPC. The Committee is of the opinion that the requirement of report of the superior officer and consideration of assertions made by the public servant has potential for misuse and might delay the entire process and therefore needs to be reconsidered.

3.16.3 The Committee also notes that Clause 210(3) has been introduced to protect public servants from frivolous complaints that may arise from actions performed in the discharge of their official duties. This provision should not be construed as limiting the rights of ordinary citizens or restricting the authority of the court when it comes to taking cognizance. Instead, it aims to reduce the backlog of false cases filed against public servants and ensures that they are not entangled in protracted legal proceedings.

3.16.4 The Committee, therefore, is of the view that, considering a possibility of misuse and to ensure balance, strict timeline for submission of report by the officer superior to such public servant should be introduced as a procedural safeguard in Clause 210(3), and a suitable amendment should be brought in the Clause.

CLAUSE 219 - Prosecution for offences against marriage.

3.17 Clause 219(1) of the Sanhita reads as:-

‘No Court shall take cognizance of an offence punishable under Chapter V of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:-

Provided that—

(a) where such person is under the age of eighteen years, or is having intellectual disability requiring higher support needs or a person with mental illness, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf;

*(b) ***;*

*(c) ***.’*

SUGGESTIONS:-

3.17.1 In Clause 219(1) the words “offence punishable under Chapter V” should be replaced with “offence punishable under Section 79 to 85”.

3.17.2 In Clause 219(1) Proviso (a), the words “having intellectual disability requiring higher support needs” should be replaced with the words “having intellectual disability requiring higher support needs as provided under the Rights of Persons with Disabilities Act, 2016”.

3.17.3 The term “mental illness” needs to be defined clearly for the purposes of this Clause or terms as used under CrPC should be retained.

OBSERVATIONS/RECOMMENDATIONS:-

3.17.4 Clause 219(1) pertains to offences against marriage, which are covered under Sections 79 to 85 of the Bharatiya Nyaya Sanhita, 2023. The Committee feels that in respect of Clause 219(1), ‘Sections 80 to 83’ of the BNS should be specified instead of ‘Chapter V’. The Committee, therefore, recommends replacing the words ‘Chapter V’ in the Clause with the words ‘Section 80 to 83’. This change would ensure accuracy and alignment with the specific legal provisions related to marriage, rather than the broader subject of Offences against Women and Children addressed in Chapter V.

3.17.5 The Committee also feels that the words ‘having intellectual disability requiring higher support needs’ in the proviso of Clause 219(1) should be replaced with the words ‘having intellectual disability’ to remove any ambiguity.

CLAUSE 222 - Prosecution for defamation.

3.18 Clause 222(1) of the Sanhita reads as:-

‘No Court shall take cognizance of an offence punishable under Chapter XIX of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:-

Provided that where such person is under the age of eighteen years, or is having intellectual disability requiring higher support needs or a person with mental illness, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.’

SUGGESTIONS:-

3.18.1 It was suggested that the words "offence punishable under Chapter XIX of the Bharatiya Nyaya Sanhita" should be replaced with "offence punishable under Section 354 of the Bharatiya Nyaya Sanhita, 2023", as in BNS, the Section 354 deals with defamation, whereas under the Indian Penal Code, the offence of defamation was addressed in a separate chapter *i.e.*, Chapter XXI.

OBSERVATIONS/RECOMMENDATIONS:-

3.18.2 It was noted that Clause 222(1) of the BNSS states that no court shall take cognizance of an offence punishable under Chapter XIX of the BNS 2023, except upon a complaint made by the aggrieved person. In the BNS 2023, defamation, along with related offences like criminal intimidation, insult, and annoyance, is included in Chapter XIX. The Committee believes that the reference to "Chapter XIX" is appropriate, as the Clause should not be limited solely to matters of defamation. This broader reference encompasses various offences within Chapter XIX, ensuring comprehensive coverage of related offences. The Committee, therefore, concurs with the original text of the said Clause.

SUGGESTIONS:-

3.18.3 In proviso to Clause 222(1), it was suggested to replace the words "having intellectual disability requiring higher support needs" with the words "having intellectual disability requiring higher support needs as provided under the Rights of Persons with Disabilities Act, 2016".

OBSERVATIONS/RECOMMENDATIONS:-

3.18.4 The Committee is of the view that in the Proviso to Clause 222(1), it is advisable to replace the phrase 'having intellectual disability requiring higher support needs' with the words 'having intellectual disability'. The Committee, therefore, recommends that Clause 222(1) of the BNSS may be suitably amended.

CLAUSE 223-Examination of complainant.

3.19 Clause 223 of the Sanhita reads as:-

'A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:-

Provided that no cognizance of an offence under this section shall be taken by the Magistrate without giving the accused an opportunity of being heard:-

Provided further that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:-

Provided further that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them:-

Provided further that in case of a complaint against a public servant, the Magistrate shall comply with the procedure provided in section 217.'

SUGGESTIONS:-

3.19.1 It has been suggested that, in the fourth proviso to Clause 223, reference should be drawn to Section 210 of BNSS instead of Section 217.

OBSERVATIONS/RECOMMENDATIONS:-

3.19.2 The Committee reviewed Clause 223 of the Sanhita. The fourth proviso to Clause 223 relates to compliance of procedure by the Magistrate in the case of a complaint against a public servant. The said procedure is provided in Clause 210 of the BNSS, which pertains to 'Cognizance of offences by Magistrates'. However, the Committee observed that in the fourth proviso, there is a cross-referencing error and instead of procedure provided in 'Section 210', reference has been made to 'Section 217', which is not relevant to this proviso. The Committee, therefore, recommends that the cross-referencing error in the fourth proviso to Clause 223 may be rectified and the Clause may be suitably amended.

CLAUSE 230- Supply to the accused of copy of police report and other documents.

3.20 Clause 230 of the BNSS reads as under:-

'In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:—

(i) the police report;

(ii) the first information report recorded under section 193;

(iii) the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 193;

(iv) the confessions and statements, if any, recorded under section 183;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 193:-

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:-

Provided further that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through advocate in Court:-

Provided also that supply of documents in electronic form shall be considered as duly furnished.'

SUGGESTIONS:-

3.20.1 It was suggested that in Clause 230(ii), the words "Section 193" should be replaced with the words "Section 173".

3.20.2 It was also suggested that in Clause 230 (v) reference should be drawn to sub-section (6) of section 193, instead of sub-section (5) of section 193.

OBSERVATIONS/RECOMMENDATIONS:-

3.20.3 A cross-referencing error has been noted by the Committee in Clause 230. In Clause 230(ii), Section 193 has been incorrectly cross-referenced instead of Section 173 of BNSS which relates to FIRs. The Committee, therefore, recommends that in Clause 230(ii) "section 193" should be replaced with "section 173" to rectify the said error.

3.20.4 The Committee has also observed a cross-referencing error in Clause 230(iii). This clause inter-alia talks about a request for exclusion made by the police officer. Such a request is made under Clause 193(7), whereas in Clause 230(iii), reference has been drawn to Clause 193(6). The Committee, therefore, recommends that in Clause 230 (iii), 'under sub-section (6) of section 193', may be replaced with 'under sub-section (7) of section 193'.

3.20.5 The Committee examined Clause 230 (v) and feels that reference should be made to Clause 193(6) which is the relevant clause in this respect, instead of Clause 193(5) of the BNSS. The Committee, therefore, recommends that in Clause 230 (v), 'under sub-section (5) of section 193', may be replaced with 'under sub-section (6) of section 193'.

CLAUSE 260-Procedure in cases instituted under section 223(1)

3.21 Clause 260(1) of the Sanhitareads as follows:-

‘A Court of Session taking cognizance of an offence under sub-section (1) of section 222 shall try the case in accordance with the procedure for the trial of warrant-cases instituted otherwise than on a police report before a Court of Magistrate:-

Provided that the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded, otherwise directs, be examined as a witness for the prosecution.’

SUGGESTIONS:-

3.21.1 A cross-referencing error was pointed out in the marginal heading of the Clause. A cross-referencing error was also noted in the text of sub-section (1) of the Clause. In both marginal heading, and the text of the Clause 260(1), reference should be to 'sub-section (2) Section 222'.

OBSERVATIONS/RECOMMENDATIONS:-

3.21.2 The Section corresponding to this Clause in CrPC is Section 237. After reviewing the suggestions of experts and comparing it with the relevant Section in CrPC, the Committee agrees that there is an incorrect reference in the marginal heading of Clause 260. It should refer to Section 222(2) of the BNSS instead of Section 223(1). Moreover, Section 223 does not have any sub-sections. A similar cross-referencing error has also been noted by the Committee in the text of Clause 260(1), where reference has been drawn to sub-section (1) of section 222, instead of sub-section (2) of section 222. Accordingly, the Committee recommends for suitable amendments to rectify the cross referencing error in this Clause.

CLAUSE 262- When accused shall be discharged

3.22 Clause 262 (1) of the BNSS reads as under:-

‘The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.’

SUGGESTIONS:-

3.22.1 In respect of this Clause, it was pointed out before the Committee that according to settled law, discharge can occur before ‘charges have been framed’. However, as per Clause 262(1) “the accused may prefer an application for discharge in 60 days of framing of charges”. Therefore, ‘within a period of sixty days from the date of framing of charges’ may be replaced with ‘within a period of sixty days from the date of filing of Charge sheet or police report/ furnishing of copies/ issue of process/ supply of documents’.

OBSERVATIONS/RECOMMENDATIONS:-

3.22.2 In accordance with settled law, discharge can occur before charges have been framed, while Clause 262 (1) of the BNSS suggests otherwise and states that discharge application can be filed ‘within a period of sixty days from the date of framing of charges’. The Committee agrees with the suggestion received in respect of this Clause and feels that ‘within a period of sixty days from the date of framing of charges’ should be replaced with ‘within a period of sixty days from the date of supply of documents’, to align the Clause with established legal principles. The Committee, therefore, recommends that appropriate amendments may be brought in the Clause in this respect.

CLAUSE 266-Evidence for defence.

3.23 Clause 266(1) of the Sanhita reads as below:-

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

SUGGESTIONS:-

3.23.1 It was suggested that a provision may also be made in the clause for recording of evidence for defense through audio-video electronic mode.

OBSERVATIONS/RECOMMENDATIONS:-

3.23.2 As the Sanhita stands out by introducing formal adoption of audio-visual and electronic means to undertake various processes, the Committee feels that, a proviso may be added to Clause 266 to facilitate recording of evidence for defence through audio-video electronic mode as well. However, the Committee also feels that to avoid the possibility of tutoring or intimidation of witnesses, such recording should only be allowed at select government places. The Committee, therefore, recommends that an appropriate proviso may be inserted to the Clause for facilitating audio-video recording of evidence of defence, after ensuring proper safeguards.

CLAUSE 279-Non-appearance or death of complainant.

3.24 Clause 279(1) of the Sanhita reads as under:-

‘If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day:-

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may, dispense with his attendance and proceed with the case.'

SUGGESTIONS:-

3.24.1 It was suggested by the stakeholders that a provision may be made in the said Clause for giving time of thirty days to the complainant in the event of his non-appearance, as the same is provided in Clause 272 of the Sanhita.

OBSERVATIONS/RECOMMENDATIONS:-

3.24.2The Committee compared the provisions of Clauses 272 and 279 of the Sanhita. In Clause 272 of the BNSS, in case of non-appearance of the complainant on the day fixed for hearing of the case, a time of thirty days is granted by the Magistrate to the complainant, before considering discharge of the accused. The Committee notes that there is no such provision in Clause 279. The Committee feels that it would be appropriate to insert a provision in Clause 279 to provide a time of thirty days to the complainant in case of his non-appearance on the day appointed for the appearance of the accused or any day to which the hearing may be adjourned, before considering acquittal of the accused. The Committee, therefore, recommends that Clause 279 of the BNSS may be suitably amended to incorporate this suggestion.

CLAUSE 308-Evidence to be taken in presence of accused

3.25 Clause 308 of the BNSS reads as under:-

'Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader:-

Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.

Explanation—In this section, "accused" includes a person in relation to whom any proceeding under Chapter IX has been commenced under this Sanhita.'

SUGGESTIONS:-

3.25.1 It was suggested that, in Section 308, after the words "shall be taken in the presence of the accused", the words "either in person or through audio-video electronic means" should be inserted.

OBSERVATIONS/RECOMMENDATIONS:-

3.25.2 The Committee agrees that all evidence taken during the trial should be done in the presence of the accused or their pleader. It also takes note of the suggestion regarding the consideration of audio-video means for recording evidence during the trial and believes that the use of audio-video means for evidence collection should be explored. However, the Committee feels that caution is required to be exercised in this regard and therefore, recommends that audio-video recording of evidence needs to be implemented in the said Clause with necessary safeguards so as to ensure the reliability and authenticity of such evidence in legal proceedings.

CLAUSE 336 - Evidence of public servants, experts, police officers in certain cases

3.26 Clause 336 of the BNSS reads as under:-

‘Where any document or report prepared by a public servant, scientific expert, medical officer or investigating officer is purported to be used as evidence in any inquiry, trial or other proceeding under this Sanhita, and—

(i) such public servant, expert or officer is either transferred, retired, or died; or

(ii) such public servant, expert or officer cannot be found or is incapable of giving deposition; or

(iii) securing presence of such public servant, expert or officer is likely to cause delay in holding the inquiry, trial or other proceeding, the Court shall secure presence of successor officer of such public servant, expert, or officer who is holding that post at the time of such deposition to give deposition on such document or report.’

SUGGESTIONS:-

3.26.1 It was suggested that the word ‘investigating officer’ be removed from the Clause, as his cross-examination is crucial to the case.

OBSERVATIONS/RECOMMENDATIONS:-

3.26.2 The Committee takes note of the suggestion and is of the view that the Investigating Officer possesses essential and crucial knowledge of the case under investigation. Therefore, his cross-examination holds significant value, especially when documents prepared by him are intended for use as evidence in an inquiry or trial. The Committee, therefore, recommends that the word ‘Investigating Officer’ may be removed from this Clause.

CLAUSE 349-Power of Magistrate to order person to give specimen signatures or handwriting

3.27 Clause 349 of the BNSS reads as under:-

'If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Sanhita, it is expedient to direct any person, including an accused person, to give specimen signatures or finger impressions or handwriting or voice sample, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or finger impressions or handwriting or voice sample:-

Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding:-

Provided further that the Magistrate may, for the reasons to be recorded in writing, order any person to give such specimen or sample without him being arrested.'

SUGGESTIONS:-

3.27.1 It was suggested that the heading of this Section could be modified to incorporate the words 'finger impressions or voice samples' for clarity, or instead the word 'samples' may be used, without specifying the types of samples.

OBSERVATIONS/RECOMMENDATIONS:-

3.27.2 The Committee took note that Clause 349 of the Sanhita permits the utilization of specimen signatures, finger impressions, voice samples, or handwriting as trial evidence. However, the marginal heading of the Clause currently states 'Power of Magistrate to order person to give specimen signatures or handwriting', and it does not accurately reflect the types of samples that a Magistrate can order a person to give. In light of this, the Committee recommends that the marginal heading be modified to use the term 'samples' instead of specifying the type of samples. This change would allow for a broader interpretation and inclusion of all types of samples, in accordance with the law in force.

CLAUSE 435 –Abatement of Appeals

3.28 Clause 435 of the BNSS reads as under:-

'(1) Every other appeal under section 418 or section 419 shall finally abate on the death of the accused.

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:-

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation—In this section, "near relative" means a parent, spouse, lineal descendant, brother or sister.'

SUGGESTIONS:-

3.28.1 It was suggested that the Clause should be rephrased as the language is not legally coherent.

3.28.2 A point was also raised as to what is the rationale behind continuing an appeal against a person who is already dead.

OBSERVATIONS/RECOMMENDATIONS:-

3.28.3 The Committee feels that the language of Clause 435 needs to be rephrased. The Clause should begin with the words 'Every appeal under section 418 or section 419...' instead of 'Every other appeal under section 418 or section 419'. The Committee recommends that appropriate amendments may be made in the said clause. The Committee also feels that the matter regarding continuance of an appeal after the death of an accused, may be relooked into.

CLAUSE 475-Power to commute sentence

3.29 Clause 475 of the BNSS reads as under:-

'The appropriate Government may, without the consent of the person sentenced, commute-

(a) a sentence of death, for imprisonment for life;

(b) a sentence of imprisonment for life, for imprisonment for a term not less than seven years;

(c) a sentence of imprisonment for seven years or ten years, for imprisonment for a term not less than three years;

(d) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced;

(e) a sentence of imprisonment up to three years, for fine.'

SUGGESTIONS:-

3.29.1 It was suggested that in Clause (b), words “not less than seven years” should be substituted by words “not exceeding fourteen years”.

3.29.2 It was also suggested that commutation of any sentence should be subject to rules made in this behalf and appropriate reasons should be recorded before any such commutation.

OBSERVATIONS/RECOMMENDATIONS:-

3.29.3 The Committee has duly considered the suggestion, which proposes replacing the phrase "not less than seven years" with "not exceeding fourteen years" in Clause 475(b). As per Clause 433 of the CrPC, a life sentence may be commuted to imprisonment for a term “not exceeding fourteen years”. The Committee feels that the term "not exceeding fourteen years" might be interpreted to mean any sentence, given the absence of a minimum sentence. To ensure that the punishments align with the gravity of the offence, the Committee recommends amending Clause 475(b) to specify both a minimum and maximum sentence that can be imposed on convicts.

3.29.4 To ensure that the power given to the appropriate government to commute a sentence is judiciously used and the commutation is justified, the Committee recommends that appropriate reasons may be cited before commutation of a sentence.

CLAUSE 481-Maximum period for which undertrial prisoner can be detained.

3.30 Clause 481 reads as:-

‘(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:-

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bail by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law:-

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of the personal bond:-

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

(2) Notwithstanding anything contained in sub-section (1), where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

(3) The Superintendent of jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail.'

SUGGESTIONS:-

3.30.1 In respect of this Clause it was suggested that the undertrial prisoner may be released on bail by the Court if he has served the maximum sentence that can be awarded to the person in all offences and/or cases pending against the accused for the highest offence.

OBSERVATIONS/RECOMMENDATIONS:-

3.30.2 The Committee acknowledges the suggestion and supports the idea that undertrial prisoners who have already served the maximum sentence for the most serious offence they are charged with, should be granted bail unless there are consecutive sentences for multiple offences. This suggested amendment aligns with due process and principles of individual liberty, and the Committee recommends incorporating it into the clause.

CLAUSE 482-When bail may be taken in case of non-bailable offence.

3.31 Clause 482 (3) of the BNSS reads as under:-

'When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Bharatiya Nagarik Suraksha Sanhita, 2023 or abatement of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court shall impose the conditions,—

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter;

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected; and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence, and may also impose, in the interests of justice, such other conditions as it considers necessary.'

SUGGESTIONS:-

3.31.1 Cross referencing errors were pointed out in the said clause and it was suggested that the words 'Bharatiya Nagarik Suraksha Sanhita' in Clause 482(3) should be replaced with the words 'Bharatiya Nyaya Sanhita'.

3.31.2 It was also suggested that in Clause 482(3) reference should be drawn to 'Chapter VI, Chapter VII or Chapter XVII' of the Bharatiya Nyaya Sanhita instead of 'Chapter VI, Chapter XVI or Chapter XVII'.

OBSERVATIONS/RECOMMENDATIONS:-

3.31.3 The Committee recommends correcting a cross-referencing error in Clause 482(3), viz. instead of referring to 'Chapter VI, Chapter XVI, or Chapter XVII' of the 'Bharatiya Nagarik Suraksha Sanhita,' reference should be drawn to 'Chapter VI, Chapter VII, or Chapter XVII' of the 'Bharatiya Nyaya Sanhita'.

3.32 The Committee also undertook a detailed examination of the text of each clause and noted that the BNSS contains many typographical, cross-referencing and grammatical errors. The Committee is of the view that even a single typographical, cross-referencing or grammatical error has the potential to be misinterpreted and dilute the intent of the provision. The Committee, therefore, recommends the Ministry to rectify such errors.

3.33 The Committee agrees with the remaining clauses of the BNSS without any changes. The Committee holds the view that the changes introduced through the Sanhita underscore the growing importance of establishing a more comprehensive legal framework which aligns with the changing requirements of our digital era.

OBSERVATIONS/RECOMMENDATIONS- AT A GLANCE

The Committee takes note of a significant change in the BNSS, where the term ‘lunatic’ has been replaced with the word ‘mental illness’ as mentioned in ‘Chapter XXVII’ of the BNSS. This modification has been consistently applied throughout the subsequent clauses. Additionally, the ‘Indian Lunacy Act, 1912,’ has been replaced with the ‘Mental Healthcare Act 2017,’ where the term ‘asylum’ has been appropriately substituted with ‘public mental health establishment,’ and relevant sections have been suitably amended. The Committee commends this progressive change, aligning legal language with the evolving norms of society. It views this adjustment as a positive step forward and welcomes it.

(Para 2.1)

The inclusion of a provision for attachment of property of a proclaimed offender, in Clause 86 of the BNSS, as well as the provision for investigation in a place outside India, as provided in Clause 112(1) is an appreciable step. The Committee believes that these provisions will serve as a potent tool for deterring criminal activities, facilitating the recovery of ill-gotten gains, and will also encourage international cooperation, making it an invaluable aspect of the legal framework.

(Para 2.2)

The Committee notes that the Sanhita provides for acceptance of trials in electronic mode as provided in ‘Clause 532’ wherein all trials, inquiries, and proceedings may be held in electronic mode by production of electronic communication devices, likely to contain digital evidence, for investigation, inquiry, or trial. Electronic communication includes communication through devices such as mobiles, computers, or telephone, etc. The Committee notes the enhanced technological integration in the Sanhita, emphasizing increased utilization of technology in legal proceedings, and considers it as a welcome change.

(Para 2.3)

The Committee also notes that while the increased utilization of technology offers numerous advantages, it also creates opportunities for manipulation and misuse. The collection and storage of electronic evidence raise concerns about data security and the possibility of unauthorized access or breaches. The Committee, therefore, recommends that the adoption of electronic means for communication and trials should proceed only after the establishment of robust safeguards to ensure the secure usage and authentication of electronically available data. This will

help safeguard the integrity of the justice system and ensure that justice is administered fairly and accurately.

(Para 2.4)

The Committee notes the wording of Article 348 of the Constitution of India which says that language to be used in the Supreme Court and in the High Courts, as well as for Acts, Bills and other legal documents shall be in English language. The Committee finds that as the text of the Sanhita is in English, it does not violate the provisions of Article 348 of the Constitution. The Committee is satisfied with the response of the Ministry and holds that the name given to the proposed legislation is not in violation of Article 348 of the Constitution of India.

(Para 3.2.3)

The Committee appreciates the inclusion of technology and its usage in the Sanhita. However, the Committee suggests revising the language in Clause 2(1)(a) as the combination of the words 'means shall include' in this clause may cause confusion and is not grammatically sound. The Committee believes that the aforesaid Clause is intended to be inclusive, and when the definition is intended to be inclusive, the term 'includes' is typically used. The Committee, therefore, recommends substituting the words 'means shall include' in 2(1)(a) with 'shall include' and to amend the Clause accordingly.

(Para 3.3.2)

The Committee notes that the word 'Pleader' used in the CrPC has been replaced with 'Advocate' in many corresponding sections of the Sanhita. The Committee recommends that, in other places in the Sanhita, the word 'Pleader' may be replaced with the word 'Advocate' which has been defined in Advocates Act, 1961.

(Para 3.3.5)

During the examination of Clause 2(1)(s), as also pointed out by stakeholders, a cross-referencing error was identified in the said Clause. The clause defines that a "police report" means a report forwarded by a police officer to a Magistrate under sub section (1) of section 176, whereas, sub-clause (3) of clause 193 deals with such reports. The Committee, therefore, recommends that Clause 2(1)(s) should be amended to rectify the aforesaid cross referencing error.

(Para 3.3.8)

The Committee has reviewed Clause 23 of the BNS and notes that in its present form, the Clause does not empower the Court of a Judicial Magistrate of the first class or the second class to impose the punishment of Community Service. With respect to imposition of community service as a form of punishment, the Committee believes that this approach highlights that punitive actions can also encompass societal restitution and personal growth. The Committee also feels that, it would be necessary and appropriate to award the power to impose this form of punishment, to the Court of a Judicial Magistrate of the first class or the second class. The Committee, therefore, recommends that Clause 23(2) and (3) may be suitably amended to include community service as a form of punishment.

(Para 3.4.3)

The Committee agrees that in order to establish chronological coherence and structural consistency, there is a need for rearrangement of the sections outlined in Clause 33(1). The Committee, therefore, recommends rearrangement of the Sections in the said Clause.

(Para 3.5.2)

The Committee believes that the use of handcuffs, as outlined in Clause 43(3), is appropriately restricted to select heinous crimes, which is necessary for preventing the escape of individuals accused of serious offences and ensuring the safety of police officers and staff during arrests. However, the Committee is of the view that 'economic offences' should not be included in this category. This is because the term 'economic offences' encompasses a wide range of offences, ranging from petty to serious, and therefore, it may not be suitable for blanket application of handcuffing in all cases falling under this category. The Committee, therefore, recommends that Clause 43(3) may be suitably amended to delete the words 'economic offences' from the clause.

(Para 3.6.3)

The Committee suggests harmonizing the language in Clause 51(3) with that of Clauses 52(2) and 52(5), to prevent any ambiguity. Making the language uniform simplifies the interpretation and application of these clauses, promoting clarity and adherence to procedural requirements. The Committee feels that this is necessary to ensure consistency and eliminate any potential confusion between the phrases 'without any delay' in Clause 51(3) and 'without delay' in Clauses 52(2) and

52(5).The Committee, therefore, recommends that the words ‘without delay’ in Clauses 52 (2) and 52 (5) may be substituted with the words ‘without any delay’.

(Para 3.7.3)

The Committee reviewed Clause 65 and recommends amending the 'explanation' part of the clause, to define the word “company” in line with the provisions of the Limited Liability Partnership Act, 2008, to bring the definition in line with contemporary legal standards.

(Para 3.8.2)

In view of the repeal of the word Sedition/provisions related to Sedition from the BNS, appropriate changes may accordingly be made in the BNSS. The Committee recommends that the marginal heading of Clause 127 may be suitably amended.

(Para 3.9.2)

The Committee examined Clause 130 in light of the suggestions received from the domain experts. The Committee opines that the words "after considering the fitness for payment of sureties" do not convey the intended meaning in this Clause. The accused can produce sureties only once the Order for executing a bond with sureties is passed by the Magistrate, and only then can the Magistrate look into the financial soundness of the sureties so produced. At the time of passing an Order under the concerned provision, the Magistrate can at best impose requirements relating to the financial soundness of the sureties to be produced, such as those relating to its character and class. The Committee, therefore, recommends that Clause 130 may be amended, either by retaining the terms "character and class of sureties" as used in Section 111 of CrPC, or using other suitable language to accurately convey the intended meaning.

(Para 3.10.2)

The Committee is of the view that the phrase "release him when the occasion is past" used in Clause 172(2) should be qualified with a specific time limit to prevent potential misuse of the clause by authorities. The current wording of the Clause 172(2) leaves room for various interpretations, and therefore, the time period for such detention should be explicitly provided within the provision. The Committee, therefore, recommends amending the Clause suitably, to remove any

possible ambiguity and establish a clear timeframe for detention in such circumstances.

(Para 3.11.2)

The Committee believes that enabling online/electronic FIR registration is a positive step forward. However, it feels that such online/electronic registration should be allowed only through modes specified by the State. Allowing any form of electronic communication for FIR registration can create logistical and technical challenges for law enforcement. Moreover, it could become difficult to track all the FIRs filed, especially if, for example, sending an SMS to any police officer is considered as providing information within the scope of Clause 173 (1). The Committee, therefore, feels that there is a need to insert the words "as specified by rules" after "electronic communication" to grant the government the authority to prescribe specific modalities for electronic FIR registration. To have more clarity and a structured framework for the management of electronic communication related to FIRs, the Committee recommends inclusion of an appropriate provision in this Clause, explicitly stating that the appropriate government shall establish rules governing the procedures for lodging, receiving, and recording information provided *via* electronic communication for the purpose of the said clause.

(Para 3.12.5)

In reference to Clause 173(2), the Committee notes that in a given case, the informant and victims may be distinct individuals. The Committee feels that in such cases, the information as recorded in Clause 173(1) in relation to the commission of a cognizable offence, should be communicated to both the informant and the victim. The Committee, therefore, recommends to insert the words 'or both, as the case may be' after the words 'to the informant or the victim' in the Clause. The Committee is also of the view that, in light of the judgment of the Supreme Court in the 'Youth Bar Association v. Union of India', wherein the Court had issued Directions for providing information to the accused, a suitable provision may be included in the Clause.

(Para 3.12.6)

As the SP is in overall charge of the district, the Committee is of the opinion that investigation should be done by officers subordinate to him. The Committee, therefore, recommends that Clause 175(1) may be amended suitably to incorporate this suggestion.

(Para 3.13.2)

The Committee is of the view that adequate safeguards should be inbuilt in Clause 175(3) to prevent its misuse and the Clause may therefore be reframed. The application made under Section 173(4), may be considered by the Judicial Magistrate empowered under Section 210, only if it is supported by an affidavit and after conducting such enquiry as he may think necessary. The Committee, therefore, recommends bringing out a suitable amendment in the said Clause, so that its misuse can be prevented. The Committee further recommends correcting the cross-referencing error in Clause 175(3) by replacing 'clause (b) of subsection (4) of Section 173', with 'subsection (4) of Section 173'.

(Para 3.13.6)

The Committee reviewed the second proviso to Clause 179, and appreciates the inclusion of the option for witnesses to appear at the police station when requested by an investigating officer, which was not provided in the CrPC. However, the Committee feels that the provision allowing witnesses to attend at any other place within the limits of such police station, raises concerns about potential complications, as it may impede the officer's ability to conduct an unbiased examination in some cases. The Committee, therefore, recommends making necessary amendments to the Clause to mitigate such complications.

(Para 3.14.2)

The Committee noted that Clause 187(2) stipulates a total of 15 days for police custody, to be utilized in whole or in parts at any time during the initial forty days or sixty days out of the detention period of sixty days or ninety days, as applicable. However, there is a concern that this clause could be vulnerable to misuse by authorities, as it does not explicitly clarify that the custody was not taken in the first fifteen days either due to the conduct of the accused or due to extraneous circumstances beyond the control of the Investigating Officer. The Committee recommends that a suitable amendment may be brought to provide greater clarity in the interpretation of this clause. The Committee also recommends that in Clause 482 of the BNSS, the words 'the accused may be required for Police custody beyond the first fifteen days' may be added.

(Para 3.15.4)

Clause 210(3) is a new addition in BNSS and has no analogous provision under the CrPC. The Committee is of the opinion that the requirement of report of the superior officer and consideration of assertions made by the public servant has

potential for misuse and might delay the entire process and therefore needs to be reconsidered.

(Para 3.16.2)

The Committee also notes that Clause 210(3) has been introduced to protect public servants from frivolous complaints that may arise from actions performed in the discharge of their official duties. This provision should not be construed as limiting the rights of ordinary citizens or restricting the authority of the court when it comes to taking cognizance. Instead, it aims to reduce the backlog of false cases filed against public servants and ensures that they are not entangled in protracted legal proceedings.

(Para 3.16.3)

The Committee, therefore, is of the view that, considering a possibility of misuse and to ensure balance, strict timeline for submission of report by the officer superior to such public servant should be introduced as a procedural safeguard in Clause 210(3), and a suitable amendment should be brought in the Clause.

(Para 3.16.4)

Clause 219(1) pertains to offences against marriage, which are covered under Sections 79 to 85 of the Bharatiya Nyaya Sanhita, 2023. The Committee feels that in respect of Clause 219(1), ‘Sections 80 to 83’ of the BNS should be specified instead of ‘Chapter V’. The Committee, therefore, recommends replacing the words ‘Chapter V’ in the Clause with the words ‘Section 80 to 83’. This change would ensure accuracy and alignment with the specific legal provisions related to marriage, rather than the broader subject of Offences against Women and Children addressed in Chapter V.

(Para 3.17.4)

The Committee also feels that the words ‘having intellectual disability requiring higher support needs’ in the proviso of Clause 219(1) should be replaced with the words ‘having intellectual disability’ to remove any ambiguity.

(Para 3.17.5)

It was noted that Clause 222(1) of the BNSS states that no court shall take cognizance of an offence punishable under Chapter XIX of the BNS 2023, except upon a complaint made by the aggrieved person. In the BNS 2023, defamation,

along with related offences like criminal intimidation, insult, and annoyance, is included in Chapter XIX. The Committee believes that the reference to "Chapter XIX" is appropriate, as the Clause should not be limited solely to matters of defamation. This broader reference encompasses various offences within Chapter XIX, ensuring comprehensive coverage of related offences. The Committee, therefore, concurs with the original text of the said Clause.

(Para 3.18.2)

The Committee is of the view that in the Proviso to Clause 222(1), it is advisable to replace the phrase 'having intellectual disability requiring higher support needs' with the words 'having intellectual disability'. The Committee, therefore, recommends that Clause 222(1) of the BNSS may be suitably amended.

(Para 3.18.4)

The Committee reviewed Clause 223 of the Sanhita. The fourth proviso to Clause 223 relates to compliance of procedure by the Magistrate in the case of a complaint against a public servant. The said procedure is provided in Clause 210 of the BNSS, which pertains to 'Cognizance of offences by Magistrates'. However, the Committee observed that in the fourth proviso, there is a cross-referencing error and instead of procedure provided in 'Section 210', reference has been made to 'Section 217', which is not relevant to this proviso. The Committee, therefore, recommends that the cross-referencing error in the fourth proviso to Clause 223 may be rectified and the Clause may be suitably amended.

(Para 3.19.2)

A cross-referencing error has been noted by the Committee in Clause 230. In Clause 230(ii), Section 193 has been incorrectly cross-referenced instead of Section 173 of BNSS which relates to FIRs. The Committee, therefore, recommends that in Clause 230(ii) "section 193" should be replaced with "section 173" to rectify the said error.

(Para 3.20.3)

The Committee has also observed a cross-referencing error in Clause 230(iii). This clause inter-alia talks about a request for exclusion made by the police officer. Such a request is made under Clause 193(7), whereas in Clause 230(iii), reference has been drawn to Clause 193(6). The Committee, therefore, recommends that in

Clause 230 (iii), ‘under sub-section (6) of section 193’, may be replaced with ‘under sub-section (7) of section 193’.

(Para 3.20.4)

The Committee examined Clause 230 (v) and feels that reference should be made to Clause 193(6) which is the relevant clause in this respect, instead of Clause 193(5) of the BNSS. The Committee, therefore, recommends that in Clause 230 (v), ‘under sub-section (5) of section 193’, may be replaced with ‘under sub-section (6) of section 193’.

(Para 3.20.5)

The Section corresponding to this Clause in CrPC is Section 237. After reviewing the suggestions of experts and comparing it with the relevant Section in CrPC, the Committee agrees that there is an incorrect reference in the marginal heading of Clause 260. It should refer to Section 222(2) of the BNSS instead of Section 223(1). Moreover, Section 223 does not have any sub-sections. A similar cross-referencing error has also been noted by the Committee in the text of Clause 260(1), where reference has been drawn to sub-section (1) of section 222, instead of sub-section (2) of section 222. Accordingly, the Committee recommends for suitable amendments to rectify the cross referencing error in this Clause.

(Para 3.21.2)

In accordance with settled law, discharge can occur before charges have been framed, while Clause 262 (1) of the BNSS suggests otherwise and states that discharge application can be filed ‘within a period of sixty days from the date of framing of charges’. The Committee agrees with the suggestion received in respect of this Clause and feels that ‘within a period of sixty days from the date of framing of charges’ should be replaced with ‘within a period of sixty days from the date of supply of documents’, to align the Clause with established legal principles. The Committee, therefore, recommends that appropriate amendments may be brought in the Clause in this respect.

(Para 3.22.2)

As the Sanhita stands out by introducing formal adoption of audio-visual and electronic means to undertake various processes, the Committee feels that, a proviso may be added to Clause 266 to facilitate recording of evidence for defence through audio-video electronic mode as well. However, the Committee also feels that to avoid

the possibility of tutoring or intimidation of witnesses, such recording should only be allowed at select government places. The Committee, therefore, recommends that an appropriate proviso may be inserted to the Clause for facilitating audio-video recording of evidence of defence, after ensuring proper safeguards.

(Para 3.23.2)

The Committee compared the provisions of Clauses 272 and 279 of the Sanhita. In Clause 272 of the BNSS, in case of non-appearance of the complainant on the day fixed for hearing of the case, a time of thirty days is granted by the Magistrate to the complainant, before considering discharge of the accused. The Committee notes that there is no such provision in Clause 279. The Committee feels that it would be appropriate to insert a provision in Clause 279 to provide a time of thirty days to the complainant in case of his non-appearance on the day appointed for the appearance of the accused or any day to which the hearing may be adjourned, before considering acquittal of the accused. The Committee, therefore, recommends that Clause 279 of the BNSS may be suitably amended to incorporate this suggestion.

(Para 3.24.2)

The Committee agrees that all evidence taken during the trial should be done in the presence of the accused or their pleader. It also takes note of the suggestion regarding the consideration of audio-video means for recording evidence during the trial and believes that the use of audio-video means for evidence collection should be explored. However, the Committee feels that caution is required to be exercised in this regard and therefore, recommends that audio-video recording of evidence needs to be implemented in the said Clause with necessary safeguards so as to ensure the reliability and authenticity of such evidence in legal proceedings.

(Para 3.25.2)

The Committee takes note of the suggestion and is of the view that the Investigating Officer possesses essential and crucial knowledge of the case under investigation. Therefore, his cross-examination holds significant value, especially when documents prepared by him are intended for use as evidence in an inquiry or trial. The Committee, therefore, recommends that the word ‘Investigating Officer’ may be removed from this Clause.

(Para 3.26.2)

The Committee took note that Clause 349 of the Sanhita permits the utilization of specimen signatures, finger impressions, voice samples, or handwriting as trial evidence. However, the marginal heading of the Clause currently states 'Power of Magistrate to order person to give specimen signatures or handwriting', and it does not accurately reflect the types of samples that a Magistrate can order a person to give. In light of this, the Committee recommends that the marginal heading be modified to use the term 'samples' instead of specifying the type of samples. This change would allow for a broader interpretation and inclusion of all types of samples, in accordance with the law in force.

(Para 3.27.2)

The Committee feels that the language of Clause 435 needs to be rephrased. The Clause should begin with the words 'Every appeal under section 418 or section 419...' instead of 'Every other appeal under section 418 or section 419'. The Committee recommends that appropriate amendments may be made in the said clause. The Committee also feels that the matter regarding continuance of an appeal after the death of an accused, may be relooked into.

(Para 3.28.3)

The Committee has duly considered the suggestion, which proposes replacing the phrase "not less than seven years" with "not exceeding fourteen years" in Clause 475(b). As per Clause 433 of the CrPC, a life sentence may be commuted to imprisonment for a term "not exceeding fourteen years". The Committee feels that the term "not exceeding fourteen years" might be interpreted to mean any sentence, given the absence of a minimum sentence. To ensure that the punishments align with the gravity of the offence, the Committee recommends amending Clause 475(b) to specify both a minimum and maximum sentence that can be imposed on convicts.

(Para 3.29.3)

To ensure that the power given to the appropriate government to commute a sentence is judiciously used and the commutation is justified, the Committee recommends that appropriate reasons may be cited before commutation of a sentence.

(Para 3.29.4)

The Committee acknowledges the suggestion and supports the idea that undertrial prisoners who have already served the maximum sentence for the most

serious offence they are charged with, should be granted bail unless there are consecutive sentences for multiple offences. This suggested amendment aligns with due process and principles of individual liberty, and the Committee recommends incorporating it into the clause.

(Para 3.30.2)

The Committee recommends correcting a cross-referencing error in Clause 482(3), *viz.* instead of referring to 'Chapter VI, Chapter XVI, or Chapter XVII' of the 'Bharatiya Nagarik Suraksha Sanhita,' reference should be drawn to 'Chapter VI, Chapter VII, or Chapter XVII' of the 'Bharatiya Nyaya Sanhita'.

(Para 3.31.3)

The Committee also undertook a detailed examination of the text of each clause and noted that the BNSS contains many typographical, cross-referencing and grammatical errors. The Committee is of the view that even a single typographical, cross-referencing or grammatical error has the potential to be misinterpreted and dilute the intent of the provision. The Committee, therefore, recommends the Ministry to rectify such errors.

(Para 3.32)

The Committee agrees with the remaining clauses of the BNSS without any changes. The Committee holds the view that the changes introduced through the Sanhita underscore the growing importance of establishing a more comprehensive legal framework which aligns with the changing requirements of our digital era.

(Para 3.33)

NOTES OF DISSENT

अधीर रंजन चौधरी

संसद सदस्य

नेता, लोक सभा (कांग्रेस संसदीय दल)

ADHIR RANJAN CHOWDHURY

MEMBER OF PARLIAMENT
LEADER OF CONGRESS PARTY
IN THE LOK SABHA



सत्यमेव जयते

अध्यक्ष

लोक लेखा समिति
भारतीय संसद, नई दिल्ली

CHAIRPERSON

PUBLIC ACCOUNTS COMMITTEE
PARLIAMENT HOUSE
NEW DELHI

To

The Chairperson
Standing Committee on Home Affairs
Rajya Sabha
Parliament House
New Delhi

DISSENT NOTE ON THE PROPOSED (1) BHARATIYA NYAYA SANHITA BILL, 2023 ('BNS'), (2) BHARATIYA NAGARIK SURAKSHA SANHITA BILL, 2023 ('BNSS') AND (3) THE BHARATIYA SAKSHYA BILL, 2023 ('BSB').

Without any prior intimation and consultation, the Modi Government introduced three new Bills on August 11th, 2023 in the Lok Sabha, namely;

S. NO	EXISTING ACT	PROPOSED ACT TO REPLACE THE EXISTING ACT
1.	Indian Penal Code, 1860 – 511 Sections (Including Amendments and Additions)	Bharatiya Nyaya Sanhita (BNS) – 356 total Sections, 174 Sections changed, 8 new Sections added and 22 Sections repealed
2.	Code of Criminal Procedure, 1973 – 528 Sections (Including Amendments and Additions)	Bharatiya Nagarik Suraksha Sanhita (BNSS) – 533 total Sections, 160 Sections changed, 9 New Sections and 9 Sections repealed
3.	Indian Evidence Act, 1872–185 Sections (Including Amendments and Additions)	Bharatiya Sakshya (BSB) – 170 total Sections. 23 Sections changed, 1 new Section added, and 5 Sections repealed.

The three captioned criminal law Bills cannot be supported in good conscience.

* * *

I. The following key issues arise from a reading of the Draft Bills;

1. **The Law is vastly the same. Only renumbered and re-arranged;** –Far from being novel, or an intuitive re-evaluation of legal provisions, practices and offences, the bills are significantly identical in both language and content to the Acts that they seek to replace. The proposed bills have largely reproduced the laws as they exist presently. Arguably, the biggest "change" has been here numbering of Sections. This exercise, experts opine, would be responsible for large scale confusion resulting in unnecessary delay in the functioning of courts and the policing agencies.

Furthermore, changing the positioning of the provisions within the statutes does not make a law more effective or better in any way.

* * *

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Chairman
Standing Committee on Home Affairs
Dy. Secy 203
Date 27/10/2023
Rajya Sabha, Parliament of India

2. **HM's Speech in the Parliament dated 11.08.2023** – The Hon'ble HM himself highlighted the substantive changes in his speech on the floor of Parliament (dated 2023).

The sum total of these changes which the HM himself has chosen to highlight is 25. Even by the most verbose of standards, these could have been introduced to the existing law through a simple five page amendment bill. There was thus no need to carry out such a comprehensive and unnecessary reform for merely 12 substantive amendments (by the HM's own examples). In fact, even in the statements put out by the Government, it is these examples that are being reiterated.

Even the statement of objects and reasons appended to the Bills fails to provide a satisfactory justification.

3. **Imposition of Hindi** – Parliament represents all of us. Not just the Hindi Speakers. Using language which is deliberately exclusionary for the title cannot be justified especially when a Hindi version of the Bill is always published officially and simultaneously. The usage of sanskritised Hindi in these bills goes against the spirit of Article 348 of the Indian Constitution which states that the text of all Bills introduced in Parliament must be in English, a necessary requirement for a country as diverse as India.
4. **Essentially Colonial** – While the Government has hailed the Bills as a move towards shedding the colonial nature of criminal laws, the Bills still retain the colonial spirit of the current laws. For example, most punishments for offences under the IPC have been retained. Further, punishments for some offences have been made harsher and the death penalty has been added for at least four new crimes such as mob lynching, organised crime, terrorism and rape of a minor. The removal of law on sedition was a mere symbolic gesture as it is replaced by a Clause 150 BNS which is much more tyrannical and colonial in its essence. Ultimately, there has been no shift towards a rehabilitative approach to criminal laws. The proposed law retains the retributive nature of the colonial laws. In other words, aside from empty rhetoric about shedding the colonial spirit there is no clear illustration of how the Bills seek to actually do so.
5. **Poorly Drafted Laws** – The version of the Bills that have been released to the public is rife with substantive errors that alter the very meaning of the law to the extent of rendering the law absurd and otiose. For example, Clause 23 of 'The Bharatiya Nyaya Sanhita Bill' states "**Nothing** is an offence which is done by a person who, at the time of doing it, is, by reason of

intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; unless that the thing which intoxicated him was administered to him without his knowledge or against his will." In other words, the law exempts offences committed by persons who are under a voluntary state of intoxication and at the same time punishes acts that are done in an involuntary state of intoxication. Such serious infirmities is clear evidence of lack of research and a proper consultation process.

6. **Lack of Public Consultation** – The manner, timing and secrecy with which the exercise has been carried out reeks of legislative mala fides. Law making, especially on a subject of such wide-ranging importance, has to be done in the full light of day with the widest possible consultation amongst stakeholders. **The Pre-Legislative Consultation Policy 2014 expressly prescribes a thirty-day consultation period with the public at large before it may be cleared by Cabinet for introduction in Parliament.** This consultation, done through a sharing of the draft in the public domain, must be accompanied by (i) justifications for its enactment, (ii) financial implications and (iii) estimation of the laws' impact. Finally, comments received through the consultation must be published on the website of the nodal ministry. In this case, a committee was constituted, its members and mandate shielded from public scrutiny, and its recommendations not even subject to peer-review, were taken as gospel. No justification is given for why such a large-scale reform was effected to make changes to a handful of sections, by the Home Ministers own statement in Parliament.

7. **Enhances the Union Government's policing powers without any checks and balances** – The changes that have been made to the existing laws also enhance the coercive powers of State and its instrumentalities which allow for the exercise of its powers at a hitherto unknown scale at which these powers can be exercised by the State. *For example, the laws in general have expanded the scope of police's power without introducing measures to keep its activities in check. From the data of the Government, provided as a response to Unstarred Question No. 1459 for 26.07.2022 raised in parliament, one can see that 4484 persons were victims of Custodial Deaths in India between 2020-2022. While the Bill seeks to enhance the time for which a person can be kept in police custody, there exists no protective measures to provide safety to the accused persons under police custody which is bound to adversely affect the safety of detainees.*

II.

TABLE DETAILING SUBSTANTIVE CHANGES IN THE NEWLY INTRODUCED BILLS ALONG WITH THEIR CORRESPONDING POTENTIAL ISSUES

S. NO	TITLE OF CLAUSE	TEXT OF RELEVANT CLAUSE	POTENTIAL ISSUES
1.	Proviso of Clause 18 of BNSS on ' Public Prosecutors '	<i>Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.</i>	This provision dilutes the powers of administration of the elected government in Delhi by allowing for centralisation of power and violating the federal structure that the Constitution provides for.
2.	Exception 2 to Clause 63 of BNS on ' Rape '	<i>Exception 2 – Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.</i>	Despite claiming that the New Bills were drafted keeping in mind the issue of women's safety, the Government continues to exempt acts of Marital Rape from the ambit of rape laws. The recognition of Marital Rape as an offence has been a long-standing demand from Indian women across the board.
3.	Clause 69 of the BNS on ' Sexual intercourse by employing	<i>69. Whoever, by deceitful means or making by promise to marry to a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of</i>	The criterion of "deceitful means" proposed under the new Bill is too broad and provides ample scope for misuse. "Suppression of

	deceitful means, etc.'	<p><i>rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.</i></p> <p><i>Explanation – “deceitful means” shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.</i></p>	Identity” can be misused by ill-interested parties to harass inter-faith and inter-caste couples.
4.	Clause 43 (3) of the BNSS on ‘Arrest how made’	<p><i>(3) The police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who escaped from custody, who has committed offence of organised crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children, offences against the State, including acts endangering sovereignty, unity and integrity of India or economic offences.</i></p>	<p>The Supreme Court, in <i>Prem Shanker Shukla v. Delhi Administration (1980) 3 SCC 526</i> has categorically held that the use of handcuffs is an anathema on human dignity and a violation of Article 21 of the Indian Constitution.</p> <p>This section is more in line with the colonial mindset of punitive control of the state as opposed to the citizen first, justice centric approach the Government claims these laws were envisioned to champion. Therefore, the purported colonial mindset that the laws intended to do away with fails and the Bills continue to</p>

			retain the colonial character of the current laws
5.	Clause 187 (2) and 187 (3) of the BNSS on 'Procedure when investigation cannot be completed in twenty-four hours'	<p><i>(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding –</i></p> <p><i>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</i></p> <p><i>(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.</i></p>	<p>The enhancement of the period for which a detenu can be kept in police custody from 15 days contrasts with the decision of the Hon'ble Supreme Court in <i>CBI v. Anupam J. Kulkarni, (1992) 3 SCC 141</i> where it was held that police custody after a period of 15 days would be impermissible. By increasing the period of detention under police custody, the new laws have left detenues exposed to probability of threat, torture or inducement by the police. The safeguard of judicial custody i.e where the police have to take the Magistrate's permission to interrogate an accused has been completely ignored and undone by the new laws.</p>
6.	Clause 262 of the BNSS on 'When accused shall be discharged'	262 (1) The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.	As per sub-section 1 of Clause 262, an application for discharge can be moved within 60 days of 'framing of charges'. A discharge application

		<p><i>(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.</i></p>	<p>is filed under Section 227 or Section 239 and the same is granted if it is evident that there is no basis on which a trial against the accused can be proceeded with.</p> <p>The proposed law is flawed and renders the purpose of a discharge application otiose since a discharge is the right of an accused to avoid frivolous litigation against him if the offence is not even prima facie made out.</p>
7.	<p>Clause 63 of the BSB on 'Admissibility of electronic records'</p>	<p><i>63. (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or</i></p>	<p>Clause 63 of the BSB conflicts with Clause 61 and 62 of the BSB. As per Clause 61, all electronic records are to be treated at par with paper records with respect to their admissibility before courts when proved in accordance to Clause 59 of the BSB (as per Clause 62). However, Clause 63 of the BSB lists the conditions that must be satisfied for electronic evidence to be admissible under the act. Clause 63 is largely an exact reproduction of Section 65B of the Indian Evidence Act.</p>

25th October 2023

		<i>any contents of the original or of any fact stated therein of which direct evidence would be admissible....</i>	Clause 61 is a new provision introduced by the BSB. However, given that Clause 63 has a non-obstante clause, it overrides Clause 61, thus making it redundant.
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III.

POINT BY POINT REBUTTAL TO HM'S SPEECH DATED 11.08.2023 IN PARLIAMENT, ON THE CRIMINAL LAW REFORMS ACTS

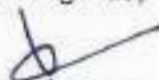
S NO.	CLAIMS	RESPONSE
1.	HM claims that Zero FIR being introduced for the first time.	The Ministry of Home Affairs during the UPA Government, vide Orders dated 10.05.2013 had made it mandatory for all Police Stations to register 'zero FIRs' irrespective of their territorial jurisdiction.
2.	HM claims that concept of E-FIR introduced for the first time	In a Nationwide DGP Conference, Shri Sushil Kumar Shinde inaugurated the CCTNS (Crime & Criminals Tracking Network and Systems) system at Vigyan Bhawan, New Delhi on 04.01.2013 The same CCTNS system (Digital Police Portal) was also relaunched by Shri Amit Shah's Senior Colleague – Shri Rajnath Singh on 21.08.2017.
3.	Lauding the new Bill, HM asserted that 'Compulsory Information' about Arrest to Family Members, being introduced for the first time. Refer to Section 36 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023	Landmark Constitution Bench Judgement in D.K. Basu Vs. State of West Bengal {1997 (1) SCC 416} dated 18.12.1996. Para 35 - "(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest."

4.	Compulsory video recording of statement of rape victims Section 176 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023 provides that the statement of a victim of sexual assault "may" also be videographer.	Proviso to Section 164 of the CrPC, 1973: "Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed."
5.	The HM claimed that the new Bill makes it mandatory for a Court to pronounce Judgement within 30 days. Section 258 of the Bharatiya Nagarik Suraksha Sanhita, 2023: 258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days	Order XX Rule 1(1) of the CPC: "Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case as concluded"
6.	SANCTION OF PUBLIC SERVANTS HM asserted that through the present Bills, the Government is making it mandatory to sanction/ deny prosecution of Public Servants within 120 days of application or the same would amount to deemed approval.	Vineet Narain Vs. UOI {1998 (1) SCC 226} SCC; Para 15 - "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office." Proviso to Section 19 of the Prevention of Corruption Act, 1988- "Provided also that the

		appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section endeavour to convey the decision on such proposal within a period of three months from the date of its receipt”
7.	The HM claimed that now onwards the Criminal Law Reforms enable the authorities to Auction the Assets of Proclaimed Offender.	Section 83 of the CrPC, 1973 “83. Attachment of property of person absconding.— (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.”
8.	Gang rape 20 years or life imprisonment	Section 376D, IPC 1860: 376D. Gang rape - Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:
9.	HM also said that the 2023 Criminal Law Amendments also criminalizes ‘Sexual Intercourse with Women under False Identity’	Section 376 of the IPC 1860 “Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is

		given because she believes that he is another man to whom she is or believes herself to be lawfully married."
10.	HM also argued that Snatching is being made an offence for the first time	Section 378, 379 (theft) of the IPC already covers snatching as an offence.
11.	It was staunchly claimed by the HM that Sedition is being repealed to protect Freedom of Speech.	Section 150 of the draft Bharatiya Nyaya Sanhita, 2023: "150. Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine.
12.	The HM claimed that terrorists like Dawood Ibrahim, may be absconding but now Government Is creating provisions to punish them in absentia.	Section 299 of the CrPC, 1973 already provides for trial, evidence etc. in absence of the Accused.

With regards,


(Adhir Ranjan Chowdhury)

RAVNEET SINGH

Member of Parliament (Lok Sabha)

CHAIRPERSON

Committee on Absence of Members from
the Sittings of the House

MEMBER

- Committee on Public Undertakings
- Standing Committee on Home Affairs
- General Purposes Committee
- Consultative Committee, Ministry of
Micro, Small and Medium Enterprises



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27th October 2023

Respected Shri Brijlal jee,

Kindly find enclosed my dissent note on the draft reports of the Committee on Home Affairs on the proposed (i) Bharatiya Nyaya Sanhita Bill, 2023 (BNS), (ii) Bharatiya Nagarik Suraksha Sanhita Bill, 2023 (BNSS) and (iii) The Bharatiya Sakshya Bill, 2023 (BSB).

I request your good self to take the above mentioned dissent note from myself into active consideration please.

With warm regards,

Yours sincerely,


(RAVNEET SINGH)

Shri Brijlal,
Hon'ble Chairperson,
Committee on Home Affairs,
Parliament House Annexe Extension Building,
New Delhi.

25th October 2023

DISSENT NOTE ON THE PROPOSED (1) BHARATIYA NYAYA SANHITA BILL, 2023 ('BNS'), (2) BHARATIYA NAGARIK SURAKSHA SANHITA BILL, 2023 ('BNSS') AND (3) THE BHARATIYA SAKSHYA BILL, 2023 ('BSB')

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* * *

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The following key issues arise from a reading of the Draft Bills;

1. **The Law is vastly the same. Only renumbered and re-arranged;** – Far from being novel, or an intuitive re-evaluation of legal provisions, practices and offences, the bills are significantly identical in both language and content to the Acts that they seek to replace. The proposed bills have largely reproduced the laws as they exist presently. Arguably, the biggest “change” has been the renumbering of Sections. This exercise, experts opine, would be responsible for large scale confusion resulting in unnecessary delay in the functioning of courts and the policing agencies.

Furthermore, changing the positioning of the provisions within the statutes does not make a law more effective or better in any way.

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2. **HM's Speech in the Parliament dated 11.08.2023** – The Hon'ble HM himself highlighted the substantive changes in his speech on the floor of Parliament (dated 2023).

The sum total of these changes which the HM himself has chosen to highlight is 25. Even by the most verbose of standards, these could have been introduced to the existing law through a simple five page amendment bill. There was thus no need to carry out such a comprehensive and unnecessary reform for merely 12 substantive amendments (by the HM's own examples). In fact, even in the statements put out by the Government, it is these examples that are being reiterated.

* * *

Even the statement of objects and reasons appended to the Bills fails to provide a satisfactory justification.

3. **Imposition of Hindi** – Parliament represents all of us. Not just the Hindi Speakers. Using language which is deliberately exclusionary for the title cannot be justified especially when a Hindi version of the Bill is always published officially and simultaneously. The usage of sanskritised Hindi in these bills goes against the spirit of Article 348 of the Indian Constitution which states that the text of all Bills introduced in Parliament must be in English, a necessary requirement for a country as diverse as India.
4. **Essentially Colonial** – While the Government has hailed the Bills as a move towards shedding the colonial nature of criminal laws, the Bills still retain the colonial spirit of the current laws. For example, most punishments for offences under the IPC have been retained. Further, punishments for some offences have been made harsher and the death penalty has been added for at least four new crimes such as mob lynching, organised crime, terrorism and rape of a minor. The removal of law on sedition was a mere symbolic gesture as it is replaced by a Clause 150 BNS which is much more tyrannical and colonial in its essence. Ultimately, there has been no shift towards a rehabilitative approach to criminal laws. The proposed law retains the retributive nature of the colonial laws. In other words, aside from empty rhetoric about shedding the colonial spirit there is no clear illustration of how the Bills seek to actually do so.
5. **Poorly Drafted Laws** – The version of the Bills that have been released to the public is rife with substantive errors that alter the very meaning of the law to the extent of rendering the law absurd and otiose. *For example, Clause 23 of 'The Bharatiya Nyaya Sanhita Bill' states "Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of*

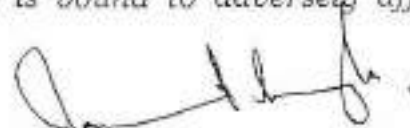


intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; **unless** that the thing which intoxicated him was administered to him without his knowledge or against his will." In other words, the law exempts offences committed by persons who are under a voluntary state of intoxication and at the same time punishes acts that are done in an involuntary state of intoxication. Such serious infirmities is clear evidence of lack of research and a proper consultation process.

6. **Lack of Public Consultation** – The manner, timing and secrecy with which the exercise has been carried out reeks of legislative mala fides. Law making, especially on a subject of such wide-ranging importance, has to be done in the full light of day with the widest possible consultation amongst stakeholders. **The Pre-Legislative Consultation Policy 2014 expressly prescribes a thirty-day consultation period with the public at large before it may be cleared by Cabinet for introduction in Parliament. This consultation, done through a sharing of the draft in the public domain, must be accompanied by (i) justifications for its enactment, (ii) financial implications and (iii) estimation of the laws' impact. Finally, comments received through the consultation must be published on the website of the nodal ministry.** In this case, a committee was constituted, its members and mandate shielded from public scrutiny, and its recommendations not even subject to peer-review, were taken as gospel. No justification is given for why such a large-scale reform was effected to make changes to a handful of sections, by the Home Ministers own statement in Parliament.

* * *

7. **Enhances the Union Government's policing powers without any checks and balances** – The changes that have been made to the existing laws also enhance the coercive powers of State and its instrumentalities which allow for the exercise of its powers at a hitherto unknown scale at which these powers can be exercised by the State. *For example, the laws in general have expanded the scope of police's power without introducing measures to keep its activities in check. From the data of the Government, provided as a response to Unstarred Question No. 1459 for 26.07.2022 raised in parliament, one can see that 4484 persons were victims of Custodial Deaths in India between 2020-2022. While the Bill seeks to enhance the time for which a person can be kept in police custody, there exists no protective measures to provide safety to the accused persons under police custody which is bound to adversely affect the safety of detainees.*



II.

TABLE DETAILING SUBSTANTIVE CHANGES IN THE NEWLY INTRODUCED BILLS ALONG WITH THEIR CORRESPONDING POTENTIAL ISSUES

S. NO	TITLE OF CLAUSE	TEXT OF RELEVANT CLAUSE	POTENTIAL ISSUES
1.	Proviso of Clause 18 of BNSS on ' Public Prosecutors '	<i>Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.</i>	This provision dilutes the powers of administration of the elected government in Delhi by allowing for centralisation of power and violating the federal structure that the Constitution provides for.
2.	Exception 2 to Clause 63 of BNS on ' Rape '	<i>Exception 2 – Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.</i>	Despite claiming that the New Bills were drafted keeping in mind the issue of women's safety, the Government continues to exempt acts of Marital Rape from the ambit of rape laws. The recognition of Marital Rape as an offence has been a long-standing demand from Indian women across the board.
3.	Clause 69 of the BNS on ' Sexual intercourse by employing	<i>69. Whoever, by deceitful means or making by promise to marry to a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of</i>	The criterion of "deceitful means" proposed under the new Bill is too broad and provides ample scope for misuse. "Suppression of



	<i>deceitful means, etc.'</i>	<p><i>rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.</i></p> <p><i>Explanation - "deceitful means" shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.</i></p>	<p>Identity" can be misused by ill-interested parties to harass inter-faith and inter-caste couples.</p>
4-	Clause 43 (3) of the BNSS on 'Arrest how made'	<p><i>(3) The police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who</i></p> <p><i>escaped from custody, who has committed offence of organised crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder,</i></p> <p><i>rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children, offences against the State, including acts endangering sovereignty, unity and integrity of India or economic offences.</i></p>	<p>The Supreme Court, in <i>Prem Shanker Shukla v. Delhi Administration (1980) 3 SCC 526</i> has categorically held that the use of handcuffs is an anathema on human dignity and a violation of Article 21 of the Indian Constitution.</p> <p>This section is more in line with the colonial mindset of punitive control of the state as opposed to the citizen first, justice centric approach the Government claims these laws were envisioned to champion. Therefore, the purported colonial mindset that the laws intended to do away with fails and the Bills continue to</p>



			retain the colonial character of the current laws
5.	Clause 187 (2) and 187 (3) of the BNSS on 'Procedure when investigation cannot be completed in twenty-four hours'	<p><i>(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding –</i></p> <p><i>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</i></p> <p><i>(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.</i></p>	<p>The enhancement of the period for which a detenu can be kept in police custody from 15 days contrasts with the decision of the Hon'ble Supreme Court in <i>CBI v. Anupam J. Kulkarni, (1992) 3 SCC 141</i> where it was held that police custody after a period of 15 days would be impermissible. By increasing the period of detention under police custody, the new laws have left detenues exposed to probability of threat, torture or inducement by the police. The safeguard of judicial custody i.e where the police have to take the Magistrate's permission to interrogate an accused has been completely ignored and undone by the new laws.</p>
6.	Clause 262 of the BNSS on 'When accused shall be discharged'	262 (1) The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.	As per sub-section 1 of Clause 262, an application for discharge can be moved within 60 days of 'framing of charges'. A discharge application

		<p><i>(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.</i></p>	<p>is filed under Section 227 or Section 239 and the same is granted if it is evident that there is no basis on which a trial against the accused can be proceeded with.</p> <p>The proposed law is flawed and renders the purpose of a discharge application otiose since a discharge is the right of an accused to avoid frivolous litigation against him if the offence is not even prima facie made out.</p>
7.	<p>Clause 63 of the BSB on 'Admissibility of electronic records'</p>	<p><i>63. (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or</i></p>	<p>Clause 63 of the BSB conflicts with Clause 61 and 62 of the BSB. As per Clause 61, all electronic records are to be treated at par with paper records with respect to their admissibility before courts when proved in accordance to Clause 59 of the BSB (as per Clause 62). However, Clause 63 of the BSB lists the conditions that must be satisfied for electronic evidence to be admissible under the act. Clause 63 is largely an exact reproduction of Section 65B of the Indian Evidence Act.</p>

25th October 2023

		<p><i>any contents of the original or of any fact stated therein of which direct evidence would be admissible....</i></p>	<p>Clause 61 is a new provision introduced by the BSB. However, given that Clause 63 has a non-obstante clause, it overrides Clause 61, thus making it redundant.</p>
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III.

POINT BY POINT REBUTTAL TO HM'S SPEECH DATED 11.08.2023 IN PARLIAMENT, ON THE CRIMINAL LAW REFORMS ACTS

S NO.	CLAIMS	RESPONSE
1.	HM claims that Zero FIR being introduced for the first time.	The Ministry of Home Affairs during the UPA Government, vide Orders dated 10.05.2013 had made it mandatory for all Police Stations to register 'zero FIRs' irrespective of their territorial jurisdiction.
2.	HM claims that concept of E-FIR introduced for the first time	In a Nationwide DGP Conference, Shri Sushil Kumar Shinde inaugurated the CCTNS (Crime & Criminals Tracking Network and Systems) system at Vigyan Bhawan, New Delhi on 04.01.2013 The same CCTNS system (Digital Police Portal) was also relaunched by Shri Amit Shah's Senior Colleague - Shri Rajnath Singh on 21.08.2017.
3.	Lauding the new Bill, HM asserted that 'Compulsory Information' about Arrest to Family Members, being introduced for the first time. Refer to Section 36 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023	Landmark Constitution Bench Judgement in D.K. Basu Vs. State of West Bengal {1997 (1) SCC 416} dated 18.12.1996. Para 35 - "(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest."

4.	Compulsory video recording of statement of rape victims Section 176 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023 provides that the statement of a victim of sexual assault "may" also be videographer.	Proviso to Section 164 of the CrPC, 1973: "Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed."
5.	The HM claimed that the new Bill makes it mandatory for a Court to pronounce Judgement within 30 days. Section 258 of the Bharatiya Nagarik Suraksha Sanhita, 2023: 258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days	Order XX Rule 1(1) of the CPC: "Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case as concluded"
6.	SANCTION OF PUBLIC SERVANTS HM asserted that through the present Bills, the Government is making it mandatory to sanction/deny prosecution of Public Servants within 120 days of application or the same would amount to deemed approval.	Vineet Narain Vs. UOI {1998 (1) SCC 226} SCC; Para 15 - "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office." Proviso to Section 19 of the Prevention of Corruption Act, 1988- "Provided also that the

		appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section endeavour to convey the decision on such proposal within a period of three months from the date of its receipt"
7.	The HM claimed that now onwards the Criminal Law Reforms enable the authorities to Auction the Assets of Proclaimed Offender.	Section 83 of the CrPC, 1973 "83. Attachment of property of person absconding.— (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person."
8.	Gang rape 20 years or life imprisonment	Section 376D, IPC 1860: 376D. Gang rape - Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:
9.	HM also said that the 2023 Criminal Law Amendments also criminalizes 'Sexual Intercourse with Women under False Identity'	Section 376 of the IPC 1860 "Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is

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		given because she believes that he is another man to whom she is or believes herself to be lawfully married."
10.	HM also argued that Snatching is being made an offence for the first time	Section 378, 379 (theft) of the IPC already covers snatching as an offence.
11.	It was staunchly claimed by the HM that Sedition is being repealed to protect Freedom of Speech.	Section 150 of the draft Bharatiya Nyaya Sanhita, 2023: "150. Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine.
12.	The HM claimed that terrorists like Dawood Ibrahim, may be absconding but now Government is creating provisions to punish them in absentia.	Section 299 of the CrPC, 1973 already provides for trial, evidence etc. in absence of the Accused.

At Sub.

Digvijaya Singh
Member of Parliament
(Rajya Sabha)



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Tel.: 011-24628655

E-mail : digvijaya.singh@sansad.nic.in
dvs01fcbhopal@gmail.com

No. 1820/2023
Date 25/10/2023

Dear, Shri Brijlal Ji,

I am enclosing a detailed Dissenting note on the proposed:

1. BHARATIYA NYAYA SANHITA BILL, 2023 ('BNS')
2. BHARATIYA NAGARIK SURAKSHA SANHITA BILL, 2023 ('BNSS')
3. THE BHARATIYA SAKSHYA BILL, 2023 ('BSB').

There was an urgent need to call Eminent Lawyers and Judges to depose before the Committee. But it appeared that Hon. Chairman was in a tearing hurry to submit the report.

Kindly include my Dissenting Note in the Report to be submitted to the Parliament.

With regards,

Yours Sincerely,


(Digvijaya Singh)

Shri Brijlal Ji
Hon'ble Chairman,
Parliamentary Standing Committee,
Home Ministry, New Delhi

DISSENT NOTE ON THE PROPOSED (1) BHARATIYA NYAYA SANHITA BILL, 2023 ('BN'), (2) BHARATIYA NAGARIKSURAKSHA SANHITA BILL, 2023 ('BNSS') AND (3) THE BHARATIYA SAKSHYA BILL, 2023 ('BS')

Without any prior intimation and consultation, the Modi Government introduced three news Bills on August 11th, 2023 in the Lok Sabha, namely;

s. No	EXISTING ACT	PROPOSED ACT TO REPLACE THE EXISTING ACT
1.	Indian Penal Code, 1860 - 511 Sections (Including Amendments and Additions)	Bharatiya Nyaya Sanhita (BNS) - 356 total Sections, 174 Sections changed, 8 new Sections added and 22 Sections repealed
2.	Code of Criminal Procedure, 1973 - 528 Sections (Including Amendments and Additions)	Bharatiya Nagarik Suraksha Sanhita (BNSS) - 533 total Sections, 160 Sections changed, 9 New Sections and 9 Sections repealed
3.	Indian Evidence Act, 1872 - 185 Sections (Including Amendments and Additions)	Bharatiya Sakshya (BSB) - 170 total Sections. 23 Sections changed, 1 new Section added, and 5 Sections repealed.

The three captioned criminal law Bills cannot be supported in good conscience.

*** .

I. The following key issues arise from a reading of the Draft Bills;

- 1. The Law is vastly the same. Only renumbered and re-arranged;** - Far from being novel, or an intuitive re-evaluation of legal provisions, practices and offences, the bills are significantly identical in both language and content to the Acts that they seek to replace. The proposed bills have largely reproduced the laws as they exist presently. Arguably, the biggest "change" has been the renumbering of Sections. This exercise, experts opine, would be responsible for large scale confusion resulting in unnecessary delay in the functioning of courts and the policing agencies.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Furthermore, changing the positioning of the provisions within the statutes does not make a law more effective or better in any way. ***.

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The sum total of these changes which the HM himself has chosen to highlight is 25. Even by the most verbose of standards, these could have been introduced to the existing law through a simple five page amendment bill. There was thus no need to carry out such a comprehensive and unnecessary reform for merely 12 substantive amendments (by the HM's own examples). In fact, even in the statements put out by the Government, it is these examples that are being reiterated. *** . Even the statement of objects and reasons appended to the Bills fails to provide a satisfactory justification.

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6.	Clause 262 of the BNSS on 'When accused shall be discharged'	262 (1) <i>The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.</i>	As per sub-section 1 of Clause 262, an application for discharge can be moved within 60 days of 'framing of charges'. A discharge application

		<p><i>(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.</i></p>	<p>is filed under Section 227 or Section 239 and the same is granted if it is evident that there is no basis on which a trial against the accused can be proceeded with.</p> <p>The proposed law is flawed and renders the purpose of a discharge application otiose since a discharge is the right of an accused to avoid frivolous litigation against him if the offence is not even prima facie made out.</p>
7.	<p>Clause 63 of the BSB on 'Admissibility of electronic records'</p>	<p><i>63. (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or</i></p>	<p>Clause 63 of the BSB conflicts with Clause 61 and 62 of the BSB. As per Clause 61, all electronic records are to be treated at par with paper records with respect to their admissibility before courts when proved in accordance to Clause 59 of the BSB (as per Clause 62). However, Clause 63 of the BSB lists the conditions that must be satisfied for electronic evidence to be admissible under the act. Clause 63 is largely an exact reproduction of Section 65B of the Indian Evidence Act.</p>

		<i>any contents of the original or of any fact stated therein of which direct evidence would be admissible....</i>	Clause 61 is a new provision introduced by the BSB. However, given that Clause 63 has a non-obstante clause, it overrides Clause 61, thus making it redundant.
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III.

POINT BY POINT REBUTTAL TO HM'S SPEECH DATED 11.08.2023 IN PARLIAMENT, ON THE CRIMINAL LAW REFORMS ACTS

S NO.	CLAIMS	RESPONSE
1.	HM claims that Zero FIR being introduced for the first time.	The Ministry of Home Affairs during the UPA Government, vide Orders dated 10.05.2013 had made it mandatory for all Police Stations to register 'zero FIRs' irrespective of their territorial jurisdiction.
2.	HM claims that concept of E-FIR introduced for the first time	In a Nationwide DGP Conference, Shri Sushil Kumar Shinde inaugurated the CCTNS (Crime & Criminals Tracking Network and Systems) system at Vigyan Bhawan, New Delhi on 04.01.2013 The same CCTNS system (Digital Police Portal) was also relaunched by Shri Amit Shah's Senior Colleague – Shri Rajnath Singh on 21.08.2017.
3.	Lauding the new Bill, HM asserted that 'Compulsory Information' about Arrest to Family Members, being introduced for the first time. Refer to Section 36 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023	Landmark Constitution Bench Judgement in D.K. Basu Vs. State of West Bengal {1997 (1) SCC 416} dated 18.12.1996. Para 35 - "(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest."

4.	Compulsory video recording of statement of rape victims Section 176 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023 provides that the statement of a victim of sexual assault "may" also be videographer.	Proviso to Section 164 of the CrPC, 1973: "Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed."
5.	The HM claimed that the new Bill makes it mandatory for a Court to pronounce Judgement within 30 days. Section 258 of the Bharatiya Nagarik Suraksha Sanhita, 2023: 258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days	Order XX Rule 1(1) of the CPC: "Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case as concluded"
6.	SANCTION OF PUBLIC SERVANTS HM asserted that through the present Bills, the Government is making it mandatory to sanction/ deny prosecution of Public Servants within 120 days of application or the same would amount to deemed approval.	Vineet Narain Vs. UOI {1998 (1) SCC 226} SCC; Para 15 - "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office." Proviso to Section 19 of the Prevention of Corruption Act, 1988- "Provided also that the

		appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section endeavour to convey the decision on such proposal within a period of three months from the date of its receipt”
7.	The HM claimed that now onwards the Criminal Law Reforms enable the authorities to Auction the Assets of Proclaimed Offender.	Section 83 of the CrPC, 1973 “83. Attachment of property of person absconding.— (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.”
8.	Gang rape 20 years or life imprisonment	Section 376D, IPC 1860: 376D. Gang rape - Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:
9.	HM also said that the 2023 Criminal Law Amendments also criminalizes ‘Sexual Intercourse with Women under False Identity’	Section 376 of the IPC 1860 “Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is

		given because she believes that he is another man to whom she is or believes herself to be lawfully married.”
10.	HM also argued that Snatching is being made an offence for the first time	Section 378, 379 (theft) of the IPC already covers snatching as an offence.
11.	It was staunchly claimed by the HM that Sedition is being repealed to protect Freedom of Speech.	Section 150 of the draft Bharatiya Nyaya Sanhita, 2023: “150. Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine.
12.	The HM claimed that terrorists like Dawood Ibrahim, may be absconding but now Government is creating provisions to punish them in absentia.	Section 299 of the CrPC, 1973 already provides for trial, evidence etc. in absence of the Accused.



सत्यमेव जयते

N.R.ELANGO
MEMBER OF PARLIAMENT
(RAJYA SABHA)
TAMILNADU

TO :

7th November 2023

The Hon'ble Chairman and the Hon'ble Members,
Parliamentary Standing Committee on
Home Affairs.

Sir, Vanakkam,

Subject: The Draft report on Bharatiya Nyaya Sanhita Bill 2023,
The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 and
The Bharatiya Sakshaya Bill, 2023

Ref : My letter dated 27/10/2023.

Please refer to my letter cited in the reference. I have given my dissent note in that letter as the committee was convened to adopt the draft report on 27/10/2023. However, the adoption was postponed to 06/11/2013. As the dissent note is to be given after the adoption of the draft report, I am once again giving this dissent note once again, to comply with the procedure. Please consider the same.

1. At the outset i concur with the opinion of the Hon'ble Members Mr. P.Chidambaram, Mr.Dayanidhi Maran and Mr.Derik O'beran that
 - a. These Bills shall not be rushed by this Committee in this undesirable speed.
 - b. These Bills require more consultation with State Governments, Judges, Police Authorities, Bar Council of India, State Bar Councils, Advocate Association, Bar Associations, Senior Advocates, Advocates, Women Lawyers' Association, Eminent Jurists, Academicians, various luminaries and other stakeholders etc.

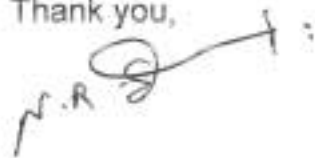
N.R.Elango

- c. The naming of these Bills in Hindi/Sanskrit will amount to undermining the Federalism, in as much it goes against the linguistic feelings of the non-Hindi speaking Indians. In spite of various objections and suggestions the Committee is not considering the violation of Article 348 of the Constitution of India.
2. It is very obvious that, various valuable suggestions of the domain experts who were examined by the Committee are not at all considered in the draft report.
3. Suggestions regarding the abolition of death sentence is not at all considered in the draft report. I urge the Committee to deliberate on this issue alone for at least three days. Views of the stakeholders, experts to be obtained on this issue. This is the golden opportunity to consider, to do away with the death penalty. Humanism will be ever grateful to us if we deliberate and abolish the death penalty.
4. I am of the strong view that this Committee should not stop with consulting the domain experts but also have a wide consultation with the State Governments, Judges, Police Authorities, Bar Council of India, State Bar Councils, Advocate Association, Bar Associations, Senior Advocates, Advocates, Women Lawyers' Association, Eminent Jurists and the Academicians.
5. As these three Bills will have a large implication on the everyday life of the millions of Indians, I request the Committee to have a balanced and slow approach in its recommendations.
6. The Parliament and its Committees are meant for People and not the vice versa. What the Parliament by its majority wants to be the law is not correct approach to the democracy. The Parliament and its members have to think, deliberate, consult and enact laws which are serving best interest of the citizens of our country. I am of the view that this is completely overlooked by the Committee and rushing of these Bills is the evidence of it.
7. However, I am here with enclosing my dissent note to the draft reports Bharatiya Nyaya Sanhita Bill 2023, The Bharatiya Nagarika Suraksha Sanhita Bill, 2023. I am also enclosing a separate suggestion to clause 187

of The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 which is equivalent to section 167 of the Code of Criminal Procedure 1973.

8. I have no suggestions to the draft report on The Bharatiya Sakshaya Bill, 2023 as I note three of my suggestions were taken into consideration by the Committee in the draft report. How ever my strong dissent may be recorded in naming the Bill as The Bharatiya Sakshaya Bill, 2023 and I request the Committee to recommend the Parliament to name it as The Indian Evidence Act 2023.

Thank you,

A handwritten signature in black ink, appearing to be 'N.R. Elango', with a long horizontal stroke extending to the right.

(N.R.ELANGO)

ENCL:

1. Dissent note to the draft report on Bharatiya Nyaya Sanhita Bill 2023
2. Dissent note to the draft report on The Bharatiya Nagarika Suraksha Sanhita Bill, 2023
3. Suggestions to clause 187 of The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 which is equivalent to section 167 of the Code of Criminal Procedure 1973.

Dissent note by N R Elango to the report no.247 of the Department Related Parliamentary Standing Committee on Home Affairs on The Bharatiya Nagarik Suraksha Sanhita, 2023.

Re.(1) The Bill is named in Hindi.

In fact, during the discussions, it was informed that it was not a Hindi name but a Sanskrit name. It was suggested the naming of the bill in Hindi/Sanskrit is not violating Art.348 of the Constitution of India. It was stated that though the name is in Hindi/Sanskrit it is transliterated in English. The observations of the committee that “the text of Samhita is in English, it does not violate the provisions of Art.348” is unacceptable. Such observation is incorrect, illegal and violative of the Constitution of India. This exercise of the Government amounts to grossly violating the linguistic feeling of the Indians. I see every reason to denote this exercise, an attempt to impose Hindi on non-Hindi speaking Indians. Already a lot of discontent is brewing in the ground because of naming these bills in Hindi/Sanskrit. I appeal the government to desist from naming these bills in Hindi and name it as the Criminal Procedure Code, 2023 and not The Bharatiya Nagarik Suraksha Sanhita, 2023.

I am of the strong view, that the cadre of Metropolitan Magistrate and the Assistant Sessions Judge shall not be done away with and they have to be retained. Though there are not much of difference in the powers empowered between a Metropolitan Magistrate and a Judicial Magistrate, however this distinct nomenclature is maintained in the Code of Criminal Procedure, 1898 and was maintained in the 1973 code. Some of the Special Acts are empowering Chief Metropolitan Magistrates alone

to perform certain functions, such as Press and Registration Act and etc. So doing away with this nomenclature or the cadre will invite lot of inconvenience and confusion. Hence the suggestion is to retain the cadre of Metropolitan Magistrates. The senior civil Judge cadre alone are appointed as Metropolitan Magistrates. This procedure is adopted as the stakes in the cases involved in the Metropolitan Area is high, the class or kind of offences that are committed in the Metropolitan area are different than that of mofussil areas and violation of Special Acts such as, Customs Act, Sea Customs Act, GST, Money laundering, etc., are more prevalent in Metropolitan Area. That is why they are classified as different territorial jurisdiction and well-trained Magistrates with sufficient experience are posted as Metropolitan Magistrates. Doing away this classification in the long run will bring undesirable consequences in the criminal Justice delivery system. Hence the provisions relating to Metropolitan Area and Metropolitan Magistrate have to be retained.

- Similarly, the Assistant Sessions Judge Cadre is provided only to reduce the burden of Sessions Judge and the Additional Sessions Judges. These Judges are already burdened with dealing Civil, Criminal and proceedings under the special laws. Only to minimize the burden of the Sessions Judge, the Assistant Sessions Judge cadre was created, who can try offences punishable up to ten years. The abolition of this position will cause more burden to the Sessions Judges who are already overburdened.

- If a person is convicted by the Assistant Sessions Judge, he can appeal to the Sessions Judge and if he fails there, he can file a Revision before the High Court. If, this cadre is abolished then he will have to file appeal in the High Court and if he fails there too, he can only file

Special Leave Petition in the Supreme Court. This applies to the Victim also. Hence doing away with Assistant Sessions Judge cadre will bring undesirable consequences.

Re. Clause (35)

<p align="center">CRIMINAL PROCEDURE CODE, 1973</p>	<p align="center">THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023</p>
<p>41A. Notice of appearance before police officer.</p> <p>The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.</p> <p>(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.</p> <p>(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.</p> <p>⁴[(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer</p>	<p>35. When police may arrest without warrant.</p> <p>(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—</p> <p>(a) who commits, in the presence of a police officer, a cognizable offence;</p> <p>(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—</p> <p>(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;</p> <p>(ii) the police officer is satisfied that such arrest is necessary—</p> <p>(a) to prevent such person from committing any further offence; or</p>

may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.]

(b) for proper investigation of the offence; or

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

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

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest;

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

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

(e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of

	<p>having committed an offence with reference to such thing; or</p> <p>(f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or</p> <p>(g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or</p> <p>(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or</p> <p>(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 394; or</p> <p>(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.</p> <p>(2) Subject to the provisions of section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested</p>
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except under a warrant or order of a Magistrate.

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

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

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

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

(7) No arrest shall be made without prior permission of the officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for less than three years and such

	person is infirm or is above sixty years of age.
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- Arresting a person in most of the cases is violative of his fundamental and human rights. An arrest can wipe out the career of the arrestee and the reputation of his family forever. Hence, arrest at the stage of investigation merely on suspicion is to be avoided to a larger extent. Arrest at the stage of investigation is to be made in exceptional circumstances, for less heinous offences. But in India, we see the power of arrest is exercised indiscriminately for all non-bailable offences. The investigating agencies are under the impression that the arrest is an integral part of the investigation and they have to mandatorily arrest a person if an FIR is registered against a person.
- In fact, if a person is arrested during the investigation, and at the conclusion of the investigation, though the investigating officer comes to a conclusion that there are no materials for filing final report against the arrested person, invariably he is added as an accused in the Final Report. This is because of the fear of the investigating officer of a malicious prosecution case, that if he arrests somebody and the accused is remanded to judicial custody and in the later stage of the investigation, if he comes to the conclusion that he has not committed any offence and drops the name of the arrestee in the Final Report.
- The investigating agencies are under a great dilemma in not arresting the person and if arrested, to come to a impartial conclusion that any material is available to prosecute him or not. In *Joginder Singh's case*¹ the Supreme Court has categorically said that the power to arrest is one thing and the justification to arrest in another thing. Supreme Court time and again cautioned that the power to arrest shall not be used indiscriminately.

¹ (1994) 4 SCC 260

Judgments in *D K Basu vs State of West Bengal*², *Satender Kumar Antil vs CBI*³ and *Arnesh Kumar vs State of Bihar*⁴ are all indicators of misuse of powers by the investigating agencies. This bill underlines the importance of the accusatorial system. If a man is presumed innocent, till he is proved guilty, then indiscriminate arrest is an antithesis for the same.

- The Code of Criminal Procedure underwent lot of changes in 2005, 2009 and 2010. Through the Code of Criminal Procedure Amendment Act 2008, which was gazetted on 09.01.2009, section 41 was amended and section 41-A was inserted. This was obviously in terms of *D.K.Basu's* case. Section 41-A was inserted through this amendment. Section 41 was amended as and section 41-A was inserted and the same reads as follows:

In section 41 of the principal Act,-

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:-

"(a) who commits, in the presence of a police officer, a cognizable offence;

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

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

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

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

(b) for proper investigation of the offence; or

² (1997) 1 SCC 416

³ (2021) 10 SCC 773

⁴ (2014) 8 SCC 273

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

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

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

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

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

(ii) for sub-section (2), the following sub-section shall be substituted, namely:-

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

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

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

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

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

Thereafter through CrPC Amendment Act, 2010 which was gazetted on 22.09.2010, the following proviso was added in section 41 as follows:

Amendment of section 41. - On and from the date of commencement of section 5 of the Code of Criminal Procedure (Amendment) Act, 2008, in section 41 of the Code of Criminal Procedure, 1973 [as amended by section 5 of the Code of Criminal Procedure (Amendment) Act, 2008], in sub-section (1), in clause (b), the following proviso shall be inserted at the end, namely:-

"Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest."

And Section 41-A was amended as follows:

Amendment of section 41A. - On and from the date of commencement of section 6 of the Code of Criminal Procedure (Amendment) Act, 2008, in section 41A of the Code of Criminal Procedure, 1973 [as inserted by section 6 of the Code of Criminal Procedure (Amendment) Act, 2008],-

(a) in sub-section (1), for the words "The police officer may", the words "The police officer shall" shall be substituted;

(b) for sub-section (4), the following sub-section shall be substituted, namely:-"

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police

officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice."

In my opinion the amendment made in 2009 is in consonance with Fundamental Rights of the citizen. The amendments made in 2009 are well protecting the human rights and dignity of a person. It is also in consonance with the various judgements of the Supreme Court as stated supra. In terms of the Code of Criminal Procedure Amendment Act 2009, it was mandatory for a police officer to arrest a person in a cognisable case, to have a reasonable belief that a person has committed the offence and to have a satisfaction that the arrest is necessary.

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

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

(b) for proper investigation of the offence; or

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

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

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

It is also made mandatory on the part of the police officer to record the reasons of his belief. Through amendment in Act 41 of 2010, this position was reversed, namely a proviso was added that, the police officer need to record the reason in writing for **NOT MAKING THE ARREST**. This position in my view is

not upholding the Fundamental Rights of the citizens. So I earnestly request to bring the position as that of the CrPC Amendment Act, 2008.

Re: Clause 187 – A 16-page note is separately attached.

Re. Clause 193

It may be noted that in sub clause 4, there is a power given to superior officers of police to make further investigation. In clause 9, again the power of further investigation is given to the investigating officer. This need to be discussed and relevant modifications have to be brought in.

Re. Clause 254

In my opinion, the deposition should only be recorded in the physical presence of the accused or his pleader. Chances of tutoring a witness is very much imminent if the evidence is recorded electronically, in the absence of accused and/or his pleader.

s.167 Cr.P.C	Sec. 187 of the Bill	My suggestion
<p>167. Procedure when investigation cannot be completed in twenty-four hours.—(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.</p> <p>(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be</p>	<p>187. (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate.</p> <p>(2) The Judicial Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration the status of the accused person as to whether he is not released on bail or his bail has not been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days</p>	<p>1) Whenever any person is arrested and detained in custody, and investigation is not completed as per Section 58 of this Sanhita, and there are reasonable grounds for believing that the accusation or information is well founded , and the necessity of continuance of investigation, the officer making the investigation or the Station House Officer if he is below the rank of Sub Inspector , shall forth with transmit and physically produce him to the nearest Judicial Magistrate along with copies of the diary entry as prescribed in section 192 of this Sanhita, and all other relevant records.</p>

<p>forwarded to a Magistrate having such jurisdiction:</p> <p>Provided that—</p> <p>²[(a) the Magistrate may authorise the detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding—</p> <p>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</p> <p>(ii) sixty days, where the investigation relates to any other offence,</p> <p>and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the</p>	<p>or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and 45 if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Judicial Magistrate having such jurisdiction.</p> <p>(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no 50 Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding—</p> <p>When officer in charge of police station may require another to issue search- warrant.</p> <p>Procedure when investigation cannot be completed in twenty-four hours.</p> <p>60</p> <p>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</p>	<p>2) The Magistrate irrespective of his jurisdiction to try the offence, on perusal of such records and on application of mind regarding the legality and the necessity (Justification) of the arrest , authorize the detention of the accused in such custody either to judicial or police within the first fifteen days from the date of remand or in the alternative, direct the production of such person and records to the Jurisdictional Magistrate forth with.</p> <p>Provided police custody shall not be given beyond a period of fifteen days from the date of the first remand and all the subsequent remands shall only be to judicial custody.</p>
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<p>provisions of Chapter XXXIII for the purposes of that Chapter;]</p> <p>¹[(b) no Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage;]</p> <p>(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.</p> <p>²[Explanation I.—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail.]</p> <p>³[Explanation II.—If any question arises whether an accused person was produced before the Magistrate as required under</p>	<p>(ii) sixty days, where the investigation relates to any other offence,</p> <p>and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.</p> <p>(4) No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the 10 Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage.</p> <p>(5) No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.</p> <p><i>Explanation I.</i>—For the avoidance of doubts, it is hereby declared that, 15 notwithstanding</p>	<p>Provided further that if it is shown to the Magistrate that the police custody could not be ordered due to the conduct of the person so forwarded or due to extraneous circumstances which are not under the control of the Investigation Officer, the Magistrate may order Police Custody</p> <p>(i) within first thirty days where the investigation relates to an offence punishable less than ten years of imprisonment, or</p> <p>(ii) sixty days where the investigation relates to an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years.</p>
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<p>clause (b), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be.]</p> <p>⁴[Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution.]</p> <p>⁵[(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for</p>	<p>the expiry of the period specified in sub-section (3), the accused shall be detained in custody so long as he does not furnish bail.</p> <p><i>Explanation II.</i>—If any question arises whether an accused person was produced before the Magistrate as required under sub-section (4), the production of the accused person may be proved by his signature on the order authorising detention or by the order 20 certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be:</p> <p>Provided that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution:</p> <p>Provided further that no person shall be detained otherwise than in police station 25 under police custody or in prison under Judicial custody or place declared as prison by the Central Government or the State Government.</p> <p>(6) Notwithstanding anything contained in sub-section (1) to sub-section (5), the officer in charge of the police station or the police</p>	<p>3) No Magistrate shall authorise the detention a person in custody ,if the final report is not filed as per section 193 of this Sanhiha,</p> <p>a) beyond 90 days where the investigation relates to an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years ,</p> <p>b) beyond 60 days, in any other case.</p> <p>4)</p> <p>(i) On the expiry of the period mentioned in sub-section (3), the Magistrate is shall</p>
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<p>a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):</p> <p>Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.]</p> <p>(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.</p>	<p>officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, 30 transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not 35 exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate 40 under this sub-section, shall be taken into account in computing the period specified in sub-section (3): Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial</p>	<p>release the accused person on bail.</p> <p>Provided that the accused person shall not be released on bail, unless he is prepared and does furnish bail.</p> <p>(ii) Any subsequent filing of the final report by the investigation officer after grant of bail under this section shall not be a ground for rejection or cancellation of bail.</p> <p>5) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.</p> <p>6) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with</p>
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<p>(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.</p> <p>(5) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.</p> <p>(6) Where any order stopping further investigation into an offence has been made under sub-section (5), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (5) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.</p>	<p>Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.</p> <p>(7) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.</p> <p>(8) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.</p> <p>(9) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.</p>	<p>his reasons for making it, to the Chief Judicial Magistrate.</p> <p>7) No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage.</p> <p>8) No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.</p>
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	<p>(10) Where any order stopping further investigation into an offence has been made 10 under sub-section (9), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (9) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.</p>	<p>Explanation I.—If any question arises whether an accused person was produced before the Magistrate as required under sub-section (5), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be:</p> <p>Provided that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution:</p> <p>Provided further that no person shall be detained otherwise than in police station under policy custody or in</p>
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		<p>prison under Judicial custody or place declared as prison by the Central Government or the State Government.</p> <p>9) Notwithstanding anything contained in sub-section (1) to sub-section (6), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate may, for</p>
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		<p>reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in sub-section (4):</p>
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		<p>Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.</p>
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Clause 187 of BNSS

The following two phrases are causing trouble to understand the purport of this amendment.

1. “after taking into consideration the status of the accused person as to whether he is not released on bail or his bail has not been cancelled, authorise, from time to time, the detention of the accused”

2. authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3),

MY VIEWS:

- It may be a typographical error instead of sub section (4) subsection (3) is printed.
- **Re 1st point** :If already bail is granted or bail granted and not cancelled ,where is the requirement for the police officer to forward the accused to the Magistrate?
- **Re 2nd point.** : **Anupam Kulkarni 's case which is followed by a three judges bench has held police custody cannot be given beyond 15 days. Now the matter is again referred to larger bench.** But, what made the drafting committee to fix 40 days and 60 days as a maximum period of granting police custody? It is not an isolated issue. If this provision is there then no accused will be granted bail till the expiry of 40 days or 60 days as the case may be. This will bring lot of negative consequences. In the alternative it has be made clear that the reason the police officer may file a petition for police custody will not be a ground for refusal of bail. This can be added in third proviso to clause 482.

It can also be seen that clause 187 (9) and (10) are not relating to arrest and remand. In my opinion, that can be deleted from this clause 187 and added as a new and different clause. Though, the power of the remand is provided under clause 187 which is equivalent to sec 167 CrPC, 1973, it doesn't mandate the magistrate to apply his mind

about the legality and the necessity of an arrest. In a criminal case, only under this provision, an accused is produced before a court of law for the first time and that's the time, there should be an effective judicial check on the arrest of a person. But the code is very much silent about the duty of a magistrate to consider the materials and its sufficiency to remand a person to judicial/police custody. In my view, though the Supreme Court time and again mandates the magistrates to apply their mind in remanding a person or to extend the period of remand. Since the code is silent, most of the time the magistrates are not applying their mind in this regard. Hence, in my view the new clause 187 of Bharatiya Nagarik Suraksha Sanhita may be in the following format:

Clause 187 BNSS

When investigation cannot be completed in twenty-four hours —

1) *Whenever any person is arrested and detained in custody, and investigation is not completed as per Section 58 of this Sanhita, and there are reasonable grounds for believing that the accusation or information is well founded , and the necessity of continuance of investigation, the officer making the investigation or the Station House Officer if he is below the rank of Sub Inspector , shall forth with transmit and physically produce him to the nearest Judicial Magistrate along with copies of the diary entry as prescribed in section 192 of this Sanhita, and all other relevant records.*

2) *The Magistrate irrespective of his jurisdiction to try the offence, on perusal of such records and on application of mind regarding the legality and the necessity (Justification) of the arrest, authorize the detention of the accused in such custody either to judicial or police within the first fifteen days from the date of remand or in the alternative, direct the production of such person and records to the Jurisdictional Magistrate forth with.*

Provided police custody shall not be given beyond a period of fifteen days from the date of the first remand and all the subsequent remands shall only be to judicial custody,

Provided further that if it is shown to the Magistrate that the police custody could not be ordered due to the conduct of the person so forwarded or due to extraneous circumstances which are not under the control of the Investigation Officer, the Magistrate may order Police Custody

(i) within first thirty days where the investigation relates to an offence punishable less than ten years of imprisonment, or

(ii) sixty days where the investigation relates to an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years.

3) *No Magistrate shall authorise the detention of a person in custody, if the final report is not filed as per section 193 of this Sanhita,*

a) beyond 90 days where the investigation relates to an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years,

b) beyond 60 days, in any other case.

4)

(i) *On the expiry of the period mentioned in sub-section (3), the Magistrate shall release the accused person on bail.*

Provided that the accused person shall not be released on bail, unless he is prepared and does furnish bail.

(ii) *Any subsequent filing of the final report by the investigation officer after grant of bail under this section shall not be a ground for rejection or cancellation of bail.*

5) *A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.*

6) *Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.*

7) *No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage.*

8) *No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.*

Explanation I.—If any question arises whether an accused person was produced before the Magistrate as required under sub-section (5), the production of the accused person may be proved by his signature on the order authorizing detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be:

Provided that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution:

Provided further that no person shall be detained otherwise than in police station under police custody or in prison under Judicial custody or place declared as prison by the Central Government or the State Government.

9) *Notwithstanding anything contained in sub-section (1) to sub-section (6), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period*

of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in sub-section (4):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.



सत्यमेव जयते

DEREK O'BRIEN

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

8 November, 2023

To,
Shri Brij Lal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Note of dissent on BNS, 2023 and BNSS, 2023.

Respected Chairperson,

As a member of the Home Affairs Parliamentary Standing Committee that is deliberating on the three proposed bills, I vehemently express my dissent regarding two of these Bills; the new Penal Code (BNS) and the new Criminal Procedure Code (BNNS).

The feedback regarding the problems with the Sakshya (Evidence) Bill was well taken and problems with the bill are covered by the report of the Committee.

There are multiple reasons for this strong dissent.

A. METHODOLOGY AND PROCEDURE OF THIS COMMITTEE IN DRAFTING THESE REPORTS

B. DEMERITS OF THE DRAFT REPORT

As per precedent, A and B to please be included as part of the committee's dissent note.

Sincerely,

Derek O'Brien

Enclosed: As above (81 page dissent note)

DISSENT ON CRIMINAL LAW BILLS

DRAFT REPORT OF PARLIAMENTARY
STANDING COMMITTEE ON HOME A
FFAIRS

DEREK O'BRIEN

General statutes of criminal law are here for the ages. They will affect the lives of the whole population of India including the economically weaker Sections and the marginalized. General statutes of criminal law have to be crafted with utmost care, it is imperative to scrutinize and dissent when necessary. The following is an examination of the Criminal Law Bills, aiming to shed light on their potential ramifications and stimulate critical discussion. In an effort to ensure that the principles of justice and fairness remain at the heart of our legal system, this dissent seeks to address concerns, ensure due process is followed, spark debate, and advocate for a more equitable and balanced approach to the new criminal legislations under consideration of the Parliamentary Standing Committee on Home Affairs.

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A. METHODOLOGY AND PROCEDURE OF THIS COMMITTEE IN DRAFTING THESE REPORTS

I. NO NEED FOR NEW BILLS WHICH ARE 93% COPY PASTE LEGISLATION

The fact that approximately 93% of the existing Criminal Law remains unaltered, 18 out of 22 chapters have been copy pasted in these new bills implies that the pre-existing legislation could have been effortlessly modified to incorporate these specific changes. It appears that there was no requirement for an entirely new legislative framework, mostly for the purpose of renumbering and reorganizing the existing legal provisions. *** . Suspicion is generated whether the effort is in vain and malafide.

II. * COMMITTEE PROCEDURE AND AVOIDING QUALITY STAKEHOLDER CONSULTATION**

I would like to highlight the glaring gaps in the methodology of drafting this report. The current process lacked inclusivity in stakeholder consultations required for legislation of such magnitude. ***. Many of the people called to testify had strong leanings or were associated with the ruling dispensation. Multiple verbal and written requests made by the undersigned to invite experts and practitioners to testify before this committee were, unfortunately, ***. (See Annexure- E, F, G, H, J)

Also, a broader spectrum of opinions, especially from those directly impacted, must be sought to ensure a comprehensive understanding and representation of diverse perspectives. *** Yet again, important legislation is being *** and imposed.

In 2020, the Ministry of Home Affairs established a committee led by Prof. Ranbir Singh, the former Vice Chancellor of the National Law University,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Delhi, to undertake a comprehensive review of the three codes of criminal law. However, it is essential to note that this committee was marked by a striking lack of diversity. All its members were male, and what's more, they shared not only a common gender but also a similar social identity, professional background, and experience.

Regrettably, the committee lacked representation from various marginalized groups, including women, Dalits, religious minorities, adivasis, LGBTQ individuals, and those with disabilities. The absence of such diverse perspectives is a significant concern, particularly when addressing matters of such magnitude and societal impact.

In a country as diverse as India, where a wide range of perspectives, interests, and concerns need to be addressed, diverse and extensive stakeholder consultation is essential to ensure that laws are fair, effective, and capable of addressing the complex and multifaceted challenges facing the nation. It not only enhances the quality of legislation but also promotes a more inclusive and accountable democratic process.*** .

Lakhs of stakeholders including judges, lawyers, students, paralegals, will have to relearn the laws. Relearning new laws can disrupt established legal practices and procedures, potentially causing confusion and delays in the legal system. Significant resources may be required to update educational materials, provide training, and ensure stakeholders are adequately prepared to work with the new laws. Relearning new laws can be a complex and resource-intensive process that has a significant impact on the legal community, potentially affecting the delivery of legal services and the consistency of legal decisions.

In any case, the government has only sought inputs after the introduction of this bill. By seeking input before introducing a bill, the government can involve a broader range of perspectives, including those of experts,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

affected communities, and the general public. This would have ensured that diverse voices are considered in the lawmaking process, promoting inclusivity and democratic values.

I strongly recommended some consultations due to their critical importance. (Please refer Annexure A)

III. NAMES OF THESE BILLS SHOULD BE IN ENGLISH AS WELL AS HINDI.

The names of these Bills being in Hindi is not suitable for the whole of the country. This can not only be called Hindi imposition but is also unconstitutional. Article 348 of the Constitution mandates that English language be used in Acts and Bills. It reads-

"348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc

...

(b) the authoritative texts

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language."

But the report still considers it to be constitutional. In fact it even goes on to propose use of Hindi in more places by saying- *"The Committee recommends that the word "Act" in the first proviso may be replaced with "Adhiniyam" as is already used in preceding portions of the Bill."* This goes against the letter and

spirit of Article 348 of the Constitution.

Funnily enough, the report of the committee in Hindi only came a night before the adoption.

Suggestion: *NAMES SHOULD BE IN ENGLISH AS WELL AS HINDI. When translated into English, the titles of these bills would be: the Indian Justice Code, 2023, the Indian Citizen's Protection Code, 2023 and the Indian Evidence Bill, 2023. If the new law is titled the Indian Citizen's Protection Code, 2023. It will reflect the idea of a procedural shield for citizens against the State in the criminal process.*

Use of these laws in local languages is also essential to enhance understanding and engagement, ensuring that information is accessible to a broader audience and fostering a deeper connection with the content, thereby promoting effective communication and inclusivity.

IV. LACK OF DISCUSSION AMONGST MEMBERS OF THE COMMITTEE AND LIMITING THE MEANINGFUL PARTICIPATION OF THE OPPOSITION.

It is clear that a consultation process unfolded, with ***. The urgency to conclude discussions on bills that could significantly alter our nation's safety and law and order regulations raises concerns about the democratic and informed nature of the decision-making process. General statutes of criminal law are here for the ages. General statutes of criminal law will affect the lives of the poor. General statutes of criminal law have to be crafted with utmost care.

Furthermore, ***. As a result, meetings were scheduled during the festive season and when members had prior constituency engagements, programs and events. ***. Allowing the opposition only a meager hour to scrutinize and critique these bills is far from an exhaustive exercise in

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

scrutiny, which is vital to ensuring that such consequential legislation is thoroughly examined and rigorously debated.

V. * TO ADOPT REPORT RIDICULES LEGISLATIVE SCRUTINY- ONLY A STUNT BEFORE ELECTION 2024.**

Given the far-reaching consequences associated with these bills, they necessitate a meticulous examination of every provision. Basic drafting errors require close scrutiny, and various aspects, including the rationale behind specific provisions and their potential impact on the public, demand thorough examination and extensive discussion. Hasty passage of these bills may result in unintended consequences and contribute to public dissatisfaction.

The urgency with which these bills are being pushed through stands in stark contrast to the deliberative process observed by the same Home Affairs Committee in discussing Police Training, Modernization, and Reforms. It is worth noting that the committee, initially constituted in September 2020 and later reconstituted in September 2021, took approximately three years to deliberate on that subject, underscoring the importance of careful consideration and comprehensive evaluation in the legislative process.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

VI. A RESULT OF RUSHING AND *- NUMEROUS DRAFTING ERRORS**

It is imperative to emphasize the presence of basic drafting errors within these bills, as these errors can have a profound impact on the interpretation and implementation of the proposed laws. Correcting these errors is not just a matter of procedural correctness; it is crucial for ensuring the clarity and effectiveness of the legislation.

My colleagues Shri N. R. Elango and P. Chidambaram have diligently pointed out a multitude of drafting errors, underscoring the need for thorough revisions. However, the rushed nature of this legislation has left limited room for addressing these critical concerns.

Furthermore, it is regrettable that the committee did not allow for more extensive consultations, *** . The absence of such deliberation and due process further compounds the risk of perpetuating these drafting errors, ultimately diminishing the quality and efficacy of the proposed laws.

VII. ABSENCE OF PUBLIC ENGAGEMENT

The manner in which this legislative process has been conducted raises legitimate concerns about lack of transparent and honest legislative intent. Crafting laws, especially those bearing such extensive significance, should ideally be carried out with utmost transparency and inclusive consultation among all concerned parties.

The Pre-Legislative Consultation Policy of 2014, which is designed to ensure a fair and open process, mandates a thirty-day consultation period with the general public before a law can be approved by the Cabinet for introduction in Parliament. This consultation process, which involves sharing the draft with the public, must be accompanied by (i) explanations for its enactment,

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(ii) financial considerations, and (iii) an evaluation of the law's potential impact. Moreover, the comments received during the consultation should be made available on the ministry's website.

In the present case, however, a committee was formed with its members and objectives *** There exists a notable absence of a clear and compelling rationale for why such a substantial reform was undertaken, especially considering that, according to the Home Minister's own statement in Parliament, the primary objective appeared to involve alterations to a few specific Sections of the law. This lack of transparency and insufficient justification raises questions about the intentions behind the legislative process.

In addition to these concerns, while these bills claim to be decolonised, the retention of certain provisions contradicts this narrative. A more comprehensive effort towards decolonisation is needed to truly reflect the evolving needs of our society. There are many concerns still arising from these Bills and I will once again point out some of the major concerns.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

B. DEMERITS OF THE DRAFT REPORT

PENAL CODE (BNS)

I. Clause 5 Commutation of a sentence

The clause gives the executive the powers to commute an offender's sentence punishment for any other punishment. Allowing the executive to commute sentences can blur the separation of powers in a government. It gives the executive branch, which is responsible for enforcing the law, a role in altering or mitigating the legal punishments determined by the judiciary. This could potentially lead to an imbalance of power and an infringement on the judiciary's independence. Executive decisions might be swayed by electoral or popularity concerns rather than solely focusing on justice and the merits of individual cases.

Commutations can be seen as undermining the authority and decisions of the judiciary. It may give the impression that the executive branch can override or second-guess the judiciary's determinations, eroding trust in the legal system.

II. Clause 11 Solitary Confinement

This clause should be reconsidered as solitary confinement is inhumane. Research has shown that solitary confinement is not an effective tool for deterrence or rehabilitation. It does not reduce recidivism or promote positive behaviour change; instead, it can increase aggression and antisocial behaviour. It has been shown to have serious detrimental effects on individuals' mental and physical well-being, and it raises ethical and human rights concerns. The characterization of solitary confinement as a brutal type of incarceration by the Supreme Court of India in the case of *Kishore Singh Ravinder Dev v. State of Rajasthan* highlights the court's recognition of the severe and adverse effects of solitary confinement on individuals.

III. Clause 69 - Promise to Marry

Relationships and decisions about marriage are deeply personal matters that should be left to the individuals involved, subject to only some basic safeguards that may be consensually instituted by the society. Criminalizing a Promise to Marry can be seen as an undue intrusion into individuals' Right to Privacy and autonomy. Determining whether a promise to marry has been made can be subjective and challenging to prove. Intentions can change over time, and proving that a promise was genuinely made with the intention to marry can be difficult.

Defining what constitutes a legally binding Promise to Marry can be vague and open to interpretation. This lack of clarity can lead to inconsistencies in enforcement and judgments.

Criminalizing a Promise to Marry can be viewed as an unwarranted intrusion into the fundamental Right to Privacy and personal autonomy, which are cherished principles in a democratic society. In this context, a more nuanced and rights-based approach to addressing matters related to promises to marry would be both pragmatic and respectful of individual freedoms and choices.

IV. Kidnapping and begging- Clause 137

The clause should exclude the exception of lawful guardian of such child. Even guardians who wrongfully push children into begging should be rigorously punished. Excluding the exception of lawful guardians in a clause punishing those who wrongfully push children into begging is essential to safeguard the rights and well-being of vulnerable children. It sends a strong message that all individuals, regardless of their legal relationship with the child, will be held accountable for such harmful actions, acting as a powerful deterrent against child exploitation. This approach prioritizes the child's best interests, prevents potential legal loopholes, and aligns with international human rights standards, fostering a child-centered and protective legal

framework that leaves no room for evading responsibility in cases of child exploitation.

V. Sedition law- Clause 150

I would like to include a passage from the report. *“The Committee compliments the Government in deleting the term ‘sedition’ from criminal law by rephrasing it without compromising the security of the state. The Committee finds it as a very progressive development.”*

The Report acknowledges the fact that the Sedition law has just been paraphrased and retained. The 22nd Law Commission suggested that sedition should be well defined. The Union government decided to do the opposite of that. The provision in the new bill gives it such a broad definition that it can encompass any act in the name of endangering the unity and integrity of India. It leaves a lot of room for discretion which is the opposite of what was advised by the law commission. Clause 150 talks about Acts endangering sovereignty, unity and integrity of India. Sedition gets a sinister backfoot entry in the proposed legal regime. This broad definition could potentially infringe on individuals' rights to free expression and peaceful dissent.

The broad and vaguely worded sedition provisions can create a chilling effect on free speech and peaceful protest. Individuals may self-censor their opinions and criticisms, fearing legal consequences, which can undermine democratic values and civil liberties.

Our concerns are rooted in the potential for misuse and abuse of the redefined sedition law. Such broad and discretionary provisions can be employed to stifle legitimate dissent and criticism, limiting freedom of expression and potentially infringing on individuals' rights.

VI. The problem with not defining community service.

The introduction of Community Service ‘under clause 4(f) of the BNS is a welcome step. In criminal justice systems that emphasize rehabilitation, community service provides an opportunity for offenders to make amends for

their actions and demonstrate their commitment to positive change. It can help them develop a sense of responsibility and contribute positively to society and aligns with the principles of restorative justice. But the same is nothing without giving a proper definition to it. A clear definition will outline the objectives and goals of Community Service, ensuring that both offenders and those responsible for overseeing its execution understand the intended outcomes. It will specify the nature and scope of the service, such as the types of activities, the duration, and the target beneficiaries.

VII. Clarity in definition of life sentence

The current definition of "imprisonment for life" within the BNS is not explicitly clear. It appears to be using the term "imprisonment for the remainder of a person's natural life." However, in the Indian Penal Code (IPC), Section 53, the term "imprisonment for life" is used without specifying whether it means "imprisonment for the remainder of a person's natural life" or if it is equivalent to a "whole life sentence."

There needs to be clarity about whether the convicts are expected to remain in prison for the entirety of their natural life or are eligible for release. The proposed definition of "imprisonment for life" in the BNS is not explicitly clear, and it differs from how "imprisonment for life" is generally understood in the context of the Indian Penal Code. To avoid confusion and ensure legal clarity, the definition in the BNS be aligned with the understanding that "imprisonment for life" means a "whole life sentence" unless otherwise specified. This would help in harmonizing the definitions and interpretations across different legal contexts in India.

VIII. Offences Relating to Elections

One of the general patterns in contemporary India's criminal law is that offences that are particularly difficult to regulate and especially elaborate in their organisation internally while having a large-scale impact on society are addressed by 'special statutes'. These special statutes while being harsh in

punishment are rigorous in the procedural safeguards, they offer the accused. The emphasis being that there are checks and balances present in the quest of the state to prosecute and the efforts of the accused to defend herself. Any detraction from the procedural protections that general criminal law offers, will have checks in place in these special statutes. Offences related to elections should be on Representation of People Act. Similarly with UAPA, the special legislation should remain and amended if need be. But it should not be subsumed in the IPC.

IX. Clause 264- Defamation

There should be a limitation on filing cases for defamation. Imposing a time limitation on defamation claims helps protect the fundamental principle of free speech. Without such limitations, individuals or organizations could potentially bring defamation claims many years after an alleged defamatory statement was made. This could have a chilling effect on free expression and public discourse, as people may become reluctant to express their opinions or engage in critical discussions for fear of facing legal action at any time in the future.

X. Clause 282- Conveying person by water for hire in unsafe or overloaded vessel

Looking at the gravity of the offence, punishment should be increased that from 6 months to 3 years.

XI. Clause 277- Fouling water of public spring or reservoir.

Looking at the gravity of the offence, punishment should be increased.

XII. Clause 275- Sale of adulterated drugs.

Looking at the gravity of the offence, punishment should be increased.

XIII. Clause 275 and 276- Sale of adulterated drugs.

Looking at the gravity of the offence, punishment should be increased.

XIV. 104(1)- Death by negligence

In medical negligence cases, the standard of care expected of healthcare professionals is crucial. Punishment should be based on whether the healthcare provider's actions or decisions deviated from the accepted standard of care within the medical community. Not all adverse outcomes in medicine are the result of negligence. Hence the punishment should be reduced from 7 years to 5 years

XV. Clause 213- Refusing to sign statement

Requiring individuals to sign statements under the threat of imprisonment or fines can be seen as coercive and may result in individuals signing statements against their will. This can undermine the voluntariness of the statement and potentially lead to false or coerced confessions. Hence this provision should be reconsidered.

Criminal Procedure- BNSS

XVI. Impact on the Digital Ecosystem- BNSS

Clause 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which deals with powers to summon for evidence, explicitly includes summoning of “digital evidence,” and covers any electronic communication such as messages, call recordings, and emails, as well as electronic communication devices such as mobile phones, laptops, cameras, and any other electronic device that may be specified by the government through notification in the future. A court also has the right to order search and seizure of such evidence for various reasons, including if the person in possession of the evidence is not expected to produce the same.

A mobile device or a laptop contains a lot of information which might not be relevant to the case because electronic devices in today's age contain all information pertinent to an individual's general existence. So, there's a question about the invasion of the Right to Privacy

because of the scope of information that's in these devices. Secondly, the collection of such devices might also go against the Right against self-incrimination.

XVII. Non-Inclusion of trans-women in definition of rape- BNS

The Sanhita also leaves the question of inclusivity answered as the provision of rape is strictly limited to a woman and does not include a transgender woman. The Transgender Persons Act, 2019 only recognizes 'sexual abuse' for which the maximum punishment is two years. The law on rape should also bring transgender woman within its purview.

XVIII. Different punishments for murder depending on the number of people convicted.- BNS

As per Clause 101 of the BNS, when a man commits murder, punishment is life imprisonment or death. No other option. But if a group of 5+ men acting in concert commits murder on grounds mentioned in this clause, there is an option to give a punishment of 7+ years imprisonment.

XIX. Report suggests criminalizing adultery- BNS

The Supreme Court found that Section 497 acknowledged the Right to Privacy as a fundamental right. The court held that the state should not interfere in the private matters of consenting adults and that their choices in matters of personal relationships should be protected. Moreover, one of the factors that influenced the decriminalization of adultery in India was that there were already civil remedies available for addressing adultery, and it was also considered grounds for divorce under Indian family laws. The Report insists on including a gender-neutral provision criminalizing adultery even after the Supreme Court has already decriminalized it.

XX. Expansion of powers granted to the Police- BNSS

Clause 172 of the BNSS seeks to expand the powers of the police while taking preventive action. The police officer “*may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction*” under Chapter XII. The Indian Criminal Justice System is based on a due-process model, but giving the Police such wide and discretionary powers during preventive action is essentially pushing us towards a crime- control model. ***.

XXI. Expansion of Police powers- BNSS

Clause 187 (2) and 187 (3) of the BNSS on ‘Procedure when investigation cannot be completed in twenty four hours.’

The extension of the duration for which a detainee can be held in police custody beyond 15 days contradicts the Supreme Court's ruling in *CBI v. Anupam J. Kulkarni*, (1992) 3 SCC 141, which deemed police custody beyond this period impermissible. By elongating the detention period under police custody, the new laws expose detainees to potential threats, abuse, or coercion by the police. The protection of judicial custody, where police require the Magistrate's permission to interrogate a suspect, has been entirely disregarded and nullified by the new laws. Another telling signature of intensifying police raj is the name of reforms!

XXII. Clause 43(3) on ‘Arrest how made.’ - BNSS In the case of *Prem Shanker Shukla v. Delhi Administration* (1980) 3 SCC 526, the Supreme Court unequivocally stated that employing handcuffs is abhorrent to human dignity and infringes upon Article 21 of the Indian Constitution. However, this clause seeks to exert punitive control and is highly indicative of a ‘crime-control model’ than a ‘due-process one.’

Bringing legislation without proper scrutiny is making a *** and the integrity of these institutions are of utmost importance for democratic functioning. Hence, I strongly oppose these Bills.

XXIII. Reconsideration of Death penalty

The following is a glimpse of the statistics about the individuals that get sentenced to death penalty (Source: Project 39A)

1. Economic Background

Based on national statistics, it can be observed that 74.1% of individuals on death row in India come from economically disadvantaged backgrounds, as determined by their occupation and land ownership status. This highlights how the death penalty disproportionately affects the marginalized and disadvantaged in society. Abolishing the death penalty can be seen as a step toward rectifying this social injustice.

2. Educational Background

Among those sentenced to death, 23% had never attended school, while an additional 9.6% had minimal attendance and did not even complete their primary education. It is evident that these groups are disproportionately affected by the provision of death penalty. Abolishing capital punishment can help mitigate this disparity, promote social equity, and protect the rights of minority and marginalized communities.

3. Socio-economic Background

A significant majority, or 76% (279 individuals), of those sentenced to death in India belong to backward classes and religious minority groups.

Death penalty is more than just a form of punishment. Aforementioned data makes it imperative that these aspects are incorporated in our purview. The

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high prevalence of socioeconomic vulnerability and limited education among death row prisoners raises concerns about the potential for wrongful convictions. It emphasizes the importance of ensuring a fair and just legal system to prevent innocent individuals from facing the ultimate punishment. In its 262nd Report from August 2015, the Law Commission of India recommended the abolition of the death penalty for all crimes, with the exception of cases related to terrorism and acts of war.

Abolition of death penalty has not been considered in this report. Such abolition carries several merits that resonate with principles of justice, human rights, and the advancement of society. Foremost, it eliminates the risk of executing innocent individuals, as errors in the criminal justice system can have irreversible consequences. Abolition also upholds the fundamental Right to Life, recognizing that every individual, regardless of their actions, possesses inherent dignity. Moreover, it aligns with the evolving global consensus that values restorative justice over retribution, focusing on

rehabilitation and the potential for redemption. Abolishing the death penalty allows the criminal justice system to focus on rehabilitation and reintegration of offenders into society, rather than permanently ending their lives. This approach aligns with principles of restorative justice and offers a chance for individuals to reform and make amends for their actions. Many countries like Canada, Australia, United Kingdom, New Zealand, Norway, Portugal, South Africa have already done so because of the fact that it can lead to a more humane and enlightened approach to addressing crime and it is disappointing to see a lack of concrete suggestions on the same by the Committee.

The increasing scepticism of the Supreme Court in death row trials is indicative of the fact that this requires institutional redressal. There is a stark contrast between the trial courts and the Supreme Court, as there have been a significant number of acquittals of death row prisoners. When a large-scale institutional reform is required, the death penalty provision should be looked at in context and reconsidered accordingly.

In conclusion, the issue of the death penalty is one that merits careful reconsideration in India and across the globe. The statistics highlighting socioeconomic disparities and the disproportionate impact on marginalized groups, along with the potential for wrongful convictions, underscore the need for a more just and equitable criminal justice system. It is essential to engage in open and informed discussions on this matter to ensure that our legal systems reflect the principles of justice, fairness, and compassion that underpin the values of a modern, progressive society. In sum, broad-based social discussions are warranted on the subject.

XXIV. Accused's Right to File for Discharge

Unlike Section 227 of the Criminal Procedure Code (CrPC), Clause 250(1) of the BNSS expressly acknowledges the accused's right to file an

application for discharge. It also sets a sixty-day time limit for filing this application from the date of committal to the Sessions Court. While this timeline may seem like a step toward reducing trial delays, it overlooks systemic challenges in our pre-trial processes. Accused individuals often lack timely access to their case papers and may not have legal representation during this stage. Moreover, there can be a significant delay between the Magistrate's committal of the case to the Sessions Court and its assignment to a Sessions Judge. This gap affects the production of the accused and the receipt of necessary records. When courts consider whether to grant discharge or frame charges, they must evaluate whether there exists a "strong suspicion" supported by material that the accused committed the offense. Addressing issues related to the timely provision of case papers and ensuring early access to legal representation is crucial for making this opportunity to file for discharge meaningful.

XXV. Pre-trial Incarceration

The challenge of challenging forensic reports under Clause 329 is further complicated by Clause 330, which mirrors Section 294 of the CrPC. It eliminates the requirement of formal proof for documents whose genuineness is uncontested by the opposing party. Clause 330(1) necessitates that parties admit or deny the genuineness of documents within thirty days of their supply, with the possibility of extending this time limit at the Magistrate's discretion upon providing reasons. Notably, a new proviso in Clause 330(1) states that an expert cannot be summoned to appear before the court unless their report is disputed by a party. This proviso applies to all experts, unlike Clause 329. Clause 330, like Section 294 of the CrPC, applies to the pre-trial stage of criminal proceedings, where parties have the opportunity to challenge the genuineness of documents relied upon by the opposing party, ensuring the documents are free from forgery or fabrication.

However, there is a difference of opinion among courts regarding whether expert reports, such as medical or post-mortem reports, can be admitted as evidence without the testimony of the experts who prepared them, in cases where the genuineness of such reports remains unchallenged.

XXVI. Police Custody vs. Judicial Custody

Clause 187 of the BNSS retains the established timelines of sixty or ninety days and the concept of default bail, as found in the CrPC. However, unlike Section 167 of the CrPC, Clause 187(2) additionally allows for detention in custody, whether police or judicial, for a total of fifteen days, which can be imposed at any time during the initial forty or sixty days of the respective sixty or ninety-day period. Consistent with the CrPC, Clause 187(2) grants any magistrate the authority to authorize detention, regardless of their jurisdiction to try the case. In contrast, Clause 187(3) requires a jurisdictional Magistrate. Furthermore, Clause 187(3) permits detention in custody to be authorized beyond the fifteen-day period, without the stipulation that it must be "otherwise than in police custody," implying that police custody can also be used during this extended period. The legislation extends police/judicial custody from 15 to 90 days. This would put tremendous pressure and mental torture on the accused.

XXVII. Removal of References to Metropolitan Magistrates and Assistant Sessions Judge

All references to the posts and powers of Metropolitan Magistrates and Assistant Sessions Judges have been eliminated from the BNSS.

XXVIII. Clause 254

Clause 254 outlines the process for taking evidence in support of the prosecution. It mandates that on the specified date, the Judge must proceed

to collect all evidence presented by the prosecution. Notably, this clause allows the recording of a witness's testimony through audio-video electronic means under sub-Section (1). Sub-Section (2) of Clause 254 permits the deposition of evidence of any police officer or public servant through audio-video electronic means.

This restructured format should make the information more organized and accessible. If you have any specific changes or further details to add, please let me know.

XXIX. Clause 254 - Concerns and Open Court Requirement

While Clause 254 delineates the process for taking evidence in support of the prosecution, it introduces a provision that may raise concerns. Sub-Section (1) of Clause 254 permits the recording of a witness's testimony through audio-video electronic means. This allowance for remote testimony recording might give rise to issues related to transparency, fairness, and the fundamental principle of an "open court." An open court system provides transparency and public scrutiny, allowing for a fair and impartial trial. Recording evidence through audio-video electronic means could potentially undermine this principle by limiting public access to the trial process and raising questions about the integrity of the proceedings. It's essential to strike a balance between leveraging technology for efficiency and ensuring the preservation of fundamental legal principles, such as open court proceedings, to maintain public trust in the justice system.

**DEREK O'BRIEN INTERVENTION- PARLIAMENTARY
STANDING COMMITTEE ON HOME AFFAIRS**

PART I

General statutes of criminal law are here for the ages. General statutes of criminal law will affect the lives of the poor. General statutes of criminal law have to be crafted with utmost care. No rushing through. Let every one of us on this committee commit ourselves to these.

When translated into english, the titles of these bills would be: the Indian Justice Code, 2023, the Indian Citizen's Protection Code, 2023 and the Indian Evidence Bill, 2023. The three bills have since been referred to us on the Parliamentary Standing Committee.

If the new law is titled the Indian Citizen's Protection Code, 2023, it will reflect the idea of a procedural shield for citizens against the State in the criminal process.

□ **Negatives:**

1. Authorises detention in police custody upto 90-day for offences punishable with death, life imprisonment and imprisonment for a term not less than 10 years. Also authorises police custody for upto 60 days for offences where imprisonment is less than the above mentioned offences. This dilutes the Right to life, health (physical and mental) and fair trial.
2. Enables trial in absentia if the judge finds the attendance of the accused in court not necessary "in the interests of justice" or if the accused "persistently" disturbs proceedings in court.

Where did this law come from?

- *The Ministry of Home Affairs in 2020, constituted a committee headed by Prof. Ranbir Singh, former Vice Chancellor of National Law University, Delhi to review the three codes of criminal law.*
- *The committee was constituted of only men. Moreover, they were from similar social identity as well as professional background and experience.*
- *There were no women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities on the Committee.*
- *The committee has hardly any full time members unlike previous committees that had been assigned reforms of such magnitude.*

1. METHODOLOGY

A. Contents from letter to Chairman of Home Affairs Committee:

I.First, considering the significance of these three Bills, it is imperative that multiple bipartisan discussions are held at length. It is my earnest request that members of this committee are not rushed and are given multiple opportunities to express themselves. Choice of domain experts, choice of witnesses from across disciplines and the methodology used must always take into consideration the "sense of the house". In the spirit of federalism, it is imperative that the committee must also travel to multiple states to meet stakeholders. Sir, please create an atmosphere for scrutiny, debate and detailed discussion. This will embellish the quality of our output as a committee.

II.Second, the minutes of the meetings must be recorded with due diligence and provide a true reflection of the proceedings. Key points raised by members must reflect in the minutes. (Verbatim records are not a substitute for minutes.) For example, in the meeting that was held on 24 August 2023, Dayanidhi Maran (DMK) had submitted a letter stating objections on how the titles of the said bills are in Hindi. The submission of this letter making multiple points, the summary of its contents, and his intervention does not reflect all in the minutes of the meeting. Recording of such views is an integral part of the democratic process. Please ensure this is done for future meetings. III.Third, considering that the Special Session of the Parliament has been called from 18 September to 22 September 2023, the Members have made multiple commitments in their constituencies and other parts of their State including programs and meetings immediately (one week) after the session. This is a request to schedule the next committee meeting at least one week after the session concludes.

B. Who should the standing committee consult? What is the time frame?

<p><i>Consultations to be done</i></p>
<p>1. <i>Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.</i></p>
<p>2. <i>Bar Council of all states in India.</i></p> <p><i>(At least 23 state bar councils)</i></p> <p><i>(30 days)</i></p>
<p>3. <i>The judges of the Supreme Court and high courts.</i></p> <p><i>(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India. High Court- Working Strength of at least 785 judges across 25 high courts)</i></p> <p><i>(6 months)</i></p>
<p>4. <i>The Bar Council of India Supreme Court Bar associations</i></p> <p><i>(At least 20 office bearers)</i></p> <p><i>(20 days)</i></p>

5. *Members of parliament, legislative assemblies, and local councils* play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.

(Lok Sabha - 539 members +

Rajya Sabha- 238 members +

State legislative assemblies)

(6 months)

6. *International Organisations:* Collaboration with international bodies like the United Nations and regional human rights organisations can help align reforms with international standards and best practices. ***(100 days)***

7. *Media:* Journalists and media organisations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment. ***(100 days)***

8. *Ethnic and Religious Leaders:* Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives. ***(50 days)***

<p>9. <i>Experts on Juvenile Justice:</i> Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders. (5 days)</p>
<p>10. <i>Experts on Cybercrime and Technology:</i> Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain. (5 days)</p>
<p>11. <i>Prison Officials and Reform Advocates:</i> Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials) (4 months)</p>
<p>12. <i>Inclusive Consultation from the general public</i> including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc. (1 month)</p>
<p>13. <i>Governors, chief ministers of states, lieutenant governors and administrators of Union territories.</i> (60-70 officials approx.) (1 month)</p>
<p>14. <i>Legal Scholars and academic institutes</i> (5 days)</p>
<p>15. <i>Law Enforcement Agencies:</i> Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures. (10 days)</p>

16. *Human Rights Organizations:* NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms.
(5 days)

A total of 1.5 years

C. Domain Experts who must be invited as witnesses

I.U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an *amicus curiae* in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

II. Madan Lokur

He was appointed as Additional Solicitor General of India in 1998. Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

III. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

IV. Menaka Guruswamy Sr Adv:

Menaka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the Agustawestland bribery case, the Salwa Judum case, and the Right to Education case.

V. Mr Sidharth Luthra, Sr Adv:

Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme Court from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

VI. Mr Hariharan, Sr. Adv.

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

VII. Ms Rebecca John, Sr. Adv.

Rebecca Mammen John has been practising exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offences under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes. Sriram Panchu

- VIII. Sylendra Babu
- IX. Amit Desai
- X. Rajeev Dhavan
- XI. Siddharth Dave
- XII. Adit Pujari
- XIII. Aditya Sondhi
- XIV. Vrinda Grover
- XV. Professor Faizan Mustafa

II. INPUT NOTE - REFORMING CRIMINAL LAW: Menaka Guruswamy

You might ask why? Because when you have been detained, being questioned and are surrounded by police officers – it's the Code of Criminal Procedure that protects you, limits your detention period in police custody, enables you to access a lawyer, who in turn can push for bail and even ask for quashing of the FIR or Chargesheet against you. Therefore, I particularly like that

Welcome reforms:

There's plenty of welcome reform to our existing criminal procedure. Some of it draws on the technological innovations that have made it into our everyday life. For instance, the entire life of a new case, commencing from the FIR (first information report) leading to a case diary on its way to a chargesheet and culminating in a judgment is now to be maintained online – via digitized recordkeeping. This will make immensely safer the record of the case proceedings and enable quicker access when necessary. Significantly, when our homes are searched and seizure affected on items found, then such proceedings must be accompanied by mandatory video recording. This is a hugely important reform since this is protection against planting of evidence and can be used by the defense to contest alleged seizures.

The Protection Code also provides for the registration of a 'Zero FIR'. This kind of FIR is registered when a police station receives a complaint regarding an alleged offence committed in the jurisdiction of another police station. Here, the original police station registers the FIR and then transfers it to the relevant police station for further investigation.

The Protection Code now makes it mandatory for a forensic expert to visit the crime scene and collect forensic evidence for information relating to an offence that is punishable by imprisonment for at least seven years. Continuing pandemic-era change, the Protection Code allows trials, inquiries and proceedings including examination and recording of evidence to be conducted by an electronic or online mode. This makes it infinitely more convenient for accused and witnesses to participate in and complete these requirements of the processes of a trial.

Another welcome reform pertains to the grant of sanction to prosecute a public servant. The Protection Code now provides that the decision to grant or reject sanction to prosecute a public servant must be reached by the government within 120 days of receiving the request. If the government fails to do so, sanction shall be deemed to be accorded. Additionally, no sanction shall be required in cases involving public servants when accused of sexual offences or trafficking of human beings. More reform comes in the form of a provision that mandates that no person can be arrested without prior permission of an officer of the minimum rank of a Deputy Superintendent of Police for offences punishable with less than three years imprisonment if the accused is above the age of sixty years.

Areas of concern

The most dangerous part of the Protection Code is that it permits the magistrate to authorize detention in police custody for a period beyond the

current 15-day limit, extending up to ninety days. Such detention extending to ninety days is for offences punishable with death, life imprisonment and imprisonment for a term of not less than ten years. The Protection Code enables detention in police custody beyond the current 15-day mandate and up to sixty days for ‘any other offence’ (with imprisonment terms less than the ninety-day detention offences). This is a constitutionally burdensome provision that will impinge on the rights of an accused. Spending ninety days with the police having unimpeded access to an accused is debilitating from the point of view of rights to life, health (including mental well-being) and fair trial. At present for any period beyond the 15-day limit for police custody means that the judge can have the accused detained in judicial custody or order other custodial arrangements.

While there are many reforms that should be welcomed in the Protection Code, 2023- all of that will be rendered meaningless if an accused can be detained to long periods of time in police custody – three months of uninterrupted police custody will render any accused extremely vulnerable to coercion and intimidation. This move must be thought afresh, and members of the parliamentary committee must ask themselves – what if that accused was me?

III. UNDOING CRIMINAL LAW: MAKING HARSH SPECIAL STATUTES THE NORM: Menaka Guruswamy

One of the general patterns in contemporary India’s criminal law is that offences that are particularly difficult to regulate and especially elaborate in their organisation internally while having a large-scale impact on society are addressed by ‘special statutes’. These special statutes while being harsh in punishment are rigorous in the procedural safeguards they offer the accused. The emphasis being that there are checks and balances present in the quest of

the state to prosecute and the efforts of the accused to defend herself. Any detraction from the procedural protections that general criminal law offers, will have checks in place in these special statutes. This general pattern has been deviated from with the introduction on 11.8.2023 of three bills in the Lok Sabha by the Central Government. These bills are intended to dramatically change criminal law.

The BNS, 2023 to replace the Indian Penal Code, 1860, the BNSS, 2023 to replace the Code of Criminal Procedure, 1973 and the Bharatiya Sakshya Bill, 2023 to replace the Indian Evidence Act, 1872 have been tabled in the lower house of parliament.

This law reform effort by the State is at odds with established legislative practice of having separate and distinct harsh ‘special statutes’ with procedural checks and balances. This current effort shows that special laws are being absorbed into general criminal law – without any of the necessary procedural safeguards. This will make it impossible for the accused to defend herself and will bring within the criminal process many innocent people, for whom the process will be punishment and for which very few convictions will be returned. This is a particularly worrying effort – for the purpose of criminal law is not to persecute, but to prosecute ably while affording the accused a fair chance to prove their innocence.

Let me give you one example. Special legislation includes statutes like the Prevention of Money Laundering Act, 2002 (PMLA) and the Maharashtra Control of Organised Crime Act, 1999 (MCOCA, models of which are applicable in other states). Both statutes are illustrations of special legislation intended to combat alleged offences that are elaborate in how they are planned and fulfilled. While the punishments are harsh, both attempt to have some balance in the form of the procedural safeguards they offer. PMLA law has many deficiencies.

Now let's come to 'organised crime'. Provisions that have been introduced into general criminal law statute like the BNS, 2023. . At present, organized crime is principally dealt by the Maharashtra Control of Organised Crime Act, 1999 (MCOCA), which is applicable in both Maharashtra and the National Capital Territory of Delhi. Other states have their own versions of MCOCA. However, the BNS brings it into general criminal law by having provisions that define and punish organized crime within this statute.

The BNS brings organized crime within Chapter VI of the Code that pertains to 'offences affecting the human body.' In the Indian Penal Code, 1860, the equivalent chapter that pertains to 'offences against the body' included classic criminal offences like murder and culpable homicide not amounting to murder. Within this classical framework is introduced the rather elaborate offence of 'organised crime syndicates.' Per the BNS, an organized crime syndicate means 'a criminal organization or group of three or more persons, who acting singly or collectively in concert, as a syndicate, gang, mafia or crime ring indulging in commission of one or more serious offences or are involved in gang criminality, racketeering and syndicated organized crime'.

BNS provides that a definition of 'organized crime' as being 'any continuing unlawful activity including kidnapping, robbery, land grabbing, contract killing, economic offences, drug or human trafficking, weapons or prostitution either as a member of an organized crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, corruption or related activities or other unlawful means to obtain direct or indirect material benefit including a financial benefit shall constitute organized crime'.

Also included within this fold are economic offences which includes criminal breach of trust, forgery, counterfeiting of currency and valuable securities, financial scams, running Ponzi schemes, mass marketing fraud or multi-level

marketing schemes with a view to defraud people at large for obtaining the monetary benefits or large-scale organized betting, any forms, offences of money laundering and hawala transactions.

It's like the drafters thought of all the possible offences that can exist when three or more accused are involved and stuffed them into one unwieldy definition and pasted them into the bill. It is vague, poorly worded, and unwieldy. Everything that definitions should not be. While the punishment is stringent - for anyone 'who conspires or organizes the commission of an organized crime' shall be punishable with imprisonment for a minimum of five years to life in prison. There are no safeguards that criminal law affords, at present.

MCOCA has procedural safeguards that prevent abuse of such a 'special law with stringent and deterrent provisions' as per its statement of objects. For instance, Section 23 presently provides that no information about the commission of an offence of organized crime shall be recorded by a police officer without the prior approval of an officer below the rank of Assistant Commissioner of Police (ACP). Further, no investigation shall be carried out by a police officer below the rank of ACP. No 'Special Court' shall take cognizance of any offence under this Act without the sanction of a police officer of the rank of ACP and above.

MCOCA also has 'Special Courts' that are staffed by judges specially appointed by Government with the concurrence of the Chief Justice of the Delhi High Court. Such a judge should have had experience as an Assistant Sessions or Sessions court judge previously. Importantly, authorization for interception of wire, electronic or oral communication shall be allowed only after an officer not below the rank of Deputy Commissioner of Police, who is supervising the investigation of organised crime, submits an application to the Competent Authority. A Review committee consisting of the Principal

Secretary of Delhi, Law Secretary and Home Secretary shall review orders of the Competent Authority.

In essence, MCOCA an example of a special statute intended to combat an elaborate offence (organized crime), balances the stringency of not only the punishment it mandates, but also the invasion of privacy by wire taps to further enhance the investigation along with procedural safeguards. Great care has been taken by the legislature in the constitution of 'special courts', and the qualifications in terms of prior experience of the judges who will hear such cases. All of this is absent in the reforms that are proposed. What is being weakened are principals of criminal law – and it is the general public that will suffer by way of lack of procedural protections and absence of checks and balances. The right of fair trial and rule of law are also the casualties in the process.

**DEREK O'BRIEN INTERVENTION- PARLIAMENTARY
STANDING COMMITTEE ON HOME AFFAIRS**

PART-II

SOME OTHER ISSUES WITH THESE BILLS

I. **No reasoning as to the requirement of a new legislation.** The old act could easily have been amended to include these changes.

II. **Name of these Bills is in Hindi**

- This name being in Hindi is not suitable for the whole of the country.
- Firstly, it is unconstitutional. Article 348 of the Constitution mandates that English language be used in Acts and Bills.

"348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc

(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides

(a) all proceedings in the Supreme Court and in every High Court,

(b) the authoritative texts

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

- This constitutes as Hindi imposition.
- NAMES IN ENGLISH AS WELL AS HINDI. When translated into English, the titles of these bills would be: the Indian Justice Code, 2023, the Indian Citizen’s Protection Code, 2023 and the Indian Evidence Bill, 2023.
- If the new law is titled the Indian Citizen’s Protection Code, 2023. It will reflect the idea of a procedural shield for citizens against the State in the criminal process.

SPECIFIC INPUTS ON BNS 2023 (Penal Code)

III. Sedition law

In the new Bill, sedition has NOT been removed, *it has been altered*.

Section 124A (The old sedition law) is part of the IPC. Its use had been kept in abeyance following a Supreme Court order in May 2022. The court had given the government time to re-look the sedition law. This was in lieu of several advocates urging the apex court to strike down sedition as an offence in any form.

*** claimed that sedition has been removed from the list of offences. What happened in fact was its reintroduction in a more draconian manner which can even encroach on the right to protest.

Though the Bharatiya Nyaya Sanhita Bill does not explicitly have a Section 124A in it, it has Section 150. This proposed provision in the new Bill avoids using the term ‘sedition’, but describes the offence as “endangering sovereignty, unity and integrity of India”.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

The 22nd Law Commission suggested that sedition should be well defined. The Union government decided to do the opposite of that. The provision in the new bill gives it a very broad definition. The Bharatiya Nyaya Sanhita, 2023 Section 150 talks about Acts endangering sovereignty, unity and integrity of India. It reads-

“Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine”

This makes it so broad that it can encompass any act in the name of endangering the unity and integrity of India. It leaves a lot of room for discretion which is the opposite of what was advised by the law commission.

IV. Definition of Terrorist

Section 111 (6) (a) of the BNS says that a “terrorist” refers to any person who “develops, manufactures, possesses, acquires, transports, supplies or uses weapons, explosives, or releases nuclear, radiological or other dangerous substance, or cause fire, floods or explosions.” - The addition of ‘floods’ is ambiguous and bizarre. Moreover these definitions continue to be so vague that it ends up giving the police unreasonably wide powers of arrest.

V. Section 69 - Promise to Marry-

Subjectivity and Intent: Determining whether a promise to marry has been made can be subjective and challenging to prove. Intentions can change over

time, and proving that a promise was genuinely made with the intention to marry can be difficult.

Privacy and Autonomy: Critics argue that relationships and decisions about marriage are deeply personal matters that should be left to the individuals involved. Criminalising a promise to marry can be seen as an undue intrusion into individuals' private lives and autonomy.

Lack of Clear Parameters: Defining what constitutes a legally binding promise to marry can be vague and open to interpretation. This lack of clarity can lead to inconsistencies in enforcement and judgments.

Cultural and Social Dynamics: In many cultures, pre-marital relationships and commitments are complex and can involve various factors beyond just legal obligations. Criminalising such promises might not take into account cultural or social norms.

Enforcement Challenges: Proving the existence of a promise to marry, especially if it was made verbally and without any evidence, can present significant challenges in terms of evidence collection and enforcement.

Gender Dynamics: Depending on how the law is applied, there is a risk that such laws could disproportionately affect certain genders or reinforce harmful gender stereotypes.

SPECIFIC INPUTS ON BNSS 2023 (CRIMINAL PROCEDURE)

- I. **The recently introduced Procedure Bill allows the possibility of requesting a 90-day police custody** period for crimes that carry a sentence of ten years or more. This situation could potentially lead to significant infringements on human rights, particularly if these cases result in a not-guilty verdict.

The Bill permits the magistrate to authorise detention in police custody for a period beyond the current 15-day limit, extending up to 90 days.

- **90-day police custody** - for crimes that carry a sentence of ten years or more
- **60-day police custody** - for “any other offence” with imprisonment terms less than the 90-day detention offences

This could lead to:

Violation of Human Rights: Increasing the period of police custody without proper safeguards could lead to human rights violations, including the risk of torture, coerced confessions, and abuse of detainees. This is particularly concerning given the history of custodial violence and abuse in India.

Denial of Legal Rights: Extending police custody could potentially lead to a denial of basic legal rights, such as the right to a speedy trial and the right to consult with legal counsel. Prolonged detention without proper oversight can undermine due process.

Overburdened Judicial System: According to the Prison Statistics India 2020 report, three in four prisoners in our country’s jails are under trial. This is the highest share of undertrial detainees in prison since 1995. Of these, 49% of the prisoners are between 18 and 30 years of age. Considering that a staggering percentage of such prisoners have spent over a year in prison awaiting trial, these inmates suffer due to our overwhelmingly slow legal process. The very judicial system that is intended to redress and deliver justice pushes them toward greater injustice since courts might face challenges in timely adjudicating cases, leading to potential delays in the delivery of justice.

Risk of False Confessions: Prolonged custody can increase the risk of suspects giving false confessions due to pressure, intimidation, or exhaustion. This can lead to wrongful convictions and miscarriages of justice.

Impact on Marginalised Communities: Lengthening the period of police custody might disproportionately affect marginalised communities and individuals who may not have access to legal representation or resources to challenge their detention.

Data also shows that two in three prisoners under trial belong to the SC, ST and OBC communities. Two in five of inmates from this category were educated below grade X and more than a quarter were illiterate.

Erosion of Trust in Law Enforcement: Instances of abuse, torture, or mishandling of suspects during extended custody periods could further erode public trust in law enforcement agencies.

II. **Clause 356 of the BNSS enables trial in absentia** if the judge is satisfied that “personal **attendance of the accused** before the Court is not necessary in the interests of justice” or if the accused “persistently disturbs the proceedings in Court.” This **gives the Judge wide discretionary powers** to abuse this provision and not give the accused a fair hearing.

III. **Addition of provisions that are demeaning and against human dignity-**

The CrPC has no provision of handcuffs. In *D.K. Basu versus State of West Bengal* (1996), the Supreme Court set guidelines on rights of accused while being arrested or in custody. As per the guidelines, handcuffing violates all standards of decency. Handcuffing is the last resort and should not be followed as a custom.

The BNSS, in Section 43(3), explicitly states that: “The police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who escaped from custody, who has committed offence of organised crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins

and currency notes, human trafficking, sexual offences against children, offences against the State, including acts endangering sovereignty, unity and integrity of India or economic offences.”

IV. Expansion of powers granted to the Police-

Section 172 of the BNSS seeks to expand the powers of the police while taking preventive action. The police officer “*may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction*” under Chapter XII. The Indian Criminal Justice System is based on a due-process model, but giving the Police such wide and discretionary powers during preventive action is essentially pushing us towards a crime-control model.

SPECIFIC INPUTS ON BSB 2023 (EVIDENCE ACT)

I. Section 19:

The provision in Indian Evidence Act 1872 which was similar to Section 19 of Bharatiya Sakshya Bill was Section 21. Section 21(1) referred to Section 32 of Indian Evidence Act 1872 (Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant). However, Section 19(1) of Bharatiya Sakshya Bill 2023 instead of referring Section 26, which is replication of Section 32 of Indian Evidence Act 1872, makes a reference to sub-Section (2) of Section 23 of Bharatiya Sakshya Bill, which deals with confession to a police officer. It has no relevance in this Section. Instead, reference should have been made to Section 26 itself (just like Section 32 of Indian Evidence Act) or maybe Section 26(2) of Bharatiya Sakshya Bill.

The same discrepancy can be found in the illustrations (b) and (c) of this Section. Instead of referring to Section 23(2), it should have made a reference to Section 26(2) of Bharatiya Sakshya Bill.

II. Section 36:

There is an error in this Section. This Section was Section 42 in the Indian Evidence Act 1872, and the words used in Section 42 were “other than those mentioned in Section 41”. Section 41 of Indian Evidence Act 1872 was dealing with “Relevancy of certain judgements in probate, etc, jurisdiction.” However, Section 36 of Bharatiya Sakshya bill states “other than those mentioned in Section 31.” Section 31 has no relevance here as it talks about “Relevancy of statement as to fact of public nature contained in certain Acts or notifications” while Section 35 of Bharatiya Sakshya Bill discusses “Relevancy of certain judgements in probate, etc., jurisdiction” and is similar to the Section 41 of Indian Evidence Act 1872.

III. Section 50 of BSB:

This Section was Section 55 in the Indian Evidence Act 1872, and the words used in explanation of Section 55 were “except as provided in Section 54”. Section 54 of Indian Evidence Act 1872 was “Previous bad character not relevant, except in reply”. However, Section 59 of Bharatiya Sakshya Bill is “Proof of documents by Primary evidence” and Section 49 of Bharatiya Sakshya Bill is about “Previous bad character not relevant, except in reply” and it is Section 49 which is similar to Section 54 of the Indian Evidence Act 1872. Use of words “Section 59” here seems erroneous, and it has no relevance in Section 50 of Bharatiya Sakshya Bill.

IV. Section 62 of BSB:

As per it, the manner of proving electronic evidence is mentioned in Section 65B and Section 65B discusses the admissibility of electronic records. In other words, how an electronic record can be made admissible before the court of law is mentioned in Section 65B. It mentions certain requirements which must be fulfilled and then only electronic evidence can be made admissible.

It is Section 63 (Admissibility of electronic records) of Bhartiya Sakshya Bill which replaces Section 65B (Admissibility of electronic records) of Indian Evidence Act 1872 and not Section 59 (Proof of documents by primary evidence.) Mentioning Section 59 in Section 62 appears to be a discrepancy because now the definition of document as per Section of Bhartiya Sakshya Bill 2023 includes “electronic and digital records.” Hence, they can be admitted as primary evidence under Section 59. But Section 62 of Bhartiya Sakshya Bill 2023 is a special provision for the succeeding Section 63, which talks about the manner which is to be followed (“may be proved in accordance with”) for proving electronic evidence. It is Section 63 of Bhartiya Sakshya Bill 2023 which has provisions discussing in detail the manner for proving electronic evidence and not Section 59.

If Section 62 is to be considered correct, then there is no point of having Section 63 because if all electronic records may be proved in accordance with the provisions of Section 59, then what is the purpose of having Section 63 altogether? Hence, this seems to be a discrepancy which may be rectified by replacing Section 59 with Section 63 in Section 62 of the Bhartiya Sakshya Bill 2023.

V. Section 81 of BSB:

This provision was Section 81A in the Indian Evidence Act 1872, and there was no explanation in this Section. However, Section 90A (Presumption as to electronic records five year old) of Indian Evidence Act 1872 (which is now Section 93 of Bharatiya Sakshya Bill) had an explanation which was made applicable to Section 81A. The same explanation has now been removed from Section 93 of Bharatiya Sakshya Bill and now added in Section 81 and it has been made applicable to Section 93 of Bharatiya Sakshya Bill. Some words in the explanation have been changed from “and under the care of the person with whom, they naturally be;” to “and looked after by the person with whom such document is required to be kept;”.

The explanation in Section 81 has incorrectly been made applicable to Section 96 (Exclusion of evidence to explain or amend ambiguous document). It has no application there as there is no reference to any electronic record or custody of documents.

VI. Section 93 BSB

It has been mentioned in this Section that “Explanation to Section 84 shall also apply to this Section.” Section 84, however, has no explanation.

Section 93 of Bharatiya Sakshya Bill was Section 90A of Indian Evidence Act, 1872. Section 90A of Indian Evidence Act, 1872 is reproduced.

VII. Section 81 BSB

Now, Section 81A of Indian Evidence Act, 1872 had no explanation but Section 81 of Bharatiya Sakshya Bill has an explanation, which is being made applicable to Section 96 (Exclusion of evidence to explain or amend ambiguous document) of Bharatiya Sakshya Bill. This seems to be erroneous on two counts, firstly, explanation of Section 81 of Bharatiya Sakshya Bill is specifically stating that its explanation is applicable to Section 96, whereas

Section 96 has no relevance here. Section 81 needs to be rectified by replacing the word Section 96 with “Section 93.” Secondly, it is the explanation of Section 81 of Bharatiya Sakshya Bill which needs to be made applicable here and not that of Section 84, which has no explanation at all.

VIII. Section 108 BSB

There is an error in illustration (c) of Section 108. Bharatiya Nyaya Sanhita, 2023 has replaced Section 325 with Section 115 and Section 335 with Section 120. These changes should be made in the first part of illustration (c).

SOME OTHER ISSUES WORTH CONSIDERING?

I. The provision legalising marital rape has been retained.

The colonial laws did not recognise men and women as equals and merged the identity of women with their husbands. Under Section 375 of the Indian penal code deals with the offence of rape provides for an exception - ‘Sexual intercourse by man with his own wife, the wife not being under 15 years of age, is not rape.’ The Report of the 42nd Report of the Law Commission (1971) suggested removal of this exception. The Bharatiya Sakshya Bill does not make any significant changes to the ‘colonial’ Indian Evidence Act, even though the Law Commission report of 2003 had suggested so many changes in the form of amendment and substitution of provisions.

II. Section 112 of Evidence Act speaks about 'Birth during marriage conclusive proof of legitimacy except in certain cases'. It reads as follows:

"The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate child of that man, unless it can be

shown that the parties to the marriage had no access to each other at any time when he could have been begotten." One must notice that there was no DNA paternity test at the time when this legal presumption got introduced in 1872. Why is that this bill which is meant to decolonize the existing law, has made no changes to the provision, apart from simply renumbering it as Section 116?

The Law Commission report had recommended an amendment to this Section:

The fact that any child was born during the continuance of a valid marriage between its mother and any man, or within two hundred and eighty days, (i) after the marriage was declared nullity, the mother remaining unmarried, or (ii) after the marriage was avoided by dissolution, the mother remaining unmarried, shall be conclusive proof that such person is the legitimate child of that man, unless (a) it can be shown that the parties to the marriage had no access to each other at any time when the child could have been begotten; or (b) *it is conclusively established, by tests conducted at the expense of that man, namely, (i) medical tests, that, at the relevant time, that man was impotent or sterile, and is not the father of the child; or (ii) blood tests conducted with the consent of that man and his wife and in the case of the child, by permission of the Court, that that man is not the father of the child; or (iii) DNA genetic printing tests conducted with the consent of that man and in the case of the child, by permission of the Court, that that man is not the father of the child.*

III. Absence of provision similar to Section 377 IPC in the Bharatiya Nyaya Sanhita- The Supreme Court in *Navtej Singh Johar* case had struck down Section 377 IPC but *only to the extent it criminalizes consensual sex*. However, Section 377 IPC can still be invoked when there is a non-consensual sex/rape of a man by another man. A woman can also initiate

proceedings against her husband for unnatural sex under Section 377 IPC. If, as per the Nyaya Sanhita, these acts are not offences, it means that the victims of sodomy, buggery etc. will have no remedy available under it. So if a man is 'raped' by another man, what is his remedy?

IV. Non-Inclusion of trans-women in definition of rape

The Sanhita also leaves the question of inclusivity answered as the provision of rape is strictly limited to a woman and does not include a transgender woman. The Transgender Persons Act, 2019 only recognizes 'sexual abuse' for which the maximum punishment is two years. The law on rape should also bring transgender woman within its purview.

V. Impact on the Digital Ecosystem- Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023 which deals with powers to summon for evidence, explicitly includes summoning of "digital evidence," and covers any electronic communication such as messages, call recordings, and emails, as well as electronic communication devices such as mobile phones, laptops, cameras, and any other electronic device that may be specified by the government through notification in the future. A court also has the right to order search and seizure of such evidence for various reasons, including if the person in possession of the evidence is not expected to produce the same.

A mobile device or a laptop contains a lot of information which might not be relevant to the case because electronic devices in today's age contain all information pertinent to an individual's general existence. So, there's a question about the invasion of the right to privacy because of the scope of information that's in these devices. And the second thing is that collection of such devices might also go against the right to protect yourself from self-incrimination. And now with it being codified in law, it just makes it easier

for the law enforcement and for courts to justify whatever collection that they're doing.

VI. Basic Drafting and Spelling Errors

There is no Sec. 498A in BNS. But BNSS mentions it as so in the index. It should have been Section 84 instead. Explanation to Section 150 BNS (which modifies S124A IPC) does not make any sense. It is incomplete.

VIII. Illogical provisions - As per Section 101 of the BNS, when a man commits murder, punishment is life imprisonment or death. No other option. But if a group of 5+ men acting in concert commits murder on grounds mentioned in this clause, there is an option to give a punishment of 7+ years imprisonment.

IX. The provisions display an astounding ignorance of the law. For instance, as per S. 262. (1), the accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.

X. No congruence between the three bills. For instance, the definition of "Document" in the Sakshya Bill and under Nyaya Sanhita. Nyaya Sanhita doesn't include electronic and digital records as Document while the amended Sakshya Bill does.

XI. In Sessions Trial court can frame charge even when accused is present by electronic means u/s 251(2) BNSS but same has NOT been provided in Magistrate triable case u/s 263 BNSS.

INPUTS FROM DOMAIN EXPERTS

I.Siddharth Luthra- Summary on ‘It’s Still Colonial’

- The existing Penal Code, which originated in 1860, is still in use in 34 countries.
- It has seen only minor amendments in India previously, such as the inclusion of laws related to sedition, cruelty to women, dowry death, and some deletions over the years.

Bharatiya Nyaya Sanhita (BNS) - The New Penal Code:

- Notable additions include the concept of community service, but it excludes the inclusion of open prisons.
- New offences like fake news terrorism, organised crime, and corruption have been added.
- However, it does not repeal the existing special laws that cover these offences.

Inconsistencies Between Codes

- While terrorism, organised crime, and corruption are addressed in the new Penal Code, the corresponding amendments needed in the Bharatiya Sakshya Sanhita (Evidence Code) are lacking.
- This omission creates inconsistencies and gaps in the legal framework.

Enhancement of Sentences:

- The new Codes enhance sentences for acts of rashness and negligence leading to death.

- This change has implications for medical professionals, potentially increasing their legal exposure.

Punishment for Mob Lynching

- The new Codes introduce punishment for mob lynching as a distinct offense.
- However, the severity of punishment for mob lynching does not align with that for murder or intentional culpable homicide.

Reorganization and Reduction of Provisions

- The new Codes reorganize provisions and reduce the number of Sections.
- This effort includes compiling definitions and updating illustrations while grouping similar provisions.
- However, these changes do not fundamentally alter the core of the 1860 Penal Code.

Sedition Repealed and Reintroduced:

- Sedition (Section 124A IPC) has been repealed but reintroduced as Section 150 in the new Bharatiya Nyaya Sanhita (BNS).
- The new provision requires an intention similar to sedition, raising concerns about freedom of speech and possible misuse against dissent.
- Questions arise about the necessity of retaining a relic from the era of monarchs in a democratic republic.

Right to Life and Liberty (Article 21):

- Article 21, protecting the right to life and liberty, is crucial in safeguarding individuals against state action.
- The 1973 Criminal Procedure Code (CPC) contains provisions related to arrest, the right to seek bail, and procedural safeguards, putting Article 21 into action.

- The new law, Bharatiya Nagarik Suraksha Sanhita (BNSS), introduces reforms like video conference trials and e-filing of FIRs but falls short in providing adequate protection to detainees.

Plea Bargaining and Custody Period:

- The plea bargaining chapter remains untouched in BNSS and is limited to sentence bargaining, missing an opportunity to allow pleading guilty to a lesser offence.
- BNSS increases police options to seek custody (PC) for 40/60 days, which curtails the right to bail.
- This contradicts the goal of breaking from the colonial past and hampers BNSS's objective of improving forensic and scientific investigations for quicker and better-quality results.
- The government should have considered reducing the 15-day PC period, as even colonial-era rules frowned upon it and discouraged obtaining confessions.

New Evidence Law (Bharatiya Sakshya Adhiniyam):

- The new evidence law updates digital and electronic evidence provisions and incorporates principles developed by courts.
- It Indianizes illustrations but doesn't bring substantial changes.

Disappointment with New Laws:

- The introduction of three new laws was expected to bring significant improvements but reiterated existing colonial-era laws.
- These new laws emphasise increased criminalization, harsher sentences, and expanded police powers, which don't align with the nation's constitutional objectives.

The Need for Comprehensive Legal Reform:

- Instead of piecemeal changes, an actual break from the colonial past should involve compiling and rationalizing central laws into substantive codes for a more efficient criminal justice system.
- This reform should consider rationalisation and decriminalisation, introducing new criminal laws where necessary, regulating arrest powers, implementing bail and sentencing guidelines, and ensuring alignment with fundamental rights and victims' rights.

Presumption of Innocence and Fair Trial:

- A break from the colonial legacy should strengthen the presumption of innocence and the right to a fair trial for the accused while protecting victims' participatory rights.

Urgency for Deep Review

- The hope lies with the Standing Committee responsible for reviewing these proposed legislations, recognising that criminal law significantly impacts everyone's daily lives.
- A thorough study is needed to ensure these laws align with the nation's constitutional principles, especially the paramount right to life and liberty established in 1950.

II. Inputs from Justice Madan B Lokur: ‘Is this a Necessary Overhauling?’

- Fails to address implementation concerns.
- IPC: 150 years and is still in existence in some form or other in about 30 countries. Evidence Act is 140 years old, CrPC is 50 years old since its revision in 1973.
- Proposed laws do not address the important issue of judicious implementation by police and prosecution. Eg: Broadening rather than curtailing of sedition laws has led to further misuse.
- *** .
- No redressal in case of errant officials where *** is unjustified.
- In case of Zero FIR, issues with its implementation persist. Eg: The events recorded in the horrific video ***.
- The legislation extends police/judicial custody from 15 to 90 days. This would put tremendous pressure and mental torture on the accused.
- Purpose of the laws is to expedite justice delivery system. This cannot be done when appointments of judges to high courts and local courts take years.

9. WHY THE RUSH ON THIS REFORM? ELECTION 2024?

The law you are passing will stay for 100 years. Let each one of us rise above narrow partisan interests. Let us create laws to better the lives of our children and our childrens’ children.

We are all for reform. Who can be against reform. But in the name of reform let us not become more repressive than the colonisers.

While there is an undeniable need to reform colonial era criminal framework,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

the current criminal law bills are more draconian than the colonisers law-treating citizens worse than 'native subjects' of the Raj.



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/20

19 August, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Request to reschedule the meeting for discussion on Criminal Law Bills in September.

Respected Chairperson,

Further to my conversation with you on the telephone this morning, I write to you concerning notice (LAFEAS-HAI2011/1/2023-Comm Sec (HA)-RSS) dated 18 August 2023. The Bharatiya Nyaya Sanhita, 2023; the Bharatiya Nagarik Suraksha Sanhita, 2023; and the Bharatiya Sakshya Bill, 2023, as introduced in Lok Sabha have been referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. I have just received the news that the meeting of the committee with respect to this is scheduled on the 24, 25 and 26 of August 2023. That's a few days away.

The notice given to us on the 16th August stated that a meeting will be held on 24th August 11 AM to adopt the draft report on Prison- Condition, Infrastructure and Reforms. In accordance with that and the fact that monsoon session recently ended, the Members have made multiple commitments in their constituency and other parts of their State including programs and meetings.

Sir, this is too short a notice (a few days only) for discussion of a Bill with implications of this magnitude.

Please revise the dates and schedule it in the month of September, considering that many members of the committee are present for these meetings.

Awaiting a response on the same at the earliest.

Sincerely,

Derek O'Brien

P.S. May I suggest you reschedule after the tour. Thank you again



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/28

11 September, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Concerns regarding discussion on Criminal Law Bills and suggestions for way forward.

Respected Chairperson,

The first four meetings on this subject have been held. I am looking forward to attending more meetings (5th and 6th meetings) on 12 and 13 September. These are my observations and suggestions.

First, considering the significance of these three Bills, it is imperative that multiple bipartisan discussions are held at length. It is my earnest request that members of this committee are not rushed and are given multiple opportunities to express themselves. Choice of domain experts, choice of witnesses from across disciplines and the methodology used must always take into consideration the "sense of the house". In the spirit of federalism, it is imperative that the committee must also travel to multiple states to meet stakeholders. Sir, please create an atmosphere for scrutiny, debate and detailed discussion. This will embellish the quality of our output as a committee.

Second, the minutes of the meetings must be recorded with due diligence and provide a true reflection of the proceedings. Key points raised by members must reflect in the minutes. (Verbatim records are not a substitute for minutes.)



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

For example, in the meeting that was held on 24 August 2023, Dayanidhi Maran (DMK) had submitted a letter stating objections on how the titles of the said bills are in Hindi. The submission of this letter making multiple points, the summary of its contents, and his intervention does not reflect at all in the minutes of the meeting. Recording of such views is an integral part of the democratic process. Please ensure this is done for future meetings.

Third, considering that the Special Session of the Parliament has been called from 18 September to 22 September 2023, the Members have made multiple commitments in their constituencies and other parts of their State including programs and meetings immediately (one week) after the session. This is a request to schedule the next committee meeting at least one week after the session concludes.

I am sure that you will accept these concrete suggestions in the spirit that they have been made.

Sincerely,

Derek O'Brien

13 September, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Suggested consultation methodology for the Criminal Law Bills.

Respected Chairperson,

This is with regard to the consultation methodology suggested at the meeting held on 13.09.2023 to discuss the Criminal Law Bills.

As mentioned during the meeting, general statutes of criminal law are for ages to come. These laws will affect the lives of the poor, and therefore must be crafted with utmost care. To that end, we are reproducing below for your careful consideration the organizations the Committee must consult with along with a projected timeline.

<i>Consultations to be done</i>
<p><i>1. Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.</i></p>
<p><i>2. Bar Council of all states in India.</i></p> <p><i>(At least 23 state bar councils)</i></p> <p><i>(30 days)</i></p>
<p><i>3. The judges of the Supreme Court and High Courts.</i></p> <p>(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India. High Court- Working Strength of at least 785 judges across 25 high courts)</p> <p><i>(6 months)</i></p>

4. *The Bar Council of India Supreme Court Bar associations*

(At least 20 office bearers)

(20days)

5. *Members of parliament, legislative assemblies, and local councils play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.*

(Lok Sabha - 539 members +

Rajya Sabha- 238 members +

State legislative assemblies)

(6 months)

6. *International Organizations:* Collaboration with international bodies like the United Nations and others can help align reforms with international standards and best practices. *(100 days)*

7. *Media:* Journalists and media organizations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment. *(100 days)*

8. *Ethnic and Religious Leaders:* Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives. *(50 days)*

9. *Experts on Juvenile Justice:* Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders. *(5 days)*

10. *Experts on Cybercrime and Technology:* Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain. *(5 days)*

<p><i>11. Prison Officials and Reform Advocates:</i> Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials) (4 months)</p>
<p><i>12. Inclusive Consultation from the general public</i> including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc. (1 month)</p>
<p><i>13. Governors, chief ministers of states, lieutenant governors and administrators of Union territories.</i> (60-70 officials approx.) (1 month)</p>
<p><i>14. Legal Scholars and academic institutes</i> (5 days)</p>
<p><i>15. Law Enforcement Agencies:</i> Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures. (10 days)</p>
<p><i>16. Human Rights Organizations:</i> NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms. (5 days)</p>
<p><i>A total of 1.5 years</i></p>

We are sure that you will accept these concrete suggestions in the spirit that they have been made.

Sincerely,



P. Chidambaram



Derek O'Brien

14 September, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Suggested witnesses for consultation on the Criminal Law Bills.

Respected Chairperson,

Further to our letter dated September 13, 2023, and the interventions made during the Committee meeting held on the same day, we are reproducing below for your careful consideration the witnesses the Committee must call as experts for consultation.

As mentioned during the meeting, general statutes of criminal law are for ages to come. These laws will affect the lives of the poor, and therefore must be crafted with utmost care.

1. Former CJI U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an *amicus curiae* in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

2. Justice Madan Lokur

He was appointed as Additional Solicitor General of India in 1998 . Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

3. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

4. Adv. Maneka Guruswamy

Maneka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the Agustawestland bribery case, the Salwa Judum case, and the Right to Education case.

5. Sr. Adv. Sidharth Luthra:

Advocate Sidarth Luthra is a Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

6. Sr. Adv. Hariharan

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

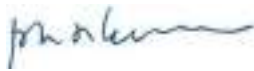
7. Sr. Adv. Rebecca John

Rebecca Mammen John has been practicing exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offenses under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes.

8. Dr. Sylendra Babu
9. Sr. Adv. Amit Desai
10. Sr. Adv. Rajeev Dhavan
11. Sr. Adv. Siddharth Dave
12. Adit Pujari
13. Sr. Adv. Aditya Sondhi
14. N. Dinakar
15. Justice R. Balasubramaniam
16. Sr. Adv. Vrinda Grover
17. Sr. Adv. Meenakshi Arora

We are sure that you will accept these concrete suggestions in the spirit that they have been made.

Sincerely,



P. Chidambaram



Derek O'Brien



D E R E K O ' B R I E N

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/33

22 September 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Respected Chairperson,

With reference to your letter **D.O. No.-IMP/DLI/BL/RS/2023/397** dated 15th September 2023 please note the following:

1. The stakeholders that you wrote to, comprise a very small part of the list of stakeholders we suggested. As mentioned during the meeting, these statutes of criminal law are for ages to come. These laws will affect the lives of the poor, and therefore must be crafted with utmost care. Hence, I reiterate what I said in the last letter.
2. The minutes of the meeting, although a summary, should provide a true reflection of the proceedings. The point that Mr Dayanidhi Maran made was a very important one. A summary must at least reflect the most important points made during the meeting in order to safeguard the health of the democratic process.

Sincerely,

Derek O'Brien



D E R E K O ' B R I E N

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/34

27 September 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Concerns regarding rushing the scrutiny of Criminal Law Bills.

Respected Chairperson,

I am writing to you regarding your letter **IMP/DLI/BL/RS/2023/407** dated 23rd September 2023 and Committee Notice **LAFEAS-HA12011/2/2023- Comm Sec (HA)-RSS** dated 25th September 2023. I am once again compelled to express my concerns regarding the discussion on Criminal Laws under consideration in this Committee. The methodology of the deliberations leaves a lot to be desired. Many issues are still unaddressed.

One cannot ignore the *** and the rushed nature of this process of consideration of Bills.

The Committee which recommended these reforms, Prof. Ranbir Singh Committee, was constituted of only men from similar social identities as well as professional backgrounds and experiences. This makes it even more important to consult a diverse group of stakeholders. It is imperative that we expand the pool of witnesses who come and present their views to the Committee.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Leaving out important stakeholders from the conversation undermines the legitimacy of the process. It is our responsibility to ensure that any new law is well-reasoned, well-informed, and thoroughly debated to prevent any unintended negative consequences.

The Committee should reconsider the approach to this discussion and take the necessary steps to ensure that the Bill undergoes proper consultation and scrutiny. It is in the best interest of our democracy.

I am enclosing once again for your perusal a list of people who should be called as witnesses. They have impeccable credentials. The Committee will benefit from their wise counsel and insights. I once again urge you to invite those mentioned in the list (enclosed once again) to share their expert opinions in the future.

Awaiting a response on the same at the earliest.

Sincerely,



Derek O'Brien

Enclosed: As above

Consultations to be done

1. *Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.*

2. *Bar Council of all states in India.*
(At least 23 state bar councils)

3. *The judges of the Supreme Court and High Courts.*

(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India. High Court- Working Strength of at least 785 judges across 25 high courts)

4. *The Bar Council of India Supreme Court Bar associations*

(At least 20 office bearers)

5. *Members of parliament, legislative assemblies, and local councils play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.*

(Lok Sabha - 539 members+ Rajya Sabha- 238 members+ State legislative assemblies)

6. *International Organizations:* Collaboration with international bodies like the United Nations and others can help align reforms with international standards and best practices.

7. *Media:* Journalists and media organizations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment.

8. *Ethnic and Religious Leaders:* Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives.

9. *Experts on Juvenile Justice:* Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders.

10. *Experts on Cybercrime and Technology:* Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain.

11. *Prison Officials and Reform Advocates:* Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials)

12. *Inclusive Consultation from the general public* including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc.

13. *Governors, chief ministers of states, lieutenant governors and administrators of Union territories.* (60-70 officials approx.)

14. *Legal Scholars and academic institutes.*

15. *Law Enforcement Agencies:* Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures.

16. *Human Rights Organizations:* NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms.

Additional recommendations:

1. Former CJI U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an *amicus curiae* in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

2. Justice Madan Lokur

He was appointed as Additional Solicitor General of India in 1998 . Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

3. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

4. Adv. Menaka Guruswamy

Menaka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the Agustawestland bribery case, the Salwa Judum case, and the Right to Education case.

5. Sr. Adv. Sidharth Luthra:

Advocate Sidarth Luthra is a Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

6. Sr. Adv. Hariharan

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

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Rebecca Mammen John has been practicing exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offenses under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes.

8. Dr. Sylendra Babu
9. Sr. Adv. Amit Desai
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11. Sr. Adv. Siddharth Dave
12. Adit Pujari
13. Sr. Adv. Aditya Sondhi
14. N. Dinakar
15. Justice R. Balasubramaniam
16. Sr. Adv. Vrinda Grover
17. Sr. Adv. Meenakshi Arora



DEREK O'BRIEN

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/35

3 October 2023

**To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs**

Respected Chairperson,

I am writing to you regarding the Notice [LAFEAS-HA12011/2/2023- Comm Sec (HA)- RSS] from the Committee dated 25th September 2023 calling for a clause-by-clause discussion on the Criminal Law Bills.

First, *** and the rushed nature of this process of consideration of Bills. The Committee which recommended these reforms, Prof. Ranbir Singh Committee, was constituted of only men from similar social identities as well as professional backgrounds and experiences. Leaving out important stakeholders from the conversation undermines the legitimacy of the process. It is our responsibility to ensure that any new law is well-reasoned, well-informed, and thoroughly debated to prevent any unintended negative consequences.

Second, it is imperative that every member of the committee contributes to the discussion for a comprehensive deliberation. Only some members have voiced their opinions. The members who have spoken haven't been able to express their views. Proceeding to clause-by-clause amendments would be premature and counterproductive. A fruitful discussion requires the active participation of all committee members so that diverse perspectives are considered before making informed decisions. The essence of a committee lies in collaborative efforts, and only through the thoughtful contributions of each member can we achieve the purpose and effectiveness of our committee deliberations.

Considering the significance of these three Bills, it is imperative that multiple bipartisan discussions are held at length. I earnestly request that members of this committee are not rushed and are given multiple opportunities to express themselves.

Due to the above-mentioned reasons, a clause-by-clause discussion is out of question till we thoroughly consult the stakeholders and members are given ample opportunity to express their views on the same. I request that the consultation process is not rushed and more time be granted for discussions and stakeholder consultations. Please consider pushing the date of the clause-by-clause amendment discussion.

Awaiting a response on the same at the earliest.

Sincerely,

A handwritten signature in blue ink, appearing to read "Derek O'Brien", with a long horizontal flourish extending to the right.

Derek O'Brien



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/42

23 October 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Respected Chairperson,

With reference to Home Affairs Committee Notice LAFEAS-HA12011/2/2023- Comm Sec (HA)- RSS dated 20 October 2023 regarding the consideration and adoption of draft Reports on Criminal Law Bills on 27 October 2023. In my earlier letters to you, I have flagged the undue haste and *** of these Bills without due diligence and meaningful scrutiny by this Committee. In the last few months this has become a trend.

*** adoption of such an important report will have negative implications and will turn out counterproductive. Hastily rushing through the process is not doing justice to this important proposed legislation.

Allow me to elucidate.

1. The Draft reports were only sent about 8.30 pm on 21 October 2023. Which leaves only 5 days to read and analyse the three reports. This is too short a notice for discussion of a Bill with implications of this magnitude. There are so many drafting errors pointed out by my colleagues Shri N. R. Elango and Shri P. Chidambaram.
2. *** and rush in the nature of this process of consideration of Bills. The laws that are being examined are going to last over 100 years and such a hasty adoption of the reports without consultation of stakeholders would be premature and counterproductive. I am enclosing once again for your perusal a list of people who should be called as witnesses. They have impeccable credentials. The Committee will benefit from their wise counsel and insights. I once again urge you to invite those mentioned in the list (enclosed once again) to share their expert opinions in the future.

Page 1 of 2

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

3. Members of this Committee have made multiple commitments in their constituencies during the festive season. In Bengal, much is lined up on 27 and 28 October. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has included Kolkata's famous Durga Puja in its Intangible Cultural Heritage of Humanity list (ICH). The carnival is on the 27 October and Lakshmi Pujo is on the 28 October, for which the preparations start at least a day in advance. ***

Respected Chairperson, I humbly urge you not to hurriedly rush through this legislation. We will be doing a grave disservice to a large section of the population, especially those who are marginalised or economically challenged. This consultative process needs us to rise above narrow partisan interest or short term electoral stunts. Kindly assess all this in the interest of 140 crore Indians who look up to Parliament to legislate with wisdom.

Awaiting a response on the same at the earliest.

Sincerely,



Derek O'Brien

Leader, AITC Parliamentary Party, Rajya Sabha

Enclosed: As Above

Consultations to be done

1. Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.
2. Bar Council of all states in India. (At least 23 state bar councils)
3. The judges of the Supreme Court and High Courts.

(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India.
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5. Members of parliament, legislative assemblies, and local councils play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.

(Lok Sabha - 539 members + Rajya Sabha- 238 members + State legislative assemblies)

6. International Organizations: Collaboration with international bodies like the United Nations and others can help align reforms with international standards and best practices.
7. Media: Journalists and media organizations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment.
8. Ethnic and Religious Leaders: Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives.
9. Experts on Juvenile Justice: Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders.
10. Experts on Cybercrime and Technology: Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain.
11. Prison Officials and Reform Advocates: Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials)
12. Inclusive Consultation from the general public including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc.
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Additional recommendations:

1. Former CJI U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an amicus curiae in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

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3. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

4. Adv. Menaka Guruswamy

Menaka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the AgustaWestland bribery case, the Salwa Judum case, and the Right to Education case.

5. Sr. Adv. Sidharth Luthra:

Advocate Sidarth Luthra is a Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

6. Sr. Adv. Hariharan

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

7. Sr. Adv. Rebecca John

Rebecca Mammen John has been practicing exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offenses under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes.

8. Dr. Sylendra Babu

9. Sr. Adv. Amit Desai

10. Sr. Adv. Rajeev Dhavan

11. Sr. Adv. Siddharth Dave

12. Adit Pujari

13. Sr. Adv. Aditya Sondhi

14. N. Dinakar

15. Justice R.Balasubramaniam

16. Sr. Adv. Vrinda Grover

17. Sr. Adv. Meenakshi Arora



D EREK O ' B RIEN

Member of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/44

30 October, 2023

To,
Shri Brij Lal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Respected Chairperson,

I recently received a memorandum from the Indian Police Foundation, accompanied by their comprehensive clause-by-clause analysis of the recently proposed three Criminal Law bills. It is imperative that we pay heed to their views and engage them in the ongoing discussions, as inputs from domain experts are essential for bills of such profound significance.

The Indian Police Foundation (IPF), renowned for its expertise in police reform and policing standards, should be called upon to participate in the stakeholder consultation for these bills. IPF conducts comprehensive research, offers capacity building, and actively engages in policy advocacy, all centered around advancing policing standards and contributing to the enhancement of law enforcement practices. The foundation is overseen by a coalition of progressive police professionals and engaged citizen stakeholders, all of whom recognise the potential for positive transformation within the Indian Police. Their board comprises eminent members, including active and retired police officers and civil servants.

I strongly recommend that IPF be called for a consultation in early November. Their participation will provide invaluable insights and ensure a thorough examination of these bills.

Sincerely,

Derek O'Brien

P.S. We have hardly called any stakeholders to testify. Please refer to my earlier letters. For the sake of the millions of marginalised who these bills will affect, please do not rush this bill.

November 8, 2023

To,
Shri Brij Lal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Note of Dissent on Bharatiya Nyaya Sanhita, 2023, and Bharatiya Nagrik
Suraksha Sanhita, 2023

Respected Chairperson,

I write to express my strong dissent regarding the proposed bills, namely Bharatiya Nyaya Sanhita, 2023, and Bharatiya Nagrik Suraksha Sanhita, 2023, currently under deliberation by the Departmentally Related Standing Committee on Home Affairs. My concerns are as follows:

I. NO NEED FOR NEW BILLS WHICH ARE 93% COPY PASTE LEGISLATION

The introduction of new legislation *** raises concerns about the efficient use of legislative resources. The bills mostly mirror existing criminal laws, making it more sensible to amend them instead.

II. * COMMITTEE PROCEDURE AND AVOIDING QUALITY STAKEHOLDER CONSULTATION**

Moreover, the drafting process lacks inclusive stakeholder consultations, which are crucial for legislation of this magnitude. The committee responsible for reviewing these laws lacks diversity, excluding representation from marginalized groups.

III. LIMITING THE MEANINGFUL PARTICIPATION OF THE OPPOSITION.

The *** scheduling of discussions during the festive season, ***, restricts meaningful opposition participation. Adequate scrutiny and debate are indispensable for such consequential legislation. *** with far-reaching implications is insufficient and disconcerting. Rushed passage may result in unintended consequences and public dissatisfaction.

IV. RESULT OF RUSHING AND *- NUMEROUS DRAFTING ERRORS**

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Basic drafting errors have been identified, necessitating comprehensive revisions. The hurried nature of the legislation leaves minimal room for addressing these concerns, imperilling the clarity and effectiveness

These bills *** for new legislation, inclusive stakeholder consultations, meaningful opposition participation, and transparency in the legislative process. Rushing their adoption may lead to unintended consequences and public dissatisfaction. *** and ensure that our legislative process is thorough, transparent, and representative of all stakeholders.

V. NAMES OF THESE BILLS SHOULD BE IN ENGLISH AS WELL AS HINDI.

The bills in question have names in Hindi. This is seen as not just Hindi imposition but also unconstitutional, as Article 348 of the Constitution specifically mandates the use of the English language in Acts and Bills. However, a report maintains that the use of Hindi names for bills is constitutional and even suggests expanding the use of Hindi in these contexts, which seemingly contradicts the constitutional provision.

VI. CRITIQUE OF SEDITION LAW-BNS

Regarding the Sedition Law, the report commends the government for rephrasing it while supposedly safeguarding state security. However, the law has been retained with a broader definition that can encompass a wide range of actions under the pretext of endangering India's unity and integrity. This expansion of the law provides authorities with significant discretion, contrary to the recommendation of the 22nd Law Commission, which called for a well-defined sedition law. The Bharatiya Nyaya Sanhita, 2023, specifically Clause 150, deals with acts that endanger the sovereignty, unity, and integrity of India, indicating the broad scope of the revised sedition law.

***. Simply delaying it by a day or a week won't solve our problem. ***. Pushing the committee's work forward hastily would be a severe detriment to the legislative process. What we truly need is an extension of no less than three months, making the new deadline March 2024 an absolute necessity.

VII. DEATH PENALTY PROVISIONS

The statistics provided by Project 39A reveal troubling disparities in the application of the death penalty in India, with a significant majority of death row inmates coming from economically disadvantaged backgrounds, lacking proper education, and belonging to marginalized communities. This data underscores the urgent need for re-evaluating the death penalty in the country. Such re-evaluation is a means to rectify these social injustices, prevent potential wrongful convictions, and promote principles of justice and human rights. A more humane approach to addressing crime, focusing on rehabilitation and reintegration, is necessary, as many other countries have already done. The disparities between trial courts and the Supreme Court, as well as the increasing scepticism surrounding death row trials, highlight the need for institutional reform in the criminal justice system. In sum, broad-based social discussions are warranted on the subject.

VIII. 90-DAY POLICE CUSTODY

The Bill permits the magistrate to authorise detention in police custody for a period beyond the current 15-day limit, extending up to 90 days.

90-day police custody - for crimes that carry a sentence of ten years or more

60-day police custody - for “any other offence” with imprisonment terms less than the 90-day detention offences

Increasing the period of police custody without proper safeguards could lead to human rights violations, including the risk of torture, coerced confessions, and abuse of detainees. This is particularly concerning given the history of custodial violence and abuse in India.

I firmly believe that these issues deserve our utmost attention and consideration. In hope that the principles of justice and constitution will prevail in shaping the future of our legislative endeavours, I express my dissent.

Sincerely,



Dr Kakoli Ghosh Dastidar
(Member of Parliament, Lok Sabha)

DAYANIDHI MARAN

Member of Parliament, Lok Sabha
Chennai Central Constituency



3, First Avenue,
Boat Club,
R.A. Puram, Chennai - 600 028.
Ph : (044) 2437 1515
E_mail : dmaranoffice@gmail.com

07.11.2023

Dear Chairman, Vanakkam!

Subject **Dissent Note on Draft 246th Report on The Bharatiya Nyaya Sanhita Bill 2023, 247th report on The Bharatiya Nagarika Suraksha Sanhita Bill, 2023, 248th report on The Bharatiya Sakshaya Bill, 2023**

Through my letters dt. 26.10.2023 & 23.08.2023 to the Chairman & members of the Department Related Parliamentary Standing Committee on Home Affairs, I had apprised the Committee as to how the titles of The Bharatiya Nyaya Sanhita Bill, 2023; The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 and The Bharatiya Sakshaya Bill, 2023 are violative of Article 348 of the Constitution and that the clauses of these three Bills need extensive consultation with all the stakeholders such as the State Governments, Judges, Police Authorities, Bar Council of India, State Bar Councils, Advocate Association, Bar Associations, Senior Advocates, Advocates, Women Lawyers' Association, Eminent Jurists, Academicians etc. Furthermore, I had submitted my objections highlighting that we have a golden opportunity in our hands to conduct an effective exercise in bringing changes to our criminal justice delivery system as The Indian Penal Code, 1860, The Code of Criminal Procedure, 1973, The Indian Evidence Act, 1872 were largely untouched before. While examining the above three Bills, it must be considered whether we can amend the existing Bills either by deleting or incorporating new provisions thereby bringing actual reforms to make the criminal justice delivery system more efficient and user friendly instead of thrusting old wine in a new bottle.

However, I am deeply saddened by the fact that *** . There is no specific reason stated so as to justify the non-consideration of the recommendations/suggestions made by the stakeholders.

DAYANIDHI MARAN

Member of Parliament, Lok Sabha
Chennai Central Constituency



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Ph : (044) 2437 1515
E_mail : dmaranoffice@gmail.com

These Bills will further change the federal relationship and structure between the Union and the State. As you are aware, India is a Union of States - states which speak different languages i.e., languages other than Hindi. On the other hand, except for a few words, the body of these Bills is in English, but the title of the Bill is in Hindi which is violative of Article 348. The Article 348 of the Constitution puts a complete embargo on a Bill having any other language in its text other than English. Therefore, the titles of the Bills ought to be changed to their English translation. The usage of a Sanskrit / Hindi title and words in some clauses is imposition of Sanskrit (a language used by less than 10,000 people as per the 2011 census) and Hindi on non-Hindi speaking states. I make it clear that we are not opposed to Hindi, but we are opposed to imposition of Hindi on non-Hindi speaking states. If these bills turn into Act's, the people in non-Hindi speaking states will find difficulty in pronouncing and handling these Acts. At the grass root level they will not be able to understand the texture, character, tenor, and nature of the act if the title remains in Hindi and implementation will be very difficult including filing of FIR's.

Therefore, I humbly request you to change the titles from Sanskrit / Hindi to English translations for The Bharatiya Nyaya Sanhita Bill, 2023; The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 and The Bharatiya Sakshya Bill, 2023 and to consider revising the contents of the bills to bring about the much needed reforms in our laws, instead of the mere superficial attempt of this bill.

Thanking you,

Yours sincerely,

(Dayanidhi Maran)

Member, Parliamentary Standing Committee on Home Affairs

To
Shri. Brij Lal,
The Hon'ble Chairman,
The Department Related Parliamentary Standing Committee on Home Affairs
C-1/9, Pandara Park,
New Delhi - 110 003



सत्यमेव जयते

P. Chidambaram
Member of Parliament (RS)
Former Union Finance Minister

08 November 2023

The Chairman
Standing Committee on Home Affairs
Parliament House
New Delhi

Dear Mr Chairman,

Bills No. 121, 122 and 123 of 2023

I enclose my Note of Dissent to each of the three Bills (total 3 notes).

Kindly acknowledge receipt.

With regards,

Yours sincerely,

P. Chidambaram MP (RS)

✓ copy to:
Joint Secretary
Rajya Sabha Secretariat
Parliament House
New Delhi

DISSENT NOTE SUBMITTED BY P CHIDAMBARAM

At the outset, I wish to register three fundamental objections to the three Bills:

(i) Under Article 348 of the Constitution, all Acts shall be in the English language which is also the language of the Supreme Court and the High Courts. Laws are, and will be, translated into other Indian languages. It is therefore correct that the three Bills, first drafted in English, have been translated into Hindi. In due course, the Bills will be translated into other Indian languages and such translated Bills will be used in the proceeding before the Courts subordinate to the High Courts. The name of the Bill must, therefore, be in English and translated into Hindi and also translated into other Indian languages. To have a *Hindi only* name to the Bill irrespective of the language of the Bill is highly objectionable, unconstitutional, an affront to the non-Hindi speaking people (e.g. Tamils, Gujaratis or Bengalis) and opposed to federalism.

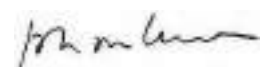
(ii) The three Bills are largely a *copy and paste* of the existing Laws. There was absolutely no need to draft so-called new Bills. All that the Bills have done is to make a few amendments (some acceptable, some not acceptable), re-arrange the sections of the existing Laws, and merge different sections into one section with many sub-sections. This is a wasteful exercise that will have many undesirable consequences. To locate a familiar section - e.g. Section 302 of IPC, punishment for murder - one has to search the Bill and find the equivalent Clause 101. Hundreds of thousands of judges, lawyers, police officers - and even the general public - will be put to enormous trouble and inconvenience without any benefit at all. They will have to "re-learn" the laws which will take years before the new provisions are used extensively. This seems to be an exercise in self-glorification rather than a scholarly exercise to improve the laws.

(iii) *** . Besides, State governments, Bar Associations, State and Central Police organizations, the Indian Police Foundation, the National Law School Universities, judges of the subordinate judiciary who apply the laws every day, eminent retired judges of the Supreme Court and the High Courts, eminent senior advocates and legal scholar were not consulted at the consideration stage by circulating the draft Bills and inviting them to comment. ***. We strongly object to the process followed on the grounds of insufficiency, non- inclusionary, non-scholarly and lack of adequate time for consideration by the Members.

Bill to replace the Code of Criminal Procedure, 1973 (Bill No. 122 of 2023)

Part A

It is the administration of the Criminal Laws that marks a civilized and democratic society. The administration of criminal law in India, especially in the last 10 years,



leaves much to be desired. Firstly, the norm has become arrest first and investigate later. Secondly, keep an accused in jail as long as possible. Thirdly, magistrates think that once police custody is over, they are obliged to send the accused to judicial custody blissfully overlooking the constitutional principle that any custody, if not justified, is a violation of the right to liberty. They also ignore Justice Krishna Iyer's dictum that when an accused is brought before him he should ask whether he should pass an order for police custody or judicial custody or *no custody at all*. Fourthly, the indiscriminate arrests and the mindless denial of bail are the reasons why over two-third of prisoners in jail are undertrials and every prison-reform has failed because of the unmanageable number of prisoners.

2. The Bill is another *copy and paste* job. It is estimated that 95 per cent of the clauses has been *copied and pasted* from the the Code of Criminal Procedure, 1973. The exercise was a wasteful exercise. If it were necessary, the opportunity has been wasted to bring about the desirable changes.

Part B

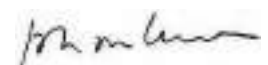
3. Let me list my main objections to the Bill:

(i) The abolition of the rank of Assistant Sessions Judge is wrong. Now, all offences punishable with imprisonment exceeding 3 years (limit of a Judicial Magistrate) and exceeding 7 years (limit of a Chief Judicial Magistrate) must be tried by a Sessions Judge. This will place a heavy burden on Sessions Judges. Besides, the first appeal will lie to the High Court increasing the workload of the High Court. An Assistant Sessions Judge with jurisdiction to impose a sentence not exceeding 10 years would have taken the load of such cases and the first appeal would have been to the Sessions Judge and only a revision to the High Court. The rank of Assistant Sessions Judge should be restored.

(ii) Clause 43(3) is over-broad. Handcuffing should be restricted to cases where the arrested person is known to be violent or is likely to escape custody. In no other case should handcuffing be permissible.

(iii) Clause 187(2) does not reflect the development of the law. It must be provided that a Magistrate must examine and be satisfied about the necessity and legality of the arrest before he remands the accused.

(iv) Clause 187(2) is also retrograde and reflects the wrong assumption that a person arrested must be sent to police custody or judicial custody. The provision of 15 days police custody has to be continuous and normally immediately upon arrest. If police custody is allowed in bits and pieces within a period of 60/90 days, the inevitable tendency will be for Magistrates to order judicial custody for the remaining days of the 60/90 day period, overlooking the fact that the accused is entitled to liberty. It will lead to more persons sent to jail. Hence, I oppose Clause 187(2) and the existing provision in the CrPC must be retained.

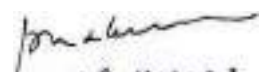


(v) Clauses 230 and 231 are a copy and paste of Sections 207 and 208, CrPC and do not reflect the development of the law. The law today is that both documents produced before the Magistrate and documents seized/obtained by the prosecution but not produced before the Magistrate must be made available for inspection by the accused and, if demanded, copies must be furnished. Similarly, documents relied upon by the prosecution as well as documents not relied upon by the prosecution must be made available for inspection and, if demanded, copies must be furnished. The Clauses may be amended suitably.

(vi) Clause 254 violates the principle of a fair trial in an open Court. The deposition of a police officer (including the investigating officer) is crucial in a criminal trial. He must physically depose before the Court in an open-to-the-public proceeding and must be cross-examined in an open Court by the accused. Anything less would be retrograde. Besides, key witnesses, especially eye-witnesses, must depose physically in an open Court. For reasons to be recording in writing, the Magistrate/Judge may allow deposition of formal witnesses through audio-visual mode. The reason for physical deposition is that the Court must ensure that the witness is not being tutored or prompted or under duress and the Court must be able to observe the demeanour of the witness. I oppose the provision as drafted and suggest amendments on the above lines.

(vii) Clause 336, as drafted, is unacceptable and opposed to the normal rules of evidence as well as the principles of a fair trial. A document "prepared" by a public servant must be proved by that public servant. There should be no difficulty in summoning the author if he had retired or been transferred. It is only in the case of death of the author, the rules of evidence in case of death of the author of a document may be invoked. In particular, an Investigating Officer must always depose and prove the documents prepared by him, e.g. statements recorded by him or mahazars prepared by him. No successor can take the place of an investigating officer. I oppose Clause 336 as drafted and suggest the clause may be amended.

(viii) Clause 482 is retrograde and violates the Constitutional protection of liberty and the principle 'Bail is the rule, jail is the exception'. All provisions of any law that violate these twin principles must be deleted. Every person arrested is entitled to bail. It must be provided in the law that it will be the duty of the prosecution to plead and establish why the accused should not be released on bail and not the other way around. This is especially so when, by using advanced technology, the accused can be placed under restraint without custody and ensure that he appears in the trial. This will also mitigate the perennial problem of overcrowding of jails.


08.11.2023

ANNEXURES

Annexure - I

AS INTRODUCED IN LOK SABHA

Bill No. 122 of 2023

THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.
3. Construction of references.
4. Trial of offences under Bhartiya Nyaya Sanhita and other laws.
5. Saving.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

6. Classes of Criminal Courts.
7. Territorial divisions.
8. Court of Session.
9. Courts of Judicial Magistrates.
10. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.
11. Special Judicial Magistrates.
12. Local jurisdiction of Judicial Magistrates.
13. Subordination of Judicial Magistrates.
14. Executive Magistrates.
15. Special Executive Magistrates.
16. Local Jurisdiction of Executive Magistrates.
17. Subordination of Executive Magistrates.
18. Public Prosecutors.
19. Assistant Public Prosecutors.
20. Directorate of Prosecution.

CHAPTER III

POWER OF COURTS

21. Courts by which offences are triable.
22. Sentences which High Courts and Sessions Judges may pass.
23. Sentences which Magistrates may pass.
24. Sentence of imprisonment in default of fine.

(ii)

CLAUSES

25. Sentence in cases of conviction of several offences at one trial.
26. Mode of conferring powers.
27. Powers of officers appointed.
28. Withdrawal of powers.
29. Powers of Judges and Magistrates exercisable by their successors-in-office.

CHAPTER IV

POWERS OF SUPERIOR OFFICERS OF POLICE AND AID TO THE MAGISTRATES AND THE POLICE

30. Powers of superior officers of police.
31. Public when to assist Magistrates and police.
32. Aid to person, other than police officer, executing warrant.
33. Public to give information of certain offences.
34. Duty of officers employed in connection with the affairs of a village to make certain report.

CHAPTER V

ARREST OF PERSONS

35. When policeman may arrest without warrant.
36. Procedure of arrest and duties of officer making arrest.
37. Designated Police Officer.
38. Right of arrested person to meet an advocate of his choice during interrogation.
39. Arrest on refusal to give name and residence.
40. Arrest by private person and procedure on such arrest.
41. Arrest by Magistrate.
42. Protection of members of the Armed Forces from arrest.
43. Arrest how made.
44. Search of place entered by person sought to be arrested.
45. Pursuit of offenders into other jurisdictions.
46. No unnecessary restraint.
47. Person arrested to be informed of grounds of arrest and of right to bail.
48. Obligation of person making arrest to inform about the arrest, etc., to relative or friend.
49. Search of arrested person.
50. Power to seize offensive weapons.
51. Examination of accused by medical practitioner at the request of police officer.
52. Examination of person accused of rape by medical practitioner.
53. Examination of arrested person by medical officer.
54. Identification of person arrested.
55. Procedure when police officer deposes subordinate to arrest without warrant.
56. Health and safety of arrested person.

(iii)

CLAUSES

57. Person arrested to be taken before Magistrate or officer in charge of police station.
58. Person arrested not to be detained more than twenty-four hours.
59. Police to report apprehensions.
60. Discharge of person apprehended.
61. Power, on escape, to pursue and retake.
62. Arrest to be made strictly according to the Sanhita.

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.—Summons

63. Form of summons.
64. Summons how served.
65. Service of summons on corporate bodies, firms, and societies.
66. Service when persons summoned cannot be found.
67. Procedure when service cannot be effected as before provided.
68. Service on Government servant.
69. Service of summons outside local limits.
70. Proof of service in such cases and when serving officer not present.
71. Service of summons on witness by post.

B.—Warrant of arrest

72. Form of warrant of arrest and duration.
73. Power to direct security to be taken.
74. Warrants to whom directed.
75. Warrant may be directed to any person.
76. Warrant directed to police officer.
77. Notification of substance of warrant.
78. Where warrant may be executed.
79. Where warrant may be executed.
80. Warrant forwarded for execution outside jurisdiction.
81. Warrant directed to police officer for execution outside jurisdiction.
82. Procedure on arrest of person against whom warrant issued.
83. Procedure by Magistrate before whom such person arrested is brought.

C.—Proclamation and attachment

84. Proclamation for person absconding.
85. Attachment of property of person absconding.
86. Identification and attachment of property of proclaimed person.
87. Claims and objections to attachment.
88. Release, sale and restoration of attached property.
89. Appeal from order rejecting application for restoration of attached property.

CLAUSES

D.—*Other rules regarding processes*

90. Issue of warrant in lieu of, or in addition to, summons.
91. Power to take bond for appearance.
92. Arrest on breach of bond for appearance.
93. Provisions of this Chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII

PROCESS TO COMPEL THE PRODUCTION OF THINGS

A.—*Summons to produce*

94. Summons to produce document or other thing.
95. Procedure as to letters and telegrams.

B.—*Search-warrants*

96. When search-warrant may be issued.
97. Search of place suspected to contain stolen property, forged documents, etc.
98. Power to declare certain publications forfeited and to issue search-warrants for the same.
99. Application to High Court to set aside declaration of forfeiture.
100. Search for persons wrongfully confined.
101. Power to compel restoration of abducted females.
102. Direction, etc., of search-warrants.
103. Persons in charge of closed place to allow search.
104. Disposal of things found in search beyond jurisdiction.

C.—*Miscellaneous*

105. Recording of search and seizure through audio-video electronic means.
106. Power of police officer to seize certain property.
107. Attachment, forfeiture or restoration of property.
108. Magistrate may direct search in his presence.
109. Power to impound document, etc., produced.
110. Reciprocal arrangements regarding processes.

CHAPTER VIII

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

111. Definitions.
112. Letter of request to competent authority for investigation in a country or place outside India.
113. Letter of request from a country or place outside India to a Court or an authority for investigation in India.
114. Assistance in securing transfer of persons.
115. Assistance in relation to orders of attachment or forfeiture of property.
116. Identifying unlawfully acquired property.
117. Seizure or attachment of property.

CLAUSES

118. Management of properties seized or forfeited under this Chapter.
119. Notice of forfeiture of property.
120. Forfeiture of property in certain cases.
121. Fine in lieu of forfeiture.
122. Certain transfers to be null and void.
123. Procedure in respect of letter of request.
124. Application of this Chapter.

CHAPTER IX

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

125. Security for keeping the peace on conviction.
126. Security for keeping the peace in other cases.
127. Security for good behaviour from persons disseminating seditious matters.
128. Security for good behaviour from suspected persons.
129. Security for good behaviour from habitual offenders.
130. Order to be made.
131. Procedure in respect of person present in Court.
132. Summons or warrant in case of person not so present.
133. Copy of order to accompany summons or warrant.
134. Power to dispense with personal attendance.
135. Inquiry as to truth of information.
136. Order to give security.
137. Discharge of person informed against.
138. Commencement of period for which security is required.
139. Contents of bond.
140. Power to reject sureties.
141. Imprisonment in default of security.
142. Power to release persons imprisoned for failing to give security.
143. Security for unexpired period of bond.

CHAPTER X

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

144. Order for maintenance of wives, children and parents.
145. Procedure.
146. Alteration in allowance.
147. Enforcement of order of maintenance.

CHAPTER XI

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A.—Unlawful assemblies

148. Dispersal of assembly by use of civil force.
149. Use of armed forces to disperse assembly.

CLAUSES

150. Power of certain armed force officers to disperse assembly.
151. Protection against prosecution for acts done under sections 148, 149 and 150.

B.—*Public nuisances*

152. Conditional order for removal of nuisance.
153. Service or notification of order.
154. Person to whom order is addressed to obey or show cause.
155. Consequences of his failing to do so.
156. Procedure where existence of public right is denied.
157. Procedure where he appears to show cause.
158. Power of Magistrate to direct local investigation and examination of an expert.
159. Power of Magistrate to furnish written instructions, etc.
160. Procedure on order being made absolute and consequences of disobedience.
161. Injunction pending inquiry.
162. Magistrate may prohibit repetition or continuance of public nuisance.

C.—*Urgent cases of nuisance or apprehended danger*

163. Power to issue order in urgent cases of nuisance or apprehended danger.

D.—*Disputes as to immovable property*

164. Procedure where dispute concerning land or water is likely to cause breach of peace.
165. Power to attach subject of dispute and to appoint receiver.
166. Dispute concerning right of use of land or water.
167. Local inquiry.

CHAPTER XII

PREVENTIVE ACTION OF THE POLICE

168. Police to prevent cognizable offences.
169. Information of design to commit cognizable offences.
170. Arrest to prevent the commission of cognizable offences.
171. Prevention of injury to public property.
172. Persons bound to conform to lawful directions of police.

CHAPTER XIII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

173. Information in cognizable cases.
174. Information as to non-cognizable cases and investigation of such cases.
175. Police officer's power to investigate cognizable case.
176. Procedure for investigation.
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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

Bill No. 122 of 2023

THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

A

BILL

to consolidate and amend the law relating to Criminal Procedure.

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

CHAPTER I

PRELIMINARY

- 5 **1.** (1) This Act may be called the Bharatiya Nagarik Suraksha Sanhita, 2023. Short title,
extent and
commencement.
- (2) The provisions of this Sanhita, other than those relating to Chapters IX, XI and XII thereof, shall not apply—
- (a) to the State of Nagaland;
- (b) to the tribal areas,
- 10 but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications, as may be specified in the notification.

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

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

Definitions.

2. (1) In this Sanhita, unless the context otherwise requires,—

(a) "audio-video electronic" means shall include use of any communication device for the purposes of video conferencing, recording of processes of identification, search and seizure or evidence, transmission of electronic communication and for such other purposes and by such other means as the State Government may, by rules provide;" 10

(b) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence; 15

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

(d) "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant; 20

(e) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Sanhita, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant; 25

(f) "electronic communication" means the communication of any written, verbal, pictorial information or video content transmitted (whether from one person to another, from one device to another or from a person to a device or from a device to a person) by means of an electronic device including but not limited to—a telephone, a mobile or cellular phone, or other wireless telecommunication device, or a computer, or audio-video players and cameras or any other electronic device or electronic form as may be specified by notification, by the Central Government. 30

(g) "High Court" means,— 35

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India; 40

(h) "India" means the territories to which this Sanhita extends;

(i) "inquiry" means every inquiry, other than a trial, conducted under this Sanhita by a Magistrate or Court;

(j) "investigation" includes all the proceedings under this Sanhita for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf. 45

Explanation.—Where any of the provisions of a special Act are inconsistent with the provisions of this Sanhita, the provisions of the special Act shall prevail.

(k) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;

(l) "local jurisdiction", in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Sanhita and such local area may comprise the whole of the State, or any part of the State, as the State Government may, by notification, specify;

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

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

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

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

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

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

(s) "police report" means a report forwarded by a police officer to a Magistrate under sub-section (I) of section 176;

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

(u) "Public Prosecutor" means any person appointed under section 18, and includes any person acting under the directions of a Public Prosecutor;

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

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

(x) "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and includes the guardian or legal heir of such victim;

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

(2) Words and expressions used herein and not defined but defined in the Bharatiya Nyaya Sanhita, 2023 and Information Technology Act, 2000 have the meanings respectively assigned to them in that Act and Sanhita;

3. (1) Unless the context otherwise requires, any reference in any existing law, to a Magistrate, Magistrate of the first class or a Magistrate of the second class shall, in relation to any area, be construed as a reference to a Judicial Magistrate of the first class or Judicial Magistrate of the second class, as the case may be, exercising jurisdiction in such area.

Construction of references.

(2) Where, under any law, other than this Sanhita, the functions exercisable by a Magistrate relate to matters,—

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

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

Trial of offences under Bharatiya Nyaya Sanhita and other laws.

4. (1) All offences under the Bharatiya Nyaya Sanhita, 2023 shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

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

Saving.

5. Nothing contained in this Sanhita shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

Classes of Criminal Courts.

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

(i) Courts of Session;

(ii) Judicial Magistrates of the first class;

(iii) Judicial Magistrates of the second class; and

(iv) Executive Magistrates.

Territorial divisions.

7. (1) Every State shall be a sessions division or shall consist of sessions divisions; and every sessions divisions shall, for the purposes of this Sanhita, be a district or consist of districts.

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

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

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

Court of Session.

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

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

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

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

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

10 (6) The Court of Session shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination
15 of any witness or witnesses therein.

(7) The Sessions Judge may, from time to time, make orders consistent with this Sanhita, as to the distribution of business among such Additional Sessions Judges.

(8) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional Sessions Judge
20 or if there be no Additional Sessions Judge, by the Chief Judicial Magistrate, and such Judge or Magistrate shall be deemed to have jurisdiction to deal with any such application.

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

9. (1) In every district there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the High Court, by notification, specify:

Courts of
Judicial
Magistrates.

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

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

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

40 **10.** (1) In every district, the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate.

Chief Judicial
Magistrate and
Additional
Chief Judicial
Magistrate,
etc.

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

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

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

Special Judicial Magistrates.

11. (1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Sanhita on a Judicial Magistrate of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area:

5

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

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

10

Local jurisdiction of Judicial Magistrates.

12. (1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 9 or under section 11 may exercise all or any of the powers with which they may respectively be invested under this Sanhita:

15

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

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

(3) Where the local jurisdiction of a Magistrate appointed under section 9 or section 11 extends to an area beyond the district in which he ordinarily holds Court, any reference in this Sanhita to the Court of Session or Chief Judicial Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session or Chief Judicial Magistrate, as the case may be, exercising jurisdiction in relation to the said district.

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Subordination of Judicial Magistrates.

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

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

30

Executive Magistrates.

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

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

35

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

40

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

45

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

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

15 **15.** The State Government may appoint, for such term as it may think fit, Executive Magistrates or any police officer not below the rank of Superintendent of Police or equivalent, to be known as Special Executive Magistrates, for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Sanhita on Executive Magistrates, as it may deem fit. Special Executive Magistrates.

10 **16.** (1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Sanhita. Local Jurisdiction of Executive Magistrates.

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

15 **17.** (1) All Executive Magistrates shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate. Subordination of Executive Magistrates.

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

25 **18.** (1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or the State Government, as the case may be: Public Prosecutors.

Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.

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

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

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

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

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

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

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

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

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post; 5

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

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years. 10

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

Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section. 15

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as a pleader, or has rendered (whether before or after the commencement of this Sanhita) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate. 20

Assistant
Public
Prosecutors.

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

(2) The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case in the Courts of Magistrates. 25

(3) Without prejudice to provisions contained in sub-sections (1) and (2), where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case after giving notice of fourteen days to the State Government: 30

Provided that no police officer shall be eligible to be appointed as an Assistant Public Prosecutor, if he—

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

(b) is below the rank of Inspector. 35

Directorate of
Prosecution.

20. (1) The State Government may establish,—

(a) a Directorate of Prosecution in the State consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it think fit; and

(b) District Directorate of Prosecution in every district consisting of as many Deputy Directors and Assistant Directors of Prosecution, as it thinks fit. 40

(2) A person shall be eligible to be appointed,—

(a) as a Director of Prosecution or a Deputy Director of Prosecution, if he has been in practice as an advocate for not less than fifteen years or is or has been a Sessions Judge;

(b) as an Assistant Director of Prosecution if he has been in practice as an advocate for not less than seven years or has been a Magistrate of the first class. 45

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

(4) Every Deputy Director of Prosecution or Assistant Director of Prosecution shall be subordinate to the Director of Prosecution; and every Assistant Director of Prosecution shall be subordinate to the Deputy Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or sub-section (8), of section 18 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3), or as the case may be, sub-section (8), of section 18 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 19 shall be subordinate to the Deputy Director of Prosecution or the Assistant Director of Prosecution.

(7) The powers and functions of the Director of Prosecution shall be to monitor cases in which offences are punishable for ten years or more, or with life imprisonment, or with death; to expedite the proceedings and to give opinion on filing of appeals.

(8) The powers and functions of the Deputy Director of Prosecution shall be to examine and scrutinise police report and monitor the cases in which offences are punishable for seven years or more, but less than ten years, for ensuring their expeditious disposal.

(9) The functions of the Assistant Director of Prosecution shall be to monitor cases in which offences are punishable for less than seven years.

(10) Notwithstanding anything contained in sub-sections (7), (8) and (9), the Director, Deputy Director or Assistant Director of Prosecution shall have the power to deal with and be responsible for all proceedings under this Sanhita.

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

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

CHAPTER III

POWER OF COURTS

21. Subject to the other provisions of this Sanhita,—

(a) any offence under the Bharatiya Nyaya Sanhita, 2023 may be tried by—

(i) the High Court; or

(ii) the Court of Session; or

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

Provided that any offence under section 63, section 64, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 shall be tried as far as practicable by a Court presided over by a woman.

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

(i) the High Court; or

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

Courts by which offences are triable.

Sentences which High Courts and Sessions Judges may pass.	<p>22. (1) A High Court may pass any sentence authorised by law.</p> <p>(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.</p>	
Sentences which Magistrates may pass.	<p>23. (1) The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.</p> <p>(2) The Court of a Judicial Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding fifty thousand rupees, or of both.</p> <p>(3) The Court of Judicial Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding ten thousand rupees, or of both.</p>	5 10
Sentence of imprisonment in default of fine.	<p>24. (1) The Court of a Judicial Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:</p> <p>Provided that the term—</p> <p>(a) is not in excess of the powers of the Judicial Magistrate under section 23;</p> <p>(b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.</p> <p>(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 23.</p>	15 20
Sentence in cases of conviction of several offences at one trial.	<p>25. (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 9 of the Bharatiya Nyaya Sanhita, 2023, sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict and the court shall, considering the gravity of offences, order such punishments to run concurrently or consecutively.</p> <p>(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:</p> <p>Provided that—</p> <p>(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;</p> <p>(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.</p> <p>(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.</p>	25 30 35
Mode of conferring powers.	<p>26. (1) In conferring powers under this Sanhita, the High Court or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally be their official titles.</p> <p>(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.</p>	40
Powers of officers appointed.	<p>27. Whenever any person holding an office in the service of Government who has been invested by the High Court or the State Government with any powers under this Sanhita throughout any local area is appointed to an equal or higher office of the same</p>	45

nature, within a like local area under the same State Government, he shall, unless the High Court or the State Government, as the case may be, otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

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

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

29. (1) Subject to the other provisions of this Sanhita, the powers and duties of a
10 Judge or Magistrate may be exercised or performed by his successor-in-office. Powers of Judges and Magistrates exercisable by their successors-in-office.

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

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

CHAPTER IV

POWERS OF SUPERIOR OFFICERS OF POLICE AND AID TO THE MAGISTRATES AND THE POLICE

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

31. Every person is bound to assist a Magistrate or police officer reasonably demanding
his aid— Public when to assist Magistrates and police.

25 (a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or

(b) in the prevention or suppression of a breach of the peace; or

(c) in the prevention of any injury attempted to be committed to any public property.

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

35 33. (1) Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely:— Public to give information of certain offences.

(i) sections 145 to 152 and section 156;

(ii) sections 187 and 189;

(iii) sections 272 to 278;

(iv) sections 101, 102 and 103;

40 (v) section 138;

(vi) section 305;

(vii) sections 307 to 311;

(viii) section 314;

- (ix) sections 322 to 326;
- (x) section 330;
- (xi) section 329; and
- (xii) sections 176 to 180,

shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention. 5

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

Duty of officers employed in connection with the affairs of a village to make certain report.

34. (1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting— 10

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village; 15

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

(c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 187 and section 189 of Bharatiya Nyaya Sanhita, 2023; 20

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person; 25

(e) the commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, 176, 177 and 179 (both inclusive), 101, 103, 305, 307 to 311 (both inclusive), 330, 176, 177, 178 and 179; 30

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the State Government, has directed him to communicate information. 35

(2) In this section,—

(i) "village" includes village-lands;

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority in any territory in India to which this Sanhita does not extend, in respect of any act which if committed in the territories to which this Sanhita extends, would be an offence punishable under any of the offence punishable with imprisonment for ten years or more or for imprisonment of life or with death under Bharatiya Nyaya Sanhita, 2023; 40

(iii) the words "officer employed in connection with the affairs of the village" means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village. 45

CHAPTER V

ARREST OF PERSONS

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

When police may arrest without warrant.

- 5 (a) who commits, in the presence of a police officer, a cognizable offence;
- (b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following
- 10 conditions are satisfied, namely:—
- (i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;
- (ii) the police officer is satisfied that such arrest is necessary—
- (a) to prevent such person from committing any further offence; or
- 15 (b) for proper investigation of the offence; or
- (c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or
- (d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to
- 20 dissuade him from disclosing such facts to the Court or to the police officer; or
- (e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,
- and the police officer shall record while making such arrest, his reasons in
- 25 writing:
- Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest;
- 30 (c) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;
- 35 (d) who has been proclaimed as an offender either under this Sanhita or by order of the State Government; or
- (e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or
- 40 (f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or
- (g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or
- 45 (h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for

which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 394; or

(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition. 5

(2) Subject to the provisions of section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate. 10

(3) The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice. 15

(4) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice. 20

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

(6) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice. 25

(7) No arrest shall be made without prior permission of the officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for less than three years and such person is infirm or is above sixty years of age. 30

Procedure of arrest and duties of officer making arrest.

36. Every police officer while making an arrest shall—

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be—

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made; 35

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend or any other person named by him to be informed of his arrest. 40

Designated Police Officer.

37. The State Government shall—

(a) establish a Police control room in every district and at State level;

(b) designate a police officer in every district and in every police station, not below the rank of Assistant Sub-Inspector of Police who shall be responsible for maintaining the information about the names and addresses of the persons arrested, nature of the offence with which charged, which shall be prominently displayed in any manner including in digital mode in every police station and at the district headquarters. 45

38. When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

Right of arrested person to meet an advocate of his choice during interrogation.

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

Arrest on refusal to give name and residence.

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

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

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

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

Arrest by private person and procedure on such arrest.

(2) If there is reason to believe that such person comes under the provisions of section 35, a police officer shall take him in custody.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 39; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

41. (1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Arrest by Magistrate.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

42. (1) Notwithstanding anything contained in sections 39 to 41 (both inclusive), no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.

Protection of members of the Armed Forces from arrest.

(2) The State Government may, by notification, direct that the provisions of sub-section (1) shall apply to such class or category of the members of the Force charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

Arrest how
made.

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

Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest, and give the information regarding such arrest and place where she is being held to any of her relatives, friends or such other persons as may be disclosed or mentioned by her for the purpose of giving such information.

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

(3) The police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who escaped from custody, who has committed offence of organised crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children, offences against the State, including acts endangering sovereignty, unity and integrity of India or economic offences.

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

(5) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.

Search of place
entered by
person sought
to be arrested.

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

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

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

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

<p>45. A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.</p>	<p>Pursuit of offenders into other jurisdictions.</p>
<p>46. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.</p>	<p>No unnecessary restraint.</p>
<p>5 47. (1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.</p>	<p>Person arrested to be informed of grounds of arrest and of right to bail.</p>
<p>10 (2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.</p>	
<p>15 48. (1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or mentioned by the arrested person for the purpose of giving such information and also to the designated police officer in the district.</p>	<p>Obligation of person making arrest to inform about the arrest, etc., to relative or friend.</p>
<p> (2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.</p>	
<p>20 (3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.</p>	
<p> (4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.</p>	
<p>25 49. (1) Whenever,—</p>	<p>Search of arrested person.</p>
<p> (i) a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and</p>	
<p> (ii) a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,</p>	
<p>30 the officer making the arrest or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.</p>	
<p>35 (2) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.</p>	
<p>40 50. The police officer or other person making any arrest under this Sanhita may, immediately after the arrest is made, take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Sanhita to produce the person arrested.</p>	<p>Power to seize offensive weapons.</p>
<p>45 51. (1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of any police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably</p>	<p>Examination of accused by medical practitioner at the request of police officer.</p>

necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of, a female registered medical practitioner. 5

(3) The registered medical practitioner shall, without any delay, forward the examination report to the investigating officer.

Explanation.—In this section and in sections 52 and 53,—

(a) "examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case; 10

(b) "registered medical practitioner" means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 and whose name has been entered in the National Medical Register or a State Medical Register under that Act. 15 30 of 2019.

Examination of person accused of rape by medical practitioner.

52. (1) When a person is arrested on a charge of committing an offence of rape or an attempt to commit rape and there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner within the radius of sixteen kilometers from the place where the offence has been committed, by any other registered medical practitioner, acting at the request of any police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose. 20 25

(2) The registered medical practitioner conducting such examination shall, without delay, examine such person and prepare a report of his examination giving the following particulars, namely:—

(i) the name and address of the accused and of the person by whom he was brought; 30

(ii) the age of the accused;

(iii) marks of injury, if any, on the person of the accused;

(iv) the description of material taken from the person of the accused for DNA profiling; and 35

(v) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The exact time of commencement and completion of the examination shall also be noted in the report.

(5) The registered medical practitioner shall, without delay, forward the report to the investigating officer, who shall forward it to the Magistrate referred to in section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section. 40

Examination of arrested person by medical officer.

53. (1) When any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made: 45

Provided that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner:

5 Provided further that if the registered medical practitioner is of the opinion that one more examination of such person is necessary, she may do so.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

10 (3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.

15 **54.** Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit:

Identification of person arrested.

20 Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with and the identification process shall be recorded by any audio-video electronic means.

25 **55.** (1) When any officer in charge of a police station or any police officer making an investigation under Chapter XIII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him
30 the order.

Procedure when police officer deposes subordinate to arrest without warrant.

(2) Nothing in sub-section (1) shall affect the power of a police officer to arrest a person under section 35.

56. It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.

Health and safety of arrested person.

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

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

40 **58.** No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not.

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

45 **59.** Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Police to report apprehensions.

Discharge of person apprehended.	60. No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.	
Power, on escape, to pursue and retake.	61. (1) If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.	5
	(2) The provisions of section 44 shall apply to arrests under sub-section (1) although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.	
Arrest to be made strictly according to Sanhita.	62. No arrest shall be made except in accordance with the provisions of this Sanhita or any other law for the time being in force providing for arrest.	10

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.—*Summons*

Form of summons.	63. Every summons issued by a Court under this Sanhita shall be,—	
	(i) in writing, in duplicate, signed by the presiding officer of such Court or by such other officer as the High Court may, from time to time, by rule direct, and shall bear the seal of the Court; or	15
	(ii) in an encrypted or any other form of electronic communication and shall bear the image of the seal of the Court.	
Summons how served.	64. (1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by an officer of the Court issuing it or other public servant:	20
	Provided that the police station or the registrar in the Court shall maintain a register to enter the address, email address, phone number and such other details as State Government may, by rules, provide.	25
	(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons:	
	Provided that summons bearing the image of Court's seal may also be served by electronic communication in such form and in such manner, as the State Government may, by rules, provide.	30
	(3) Every person on whom a summons is so served personally shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.	
Service of summons on corporate bodies, firms, and societies.	65. (1) Service of a summons on a company or corporation may be effected by serving it on the Director, Manager, Secretary or other officer of the company or corporation, or by letter sent by registered post addressed to the Director, Manager, Secretary or other officer of the company or corporation in India, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.	35
	<i>Explanation.</i> —In this section, "company" means a body corporate and "corporation" means an incorporated company or other body corporate or a society registered under the Societies Registration Act, 1860.	40
	(2) Service of a summons on a firm or other association of individuals may be effected by serving it on any partner of such firm or association, or by letter sent by registered post addressed to such partner, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.	21 of 1860.

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

Service when persons summoned cannot be found.

Explanation.—A servant is not a member of the family within the meaning of this section.

10 **67.** If service cannot by the exercise of due diligence be effected as provided in section 64, section 65 or section 66, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

Procedure when service cannot be effected as before provided.

15 **68.** (1) Where the person summoned is in the active service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the manner provided by section 64, and shall return it to the Court under his signature with the endorsement required by that section.

Service on Government servant.

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

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

Service of summons outside local limits.

25 **70.** (1) When a summons issued by a Court is served outside its local jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in the manner provided by section 64 or section 66) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

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

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

35 (3) All summons served through electronic communication under sections 64 to 71 shall be considered as duly served and a copy of such electronic summons shall be attested and kept as a proof of service of summons.

40 **71.** (1) Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by electronic communication or by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain:

Service of summons on witness by post.

45 (2) When an acknowledgement purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received or on the proof of delivery of summons under sub-section (3) of section 70 by electronic communication to the satisfaction of the Court, the Court issuing summons may deem that the summons had been duly served.

B.—Warrant of arrest

72. (1) Every warrant of arrest issued by a Court under this Sanhita shall be in writing, signed by the presiding officer of such Court and shall bear the seal of the Court.

Form of warrant of arrest and duration.

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

Power to direct security to be taken.

73. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody. 5

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; 10

(c) the time at which he is to attend before the Court.

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

Warrants to whom directed.

74. (1) A warrant of arrest shall ordinarily be directed to one or more police officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same. 15

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them. 20

Warrant may be directed to any person.

75. (1) The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest.

(2) Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge. 25

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 73. 30

Warrant directed to police officer.

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

Notification of substance of warrant.

77. The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant. 35

Person arrested to be brought before Court without delay.

78. The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 73 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person:

Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court. 40

Where warrant may be executed.

79. A warrant of arrest may be executed at any place in India.

5 **80.** (1) When a warrant is to be executed outside the local jurisdiction of the Court issuing it, such Court may, instead of directing the warrant to a police officer within its jurisdiction, forward it by post or otherwise to any Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction it is to be executed; and the Executive Magistrate or District Superintendent or Commissioner shall endorse his name thereon, and if practicable, cause it to be executed in the manner hereinbefore provided.

Warrant forwarded for execution outside jurisdiction.

10 (2) The Court issuing a warrant under sub-section (1) shall forward, along with the warrant, the substance of the information against the person to be arrested together with such documents, if any, as may be sufficient to enable the Court acting under section 83 to decide whether bail should or should not be granted to the person.

15 **81.** (1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

Warrant directed to police officer for execution outside jurisdiction.

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

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

25 **82.** (1) When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within thirty kilometers of the place of arrest or is nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 73, be taken before such Magistrate or District Superintendent or Commissioner.

Procedure on arrest of person against whom warrant issued.

(2) On the arrest of any person referred to in sub-section (1), the police officer shall forthwith give the information regarding such arrest and the place where the arrested person is being held to the designated police officer in the district and to such officer of another district where the arrested person normally resides.

35 **83.** (1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Procedure by Magistrate before whom such person arrested is brought.

40 Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 73 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond, to the Court which issued the warrant:

45 Provided further that if the offence is a non-bailable one, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 493), or the Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 80, to release such person on bail.

(2) Nothing in this section shall be deemed to prevent a police officer from taking security under section 73.

C.—Proclamation and attachment

Proclamation
for person
absconding.

84. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation. 5

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

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; 10

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides. 15

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day. 20

(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence which is made punishable with imprisonment of ten years or more, or imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force, and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect. 25

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1). 30

Attachment
of property of
person
absconding.

85. (1) The Court issuing a proclamation under section 84 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person:

Provided that where at the time of the issue of the proclamation the Court is satisfied, by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued,— 35

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the local jurisdiction of the Court,

it may order the attachment of property simultaneously with the issue of the proclamation. 40

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made— 45

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

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

(a) by taking possession; or

(b) by the appointment of a receiver; or

10 (c) by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case 15 the proceeds of the sale shall abide the order of the Court.

5 of 1908. (6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908.

20 **86.** The Court may, on the written request from a police officer not below the rank of the Superintendent of Police or Commissioner of Police, initiate the process of requesting assistance from a Court or an authority in the contracting State for identification, attachment and forfeiture of property belonging to a proclaimed person in accordance with the procedure provided in Chapter VIII.

Identification and attachment of property of proclaimed person.

25 **87.** (1) If any claim is preferred to, or objection made to the attachment of, any property attached under section 85, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under section 85, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Claims and objections to attachment.

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

35 (2) Claims or objections under sub-section (1) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed under sub-section (2) of section 85, in the Court of the Chief Judicial Magistrate of the district in which the attachment is made.

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

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.

40 (4) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (1) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

45 **88.** (1) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

Release, sale and restoration of attached property.

(2) If the proclaimed person does not appear within the time specified in the proclamation, the property under the attachment shall be at the disposal of the State

Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under section 87 has been disposed of under that section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner; in either of which cases the Court may cause it to be sold whenever it thinks fit.

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(3) If, within two years from the date of the attachment, any person whose property is or has been at the disposal of the State Government, under sub-section (2), appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

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Appeal from order rejecting application for restoration of attached property.

89. Any person referred to in sub-section (3) of section 88, who is aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first-mentioned Court.

D.—Other rules regarding processes

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

90. A Court may, in any case in which it is empowered by this Sanhita to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest—

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(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

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(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

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

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Arrest on breach of bond for appearance.

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

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

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

CHAPTER VII

40

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A.—Summons to produce

Summons to produce document or other thing.

94. (1) Whenever any Court or any officer in charge of a police station considers that the production of any document, electronic communication, including communication devices which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita

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by or before such Court or officer, such Court or officer may, by a written order, either in physical form or in electronic form, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order.

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

(3) Nothing in this section shall be deemed—

13 of 1891. 10 (a) to affect sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891; or

(b) to apply to a letter, postcard, or other document or any parcel or thing in the custody of the postal authority.

15 **95.** (1) If any document, parcel or thing in the custody of a postal authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Sanhita, such Magistrate or Court may require the postal authority to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

Procedure as to letters and telegrams.

20 (2) If any such document, parcel or thing is, in the opinion of any other Magistrate, whether Executive or Judicial, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal authority to cause search to be made for and to detain such document, parcel or thing pending the order of a District Magistrate, Chief Judicial Magistrate or Court under sub-section (1).

B.—Search-warrants

25 **96.** (1) (a) Where any Court has reason to believe that a person to whom a summons order under section 94 or a requisition under sub-section (1) of section 95 has been, or might be, addressed, will not or would not produce the document or thing as required by such summons or requisition; or

When search-warrant may be issued.

(b) where such document or thing is not known to the Court to be in the possession of any person; or

30 (c) where the Court considers that the purposes of any inquiry, trial or other proceeding under this Sanhita will be served by a general search or inspection, it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

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

(3) Nothing contained in this section shall authorise any Magistrate other than a District Magistrate or Chief Judicial Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the postal or telegraph authority.

40 **97.** (1) If a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable—

Search of place suspected to contain stolen property, forged documents, etc.

(a) to enter, with such assistance as may be required, such place;

(b) to search the same in the manner specified in the warrant;

(c) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies;

(d) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety; 5

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable article to which this section applies. 10

(2) The objectionable articles to which this section applies are—

(a) counterfeit coin;

(b) pieces of metal made in contravention of the Coinage Act, 2011, or brought into India in contravention of any notification for the time being in force issued under section 11 of the Customs Act, 1962; 11 of 2011. 15 52 of 1962.

(c) counterfeit currency note; counterfeit stamps;

(d) forged documents;

(e) false seals;

(f) obscene objects referred to in section 292 of the Bharatiya Nyaya Sanhita, 2023; 20

(g) instruments or materials used for the production of any of the articles mentioned in clauses (a) to (f).

98. (1) Where—

(a) any newspaper, or book; or 25

(b) any document,

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

wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 150 or section 194 or section 195 or section 292 or section 293 or section 297 of the Bharatiya Nyaya Sanhita, 2023, the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue, or any such book or other document may be or may be reasonably suspected to be. 30 35

(2) In this section and in section 99,—

(a) "newspaper" and "book" have the same meaning as in the Press and Registration of Books Act, 1867; 25 of 1867.

(b) "document" includes any painting, drawing or photograph, or other visible representation. 40

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of section 99.

Application to High Court to set aside declaration of forfeiture.

99. (1) Any person having any interest in any newspaper, book or other document, in respect of which a declaration of forfeiture has been made under section 98, may, within two months from the date of publication in the Official Gazette of such declaration, apply to the High Court to set aside such declaration on the ground that the issue of the newspaper, or 45

the book or other document, in respect of which the declaration was made, did not contain any such matter as is referred to in sub-section (1) of section 98.

(2) Every such application shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of that High Court.

(3) On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the declaration of forfeiture was made.

(4) The High Court shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained any such matter as is referred to in sub-section (1) of section 98, set aside the declaration of forfeiture.

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

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

Search for persons wrongfully confined.

101. Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Power to compel restoration of abducted females.

102. The provisions of sections 32, 72, 74, 76, 79, 80 and 81 shall, so far as may be, apply to all search-warrants issued under section 96, section 97, section 98 or section 100.

Direction, etc., of search-warrants.

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

Persons in charge of closed place to allow search.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of section 44.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.

(4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be

prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(6) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person. 5

(7) When any person is searched under sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person.

(8) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 220 of the Bharatiya Nyaya Sanhita, 2023. 10

Disposal of things found in search beyond jurisdiction.

104. When, in the execution of a search-warrant at any place beyond the local jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court. 15 20

C.—Miscellaneous

Recording of search and seizure through audio-video electronic means.

105. The process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably cell phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class. 25

Power of police officer to seize certain property.

106. (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. 30

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same: 35 40

Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 505 and 506 shall, as nearly as may be practicable, apply to the net proceeds of such sale. 45

Attachment, forfeiture or restoration of property.

107. (1) Where a police officer making an investigation has reason to believe that any property is derived or obtained, directly or indirectly, as a result of a criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or Commissioner of Police, make an application to the Court or the Judicial Magistrate exercising 50

jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property.

5 (2) If the Court or the Judicial Magistrate has reasons to believe, whether before or after taking evidence, that all or any of such properties are proceeds of crime, the Court or the Magistrate may issue a notice upon such person calling upon him to show cause within a period of fourteen days as to why an order of attachment shall not be made.

(3) Where the notice issued to any person under sub-section (2) specifies any property as being held by any other person on behalf of such person, a copy of the notice shall also be served upon such other person.

10 (4) The Court or the Judicial Magistrate may, after considering the explanation, if any, to the show-cause notice issued under sub-section (2) and the material fact available before such Court or Magistrate and after giving a reasonable opportunity of being heard to such person or persons, may pass an order of attachment, in respect of those properties which are found to be the proceeds of crime:

15 Provided that if such person does not appear before the Court or the Magistrate or represent his case before the Court or Judicial Magistrate within a period of fourteen days specified in the show-cause notice, the Court or the Judicial Magistrate may proceed to pass the *ex-parte* order.

20 (5) Notwithstanding anything contained in sub-section (2), if the Court or the Judicial Magistrate is of the opinion that issuance of notice under the said sub-section would defeat the object of attachment or seizure, the Court or Judicial Magistrate may by an interim order passed *ex-parte* direct attachment or seizure of such property, and such order shall remain in force till an order under sub-section (6) is passed.

25 (6) If the Court or the Judicial Magistrate finds the attached or seized properties to be the proceeds of crime, the Court or the Judicial Magistrate shall by order direct the District Magistrate to rateably distribute such proceeds of crime to the persons who are affected by such crime.

30 (7) On receipt of an order passed under sub-section (6), the District Magistrate shall, within a period of sixty days distribute the proceeds of crime either by himself or authorise any officer subordinate to him to effect such distribution.

(8) If there are no claimants to receive such proceeds or no claimant is ascertainable or there is any surplus after satisfying the claimants, such proceeds of crime shall stand forfeited to the Government.

35 *Explanation.*—For the purposes of this section, the word “property” and the expression “proceeds of crime” shall have the meaning assigned to them in clause (d) of section 111.

108. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

Magistrate may direct search in his presence.

40 **109.** Any Court may, if it thinks fit, impound any document or thing produced before it under this Sanhita.

Power to impound document, etc., produced.

110. (1) Where a Court in the territories to which this Sanhita extends (hereafter in this section referred to as the said territories) desires that—

Reciprocal arrangements regarding processes.

(a) a summons to an accused person; or

(b) a warrant for the arrest of an accused person; or

45 (c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it; or

(d) a search-warrant,

issued by it shall be served or executed at any place,—

(i) within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 70 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories; 5

(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and send to such authority for transmission, as the Central Government may, by notification, specify in this behalf. 10 15

(2) Where a Court in the said territories has received for service or execution—

(a) a summons to an accused person; or

(b) a warrant for the arrest of an accused person; or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it; or 20

(d) a search-warrant,

issued by—

(I) a Court in any State or area in India outside the said territories;

(II) a Court, Judge or Magistrate in a contracting State,

it shall cause the same to be served or executed as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where— 25

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure specified by sections 82 and 83;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure specified by section 104; 30

Provided that in a case where a summons or search-warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search-warrant through such authority as the Central Government may, by notification, specify in this behalf. 35

CHAPTER VIII

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

Definitions. **111.** In this Chapter, unless the context otherwise requires,— 40

(a) "contracting State" means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;

(b) "identifying" includes establishment of a proof that the property was derived from, or used in, the commission of an offence; 45

(c) "proceeds of crime" means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property;

5 (d) "property" means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds of crime;

(e) "tracing" means determining the nature, source, disposition, movement, title or ownership of property.

10 **112. (1)** If, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court or an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and
15 circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

Letter of request to competent authority for investigation in a country or place outside India.

20 (2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

25 **113. (1)** Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit—

Letter of request from a country or place outside India to a Court or an authority for investigation in India.

30 (i) forward the same to the Chief Judicial Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced; or

(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner,

as if the offence had been committed within India.

35 (2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the Court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.

40 **114. (1)** Where a Court in India, in relation to a criminal matter, desires that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall send such warrant in duplicate in such form to such Court, Judge or Magistrate through such authority, as the Central Government may, by notification, specify in this behalf and that Court, Judge or Magistrate, as the case may be, shall cause the same to be executed.

Assistance in securing transfer of persons.

45 (2) If, in the course of an investigation or any inquiry into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that the attendance of a person who is in any place in a contracting State is required in connection with such investigation or inquiry and the Court is satisfied that such attendance is so required, it shall issue a summons or warrant, in duplicate, against the said

person to such Court, Judge or Magistrate, in such form as the Central Government may, by notification, specify in this behalf, to cause the same to be served or executed.

(3) Where a Court in India, in relation to a criminal matter, has received a warrant for arrest of any person requiring him to attend or attend and produce a document or other thing in that Court or before any other investigating agency, issued by a Court, Judge or Magistrate in a contracting State, the same shall be executed as if it is the warrant received by it from another Court in India for execution within its local limits. 5

(4) Where a person transferred to a contracting State pursuant to sub-section (3) is a prisoner in India, the Court in India or the Central Government may impose such conditions as that Court or Government deems fit. 10

(5) Where the person transferred to India pursuant to sub-section (1) or sub-section (2) is a prisoner in a contracting State, the Court in India shall ensure that the conditions subject to which the prisoner is transferred to India are complied with and such prisoner shall be kept in such custody subject to such conditions as the Central Government may direct in writing. 15

Assistance in relation to orders of attachment or forfeiture of property.

115. (1) Where a Court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property, as it may deem fit under the provisions of sections 116 to 122 (both inclusive).

(2) Where the Court has made an order for attachment or forfeiture of any property under sub-section (1), and such property is suspected to be in a contracting State, the Court may issue a letter of request to a Court or an authority in the contracting State for execution of such order. 20

(3) Where a letter of request is received by the Central Government from a Court or an authority in a contracting State requesting attachment or forfeiture of the property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence committed in that contracting State, the Central Government may forward such letter of request to the Court, as it thinks fit, for execution in accordance with the provisions of sections 116 to 122 (both inclusive) or, as the case may be, any other law for the time being in force. 25 30

Identifying unlawfully acquired property.

116. (1) The Court shall, under sub-section (1), or on receipt of a letter of request under sub-section (3) of section 115, direct any police officer not below the rank of Sub-Inspector of Police to take all steps necessary for tracing and identifying such property.

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institutions or any other relevant matters. 35

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in sub-section (1) in accordance with such directions issued by the said Court in this behalf.

Seizure or attachment of property.

117. (1) Where any officer conducting an inquiry or investigation under section 116 has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned. 40 45

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the said Court, within a period of thirty days of its being made.

118. (1) The Court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an Administrator of such property.

Management of properties seized or forfeited under this Chapter.

5 (2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which the order has been made under sub-section (1) of section 117 or under section 120 in such manner and subject to such conditions as may be specified by the Central Government.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

10 **119.** (1) If as a result of the inquiry, investigation or survey under section 116, the Court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the source of income, earnings or assets, out of which or by means of which he has acquired such
15 property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.

Notice of forfeiture of property.

20 (2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

120. (1) The Court may, after considering the explanation, if any, to the show-cause notice issued under section 119 and the material available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of
25 being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime:

Forfeiture of property in certain cases.

30 Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the Court or represent his case before it within a period of thirty days specified in the show-cause notice, the Court may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

35 (2) Where the Court is satisfied that some of the properties referred to in the show-cause notice are proceeds of crime but it is not possible to identify specifically such properties, then, it shall be lawful for the Court to specify the properties which, to the best of its judgment, are proceeds of crime and record a finding accordingly under sub-section (1).

(3) Where the Court records a finding under this section to the effect that any property is proceeds of crime, such property shall stand forfeited to the Central Government free from all encumbrances.

40 (4) Where any shares in a company stand forfeited to the Central Government under this section, then, the company shall, notwithstanding anything contained in the Companies Act, 2013 or forthwith register the Central Government as the transferee of such shares.

18 of 2013.

45 **121.** (1) Where the Court makes a declaration that any property stands forfeited to the Central Government under section 120 and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, *in lieu* of forfeiture, a fine equal to the market value of such part.

Fine *in lieu* of forfeiture.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the Court may, by order, revoke the declaration of forfeiture under section 120 and thereupon such property shall stand released.

Certain transfers to be null and void. **122.** Where after the making of an order under sub-section (1) of section 117 or the issue of a notice under section 119, any property referred to in the said order or notice is transferred by any mode whatsoever such transfers shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 120, then, the transfer of such property shall be deemed to be null and void. 5

Procedure in respect of letter of request. **123.** Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf. 10

Application of this Chapter. **124.** The Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification. 15

CHAPTER IX

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR 20

Security for keeping peace on conviction. **125.** (1) When a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years, as it thinks fit. 25

(2) The offences referred to in sub-section (1) are—

(a) any offence punishable under Chapter VIII of the Bharatiya Nyaya Sanhita, 2023, other than an offence punishable under section 191 or section 194 or section 195 thereof; 30

(b) any offence which consists of, or includes, assault or using criminal force or committing mischief;

(c) any offence of criminal intimidation;

(d) any other offence which caused, or was intended or known to be likely to cause, a breach of the peace. 35

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

(4) An order under this section may also be made by an Appellate Court or by a Court when exercising its powers of revision.

Security for keeping peace in other cases. **126.** (1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit. 40 45

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within

his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act as aforesaid beyond such jurisdiction.

5 **127.** (1) When an Executive Magistrate receives information that there is within his local jurisdiction any person who, within or without such jurisdiction,—

(i) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of,—

(a) any matter the publication of which is punishable under section 150 or section 194 or section 195 or section 297 of the Bhartiya Nyaya Sanhita, 2023, or

10 (b) any matter concerning a Judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Bhartiya Nyaya Sanhita, 2023,

15 (ii) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in section 292 of the Bhartiya Nyaya Sanhita, 2023,

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

25 (2) No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Periodicals Act, 2023 with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.

30 **128.** When an Executive Magistrate receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

35 **129.** When an Executive Magistrate receives information that there is within his local jurisdiction a person who—

(a) is by habit a robber, house-breaker, thief, or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property, or

40 (d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Bhartiya Nyaya Sanhita, 2023, or under section 176, section 177, section 178 or section 179 of that Sanhita, or

45 (e) habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace, or

(f) habitually commits, or attempts to commit, or abets the commission of—

Security for good behaviour from persons disseminating seditious matters.

Security for good behaviour from suspected persons.

Security for good behaviour from habitual offenders.

(i) any offence under one or more of the following Acts, namely:—

- | | |
|---|------------------|
| (a) the Drugs and Cosmetics Act, 1940; | 23 of 1940. |
| (b) the Foreigners Act, 1946; | 31 of 1946. |
| (c) the Employees' Provident Fund and Miscellaneous Provisions Act, 1952; | 19 of 1952.
5 |
| (d) the Essential Commodities Act, 1955; | 10 of 1955. |
| (e) the Protection of Civil Rights Act, 1955; | 22 of 1955. |
| (f) the Customs Act, 1962; | 52 of 1962. |
| (g) the Food Safety and Standards Act, 2006; or | 34 of 2006. |

(ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous to render his being at large without security hazardous to the community,

such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit. 15

Order to be made.

130. When a Magistrate acting under section 126, section 127, section 128 or section 129, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the fitness for payment of sureties. 20

Procedure in respect of person present in Court.

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

Summons or warrant in case of person not so present.

132. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court: 25

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest. 30

Copy of order to accompany summons or warrant.

133. Every summons or warrant issued under section 132 shall be accompanied by a copy of the order made under section 130, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same. 35

Power to dispense with personal attendance.

134. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader. 40

Inquiry as to truth of information.

135. (1) When an order under section 130 has been read or explained under section 131 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 132, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary. 45

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 130 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that—

(a) no person against whom proceedings are not being taken under section 127, section 128, or section 129 shall be directed to execute a bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 130.

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

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

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

136. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Order to give security.

Provided that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 130;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

137. If, on an inquiry under section 135, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an

Discharge of person informed against.

entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Commencement of period for which security is required.

138. (1) If any person, in respect of whom an order requiring security is made under section 125 or section 136, is at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence. 5

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

Contents of bond.

139. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond. 10

Power to reject sureties.

140. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond: 15

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

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him. 20

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any), that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing: 25

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

Imprisonment in default of security.

141. (1) (a) If any person ordered to give security under section 127 or section 136 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it. 30 35

(b) If any person after having executed a bond, with or without sureties without sureties for keeping the peace in pursuance of an order of a Magistrate under section 136, is proved, to the satisfaction of such Magistrate or his successor-in-office, to have committed breach of the bond, such Magistrate or successor-in-office may, after recording the grounds of such proof, order that the person be arrested and detained in prison until the expiry of the period of the bond and such order shall be without prejudice to any other punishment or forfeiture to which the said person may be liable in accordance with law. 40

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge and the proceedings shall be laid, as soon as conveniently may be, before such Court. 45

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, and after giving the concerned

person a reasonable opportunity of being heard, may pass such order on the case as it thinks fit:

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

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

(5) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (4) to an Additional Sessions Judge and upon such transfer, such Additional Sessions Judge may exercise the powers of a Sessions Judge
15 under this section in respect of such proceedings.

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

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

20 (8) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 127, be simple, and, where the proceedings have been taken under section 128 or section 129, be rigorous or simple as the Court or Magistrate in each case directs.

25 **142.** (1) Whenever the District Magistrate in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged. Power to release persons imprisoned for failing to give security.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the High Court or Court of Session, or, where the order was made by any other Court, District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case, may make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

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

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

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

(5) If any condition upon which any person has been discharged is, in the opinion of District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

45 (6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case.

(7) Unless such person gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case may remand such person to prison to undergo such unexpired portion. 5

(8) A person remanded to prison under sub-section (7) shall, subject to the provisions of section 141, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor. 10

(9) The High Court or Court of Session may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by any order made by it, and District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case may make such cancellation where such bond was executed under his order or under the order of any other Court in his district. 15

(10) Any surety for the peaceable conduct or good behaviour of another person ordered to execute a bond under this Chapter may at any time apply to the Court making such order to cancel the bond and on such application being made, the Court shall issue a summons or warrant, as it thinks fit, requiring the person for whom such surety is bound to appear or to be brought before it. 20

Security for unexpired period of bond.

143. (1) When a person for whose appearance a summons or warrant has been issued under the proviso to sub-section (3) of section 140 or under sub-section (10) of section 142, appears or is brought before the Magistrate or Court, the Magistrate or Court shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. 25

(2) Every such order shall, for the purposes of sections 139 to 142 (both inclusive) be deemed to be an order made under section 125 or section 136, as the case may be. 30

CHAPTER X

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

Order for maintenance of wives, children and parents.

144. (1) If any person having sufficient means neglects or refuses to maintain—

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or 35

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Judicial Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct: 40

Provided that the Judicial Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Judicial Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means: 45

Provided further that the Judicial Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Judicial Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.—For the purposes of this Chapter,—

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

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

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

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Judicial Magistrate shall cancel the order.

145. (1) Proceedings under section 144 may be taken against any person in any district— Procedure.

(a) where he is, or

(b) where he or his wife resides, or

(c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

(2) All evidence in such proceedings shall be taken in the presence of the person against whom an order for payment of maintenance is proposed to be made, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed for summons-cases:

Provided that if the Judicial Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte* and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 144 shall have power to make such order as to costs as may be just.

Alteration in allowance.

146. (1) On proof of a change in the circumstances of any person, receiving, under section 144 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.

(2) Where it appears to the Judicial Magistrate that in consequence of any decision of a competent Civil Court, any order made under section 144 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 144 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Judicial Magistrate shall, if he is satisfied that—

(a) the woman has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order,—

(i) in the case where such sum was paid before such order, from the date on which such order was made;

(ii) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to maintenance or interim maintenance, as the case may be, after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a monthly allowance for the maintenance and interim maintenance or any of them has been ordered to be paid under section 144, the Civil Court shall take into account the sum which has been paid to, or recovered by, such person as monthly allowance for the maintenance and interim maintenance or any of them, as the case may be, in pursuance of the said order.

Enforcement of order of maintenance.

147. A copy of the order of maintenance or interim maintenance and expenses of proceedings, as the case may be, 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 for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be, is to be paid; and such order may be enforced by any Judicial Magistrate

in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

CHAPTER XI

5

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A.—*Unlawful assemblies*

148. (1) Any Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Dispersal of assembly by use of civil force.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

149. (1) If any assembly referred to in sub-section (1) of section 148 cannot otherwise be dispersed, and it is necessary for the public security that it should be dispersed, the District Magistrate or any other Executive Magistrate authorised by him, who is present, may cause it to be dispersed by the armed forces.

Use of armed forces to disperse assembly.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Executive Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

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

150. When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

Power of certain armed force officers to disperse assembly.

151. (1) No prosecution against any person for any act purporting to be done under section 148, section 149 or section 150 shall be instituted in any Criminal Court except—

Protection against prosecution for acts done under sections 148, 149 and 150.

(a) with the sanction of the Central Government where such person is an officer or member of the armed forces;

(b) with the sanction of the State Government in any other case.

(2) (a) No Executive Magistrate or police officer acting under any of the said sections in good faith;

(b) no person doing any act in good faith in compliance with a requisition under section 148 or section 149;

(c) no officer of the armed forces acting under section 150 in good faith;

(d) no member of the armed forces doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence:

Provided that no case shall be registered under sub-section (1) of section 174 against any officer or member of the armed forces for any act done by him in obedience of any order which he was bound to obey in the discharge of his official duties, without making a preliminary enquiry into the matter: 5

Provided further that no officer or member of the armed forces of the Union or any police officer of a State shall be arrested for anything done or purported to be done by him in obedience of any order which he was bound to obey in the discharge of his official duties, except after obtaining the consent of the Central Government or the State Government. 10

(3) In this section and in the preceding sections of this Chapter,—

(a) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other armed forces of the Union so operating; 15

(b) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(c) "member", in relation to the armed forces, means a person in the armed forces other than an officer. 20

B.—Public nuisances

Conditional order for removal of nuisance.

152. (1) Whenever a District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers— 25

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

(b) that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or 30

(c) that the construction of any building, or, the disposal of any substance, as is likely to occasion configuration or explosion, should be prevented or stopped; or 35

(d) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or 40

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

(f) that any dangerous animal should be destroyed, confined or otherwise disposed of, such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such 45

building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order—

(i) to remove such obstruction or nuisance; or

5 (ii) to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

(iii) to prevent or stop the construction of such building, or to alter the disposal of such substance; or

10 (iv) to remove, repair or support such building, tent or structure, or to remove or support such trees; or

(v) to fence such tank, well or excavation; or

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

15 or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided, why the order should not be made absolute.

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

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

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

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

154. The person against whom such order is made shall—

30 (a) perform, within the time and in the manner specified in the order, the act directed thereby; or Person to whom order is addressed to obey or show cause.

(b) appear in accordance with such order and show cause against the same; and such appearance or hearing may be permitted through audio video conferencing.

35 **155.** If the person against whom an order is made under section 154 does not perform such act or appear and show cause, he shall be liable to the penalty specified in that behalf in section 221 of the Bharatiya Nyaya Sanhita, 2023, and the order shall be made absolute. Penalty for failure to comply with section 154.

40 **156.** (1) Where an order is made under section 152 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 157, inquire into the matter. Procedure where existence of public right is denied.

45 (2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 157.

(3) A person who has, on being questioned by the Magistrate under sub-section (1),

fail to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial.

Procedure where the person against whom order is made under section 152 appears to show cause.

157. (1) If the person against whom an order under section 152 is made appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case. 5

(2) If the Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper, the order shall be made absolute without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case: 10

Provided that the proceedings under this section shall be completed, as soon as possible, within a period of ninety days, which may be extended for the reasons to be recorded in writing, to one hundred and twenty days.

Power of Magistrate to direct local investigation and examination of an expert.

158. The Magistrate may, for the purposes of an inquiry under section 156 or section 157— 15

(a) direct a local investigation to be made by such person as he thinks fit; or

(b) summon and examine an expert.

Power of Magistrate to furnish written instructions, etc.

159. (1) Where the Magistrate directs a local investigation by any person under section 158, the Magistrate may— 20

(a) furnish such person with such written instructions as may seem necessary for his guidance;

(b) declare by whom the whole or any part of the necessary expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the case. 25

(3) Where the Magistrate summons and examines an expert under section 158, the Magistrate may direct by whom the costs of such summoning and examination shall be paid.

Procedure on order being made absolute and consequences of disobedience.

160. (1) When an order has been made absolute under section 155 or section 157, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within the time to be fixed in the notice, and inform him that, in case of disobedience, he shall be liable to the penalty provided by section 221 of the Bharatiya Nyaya Sanhita, 2023. 30

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the cost of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local jurisdiction, and if such other property is without such jurisdiction, the order shall authorise its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found. 35 40

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

Injunction pending inquiry.

161. (1) If a Magistrate making an order under section 152 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter. 45

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

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

162. A District Magistrate or Sub-divisional Magistrate, or any other Executive Magistrate or Deputy Commissioner of Police empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Bhartiya Nyaya Sanhita, 2023, or any special or local law.

Magistrate may prohibit repetition or continuance of public nuisance.

10 *C.—Urgent cases of nuisance or apprehended danger*

163. (1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 153, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquility, or a riot, or an affray.

Power to issue order in urgent cases of nuisance or apprehended danger.

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

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

(4) No order under this section shall remain in force for more than two months from the making thereof:

30 Provided that if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

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

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

40 (7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

D.—Disputes as to immovable property

50 **164.** (1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a

Procedure where dispute concerning land or water is likely to cause breach of peace.

specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property. 5

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

(4) The Magistrate shall, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any, as he thinks necessary, and, if possible, decide whether any and which of the parties was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute: 10 15

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1). 20

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final. 25

(6) (a) If the Magistrate decides that one of the parties was, or should under the proviso to sub-section (4) be treated as being, in such possession of the said subject of dispute, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed. 30

(b) The order made under this sub-section shall be served and published in the manner laid down in sub-section (3).

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purposes of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto. 35

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit. 40

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing. 45

(10) Nothing in this section shall be deemed to be in derogation of powers of the Magistrate to proceed under section 126.

165. (1) If the Magistrate at any time after making the order under sub-section (1) of section 164 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 164, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Power to attach subject of dispute and to appoint receiver.

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908:

5 of 1908.

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate—

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just.

166. (1) Whenever an Executive Magistrate is satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water within his local jurisdiction, whether such right be claimed as an easement or otherwise, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court in person or by pleader on a specified date and time and to put in written statements of their respective claims.

Dispute concerning right of use of land or water.

Explanation.—For the purposes of this sub-section, the expression "land or water" has the meaning given to it in sub-section (2) of section 164.

(2) The Magistrate shall peruse the statements so put in, under sub-section (1), hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists; and the provisions of section 164 shall, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he may make an order prohibiting any interference with the exercise of such right, including, in a proper case, an order for the removal of any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the receipt under sub-section (1) of the report of a police officer or other information leading to the institution of the inquiry, or where the right is exercisable only at particular season or on particular occasion, unless the right has been exercised during the last of such seasons or on the last of such occasions before such receipt.

(4) When in any proceedings commenced under sub-section (1) of section 164 the Magistrate finds that the dispute is as regards an alleged right of user of land or water, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1), and when in any proceedings commenced under sub-section (1) the Magistrate finds that the dispute should be dealt with under section 164, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1) of section 164.

and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

5 Provided that if the information is given by the woman against whom an offence under section 64, section 66, section 67, section 68, section 70, section 73, section 74, section 75, section 76, section 77, section 78 or section 122 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

10 (a) in the event that the person against whom an offence under section 354, section 67, section 68, sub-section (2) of section 69, sub-section (1) of section 70, section 71, section 74, section 75, section 76, section 77 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at
15 a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible.

20 (2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in-charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,—
25

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a *prima facie* case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a *prima facie* case.

30 (4) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer
35 subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence failing which he may make an application under sub-section (3) of section 175 to the Magistrate.

40 **174.** (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and,—

(i) refer the informant to the Magistrate;

(ii) forward the daily diary report of all such cases fortnightly to the Magistrate.

45 (2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

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

Information as to non-cognizable cases and investigation of such cases.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

Police officer's power to investigate cognizable case.

175. (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIV: 5

Provided that considering the nature and gravity of the offence, the Superintendent of Police may either himself investigate or require the Deputy Superintendent of Police to investigate the offence. 10

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

(3) Any Judicial Magistrate empowered under section 210 may, after considering the application made under clause (b) of sub-section (4) of section 173 and submission made in this regard by the police officer, order such an investigation as above-mentioned. 15

(4) Any Judicial Magistrate empowered under section 210, may upon receiving a complaint against a public servant arising in course of the discharge of his official duties, take cognizance, subject to—

(a) receiving a report containing facts and circumstances of the incident from the officer superior to him; and 20

(b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged.

Procedure for investigation.

176. (1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 175 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender: 25 30

Provided that—

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot; 35

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case:

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality: 40

Provided also that statement made under this sub-section may also be recorded through any audio-video electronic means preferably cell phone.

(2) In each of the cases mentioned in clauses (a) and (b) of the first proviso to sub-section (1), the officer in charge of the police station shall state in his report the reasons for not fully complying with the requirements of that sub-section by him, and, forward the daily diary report fortnightly to the Magistrate and in the case mentioned in 45

clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed.

5 (3) On receipt of every information relating to the commission of an offence which is made punishable for seven years or more, the officer in charge of a police station shall, from such date, as may be notified within a period of five years by the State Government in this regard, cause the forensics expert to visit the crimes scene to collect forensic evidence in the offence and also cause videography of the process on mobile phone or any other electronic device:

10 Provided that where forensics facility is not available in respect of any such offence, the State Government shall, until the facility in respect of that matter is developed or made in the State, notify the utilisation of such facility of any other State.

177. (1) Every report sent to a Magistrate under section 176 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf. Report how submitted.

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

178. The Magistrate, on receiving report under section 176, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in the manner provided in this Sanhita. Power to hold investigation or preliminary inquiry.

179. (1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required: Police officer's power to require attendance of witnesses.

Provided that no male person under the age of fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place in which such person resides:

30 Provided further that if such person is willing to attend the police station or at any other place within the limits of such police station, such person may be permitted so to do.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

35 180. (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case. Examination of witnesses by police.

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

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

45 Provided that statement made under this sub-section may also be recorded by audio-video electronic means:

Provided further that the statement of a woman against whom an offence under section 64, section 66, section 67, section 68, section 70, section 71, section 73, section 74,

section 75, section 76, section 77 or section 78 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, shall be recorded, by a woman police officer or any woman officer.

Statements to police and use thereof.

181. (1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made: 5

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 148 of the Bhartiya Sakshya Adhiniyam, 2023; and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination. 10 15

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 26 of the Bharatiya Sakshya Adhiniyam, 2023; or to affect the provisions of section 23 of that Adhiniyam.

Explanation.— An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact. 20

No inducement to be offered.

182. (1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 22 of the Bharatiya Sakshya Adhiniyam, 2023. 25

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

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 184. 30

Recording of confessions and statements.

183. (1) Any Judicial Magistrate of the District in which the information about commission of any offence has been registered, may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards but before the commencement of the inquiry or trial: 35

Provided that any confession or statement made under this sub-section may also be recorded in the presence of the advocate of the person accused of an offence:

Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force. 40

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily. 45

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 316 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:—

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

10 (Signed) A. B.

Magistrate."

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Judicial Magistrate, best fitted to the circumstances of the case; and the
15 Judicial Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) (a) In cases punishable under section 66, section 67, section 68, section 70, section 71, section 73, section 74, section 75, section 76, section 77, sub-section (1) or sub-section (2) of section 74, or section 78 of the *Bhartiya Nyaya Sanhita, 2023*, the Judicial
20 Magistrate shall record the statement of the person against whom such offence has been committed in the manner specified in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

25 Provided that such statement shall, as far as practicable, be recorded by a woman Judicial Magistrate and in her absence by a male Judicial Magistrate in the presence of a woman:

Provided further that in cases relating to the offences punishable with imprisonment for ten years or more or imprisonment for life or with death, the Judicial Magistrate shall record the statement of the witness brought before him by the police officer:

30 Provided also that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

35 Provided also that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be recorded through audio-video electronic means preferably cell phone.

40 (b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement *in lieu* of examination-in-chief, as specified in section 142 of the *Bhartiya Sakshya Adhinyam, 2023* such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.

(7) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

45 **184.** (1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall

Medical examination of the victim of rape.

be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

(2) The registered medical practitioner, to whom such woman is sent, shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely:—

(i) the name and address of the woman and of the person by whom she was brought;

(ii) the age of the woman;

(iii) the description of material taken from the person of the woman for DNA profiling;

(iv) marks of injury, if any, on the person of the woman;

(v) general mental condition of the woman; and

(vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, within a period of seven days forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.

Explanation.—For the purposes of this section, "examination" and "registered medical practitioner" shall have the same meanings as respectively assigned to them in section 51.

Search by
police officer.

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

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

Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone.

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

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

5 (5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith, but not later than forty-eight hours, be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.

10 **186.** (1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

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

15 (2) Such officer, on being so required, shall proceed according to the provisions of section 185, and shall forward the thing found, if any, to the officer at whose request the search was made.

20 (3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of section 185, as if such place were within the limits of his own police station.

25 (4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in sub-sections (1) and (3) of section 185.

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

35 **187.** (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate.

Procedure when investigation cannot be completed in twenty-four hours.

40 (2) The Judicial Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration the status of the accused person as to whether he is not released on bail or his bail has not been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and
45 if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Judicial Magistrate having such jurisdiction.

50 (3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding—

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence,

and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter. 5

(4) No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage. 10

(5) No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation I.—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in sub-section (3), the accused shall be detained in custody so long as he does not furnish bail. 15

Explanation II.—If any question arises whether an accused person was produced before the Magistrate as required under sub-section (4), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be: 20

Provided that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution:

Provided further that no person shall be detained otherwise than in police station under police custody or in prison under Judicial custody or place declared as prison by the Central Government or the State Government. 25

(6) Notwithstanding anything contained in sub-section (1) to sub-section (5), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in sub-section (3): 30 35 40

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be. 45

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

(8) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

(9) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(10) Where any order stopping further investigation into an offence has been made under sub-section (9), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (9) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

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

Report of investigation by subordinate police officer.

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

Release of accused when evidence deficient.

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

Cases to be sent to Magistrate, when evidence is sufficient.

Provided that if the accused is not in custody, the police officer shall take security from such person for his appearance before the Judicial Magistrate and the Judicial Magistrate to whom such report is forwarded shall not refuse to accept the same on the ground that the accused is not taken in custody.

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

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

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

Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.

191. No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that if any complainant or witness refuses to attend or to execute a bond as directed in section 190, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

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

(2) The statements of witnesses recorded during the course of investigation under section 180 shall be inserted in the case diary.

(3) The diary referred to in sub-section (1) shall be a volume and duly paginated.

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

(5) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 148 or section 164, as the case may be, of the Bharatiya *Sakshya* Adhinyam, 2023, shall apply.

Report of police officer on completion of investigation.

193. (1) Every investigation under this Chapter shall be completed without unnecessary delay.

(2) The investigation in relation to an offence under sections 64, 66, 67, 68, 70, 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.

(3) (i) As soon as the investigation is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form as the State Government may, by rules provide, stating—

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether the accused has been released on his bond and, if so, whether with or without sureties;

(g) whether the accused has been forwarded in custody under section 190;

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 64, 66, 67, 68 or section 70 of the Bharatiya Nyaya Sanhita, 2023.

(ii) The police officer shall, within a period of ninety days, inform the progress of the investigation by any means including electronic communication to the informant or the victim.

5 (iii) The officer shall also communicate, in such manner as the State Government may, by rules, provide, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(4) Where a superior officer of police has been appointed under section 177, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, 10 direct the officer in charge of the police station to make further investigation.

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

15 (6) When such report is in respect of a case to which section 190 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 180 of all the persons whom the prosecution proposes to examine as its witnesses.

20 (7) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

25 (8) Subject to the provisions contained in sub-section (7), the police officer investigating the case shall also submit such number of copies of the police report along with other documents duly indexed to the Judicial Magistrate for supply to the accused as required under section 230:

30 Provided that supply of report and other documents by electronic communication shall be considered as duly served.

(9) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports 35 regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (7) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3):

40 Provided that further investigation during the trial may be permitted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may extend with the permission of the Court.

45 **194.** (1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule made by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the

Police to enquire and report on suicide, etc.

neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forwarded to the District Magistrate or the Sub-divisional Magistrate within twenty-four hours. 5

(3) When—

(i) the case involves suicide by a woman within seven years of her marriage; or

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or 10

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or 15

(v) the police officer for any other reason considers it expedient so to do,

he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical person appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless. 20

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

Power to
summon
persons.

195. (1) A police officer proceeding under section 194 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture: 25 30

Provided that no male person under the age of fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place where such person resides, unless such person is willing to attend and answer at the police station or at any other place within the limits of such police station. 35

(2) If the facts do not disclose a cognizable offence to which section 190 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

Inquiry by
Magistrate
into cause of
death.

196. (1) When the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 194, the nearest Judicial Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 194, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. 40

(2) Where,—

(a) any person dies or disappears, or 45

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised

by the Magistrate or the Court, under this Sanhita in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate within whose local jurisdiction the offence has been committed.

(3) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter specified according to the circumstances of the case.

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

(5) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

(6) The Judicial Magistrate or the Executive Magistrate or the police officer holding an inquiry or investigation under sub-section (2) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.

Explanation.—In this section, the expression "relative" means parents, children, brothers, sisters and spouse.

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CHAPTER XIV

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

197. Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

Ordinary place of inquiry and trial.

198. (a) When it is uncertain in which of several local areas an offence was committed; or

Place of inquiry or trial.

(b) where an offence is committed partly in one local area and partly in another; or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one; or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

199. When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

Offence triable where act is done or consequence ensues.

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

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

201. (1) Any offence of dacoity, or of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the accused person is found.

Place of trial in case of certain offences.

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained.

(3) Any offence of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property which is

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the subject of the offence was possessed by any person committing it or by any person who received or retained such property knowing or having reason to believe it to be stolen property.

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person. 5

(5) Any offence which includes the possession of stolen property may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person who received or retained it knowing or having reason to believe it to be stolen property. 10

Offences committed by means of electronic communications, letters, etc.

202. (1) Any offence which includes cheating may, if the deception is practised by means of electronic communications or letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such electronic communications or letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person. 15

(2) Any offence punishable under section 81 of the *Bhartiya Nyaya Sanhita, 2023* may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, or the wife by the first marriage has taken up permanent residence after the commission of the offence. 20

Offence committed on journey or voyage.

203. When an offence is committed whilst the person by or against whom, or the thing in respect of which, the offence is committed is in the course of performing a journey or voyage, the offence may be inquired into or tried by a Court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage. 25

Place of trial for offences triable together.

204. Where—

(a) the offences committed by any person are such that he may be charged with, and tried at one trial for, each such offence by virtue of the provisions of section 242, section 243 or section 244, or 30

(b) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 246,

the offences may be inquired into or tried by any Court competent to inquire into or try any of the offences.

Power to order cases to be tried in different sessions divisions.

205. Notwithstanding anything contained in the preceding provisions of this Chapter, the State Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division: 35

Provided that such direction is not repugnant to any direction previously issued by the High Court or the Supreme Court under the Constitution, or under this *Sanhita* or any other law for the time being in force. 40

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

206. Where two or more Courts have taken cognizance of the same offence and a question arises as to which of them ought to inquire into or try that offence, the question shall be decided—

(a) if the Courts are subordinate to the same High Court, by that High Court;

(b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced, 45

and thereupon all other proceedings in respect of that offence shall be discontinued.

207. (1) When a Magistrate of the first class sees reason to believe that any person within his local jurisdiction has committed outside such jurisdiction (whether within or outside India) an offence which cannot, under the provisions of sections 197 to 205 (both inclusive), or any other law for the time being in force, be inquired into or tried within such jurisdiction but is under some law for the time being in force triable in India, such Magistrate may inquire into the offence as if it had been committed within such local jurisdiction and compel such person in the manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is not punishable with death or imprisonment for life and such person is ready and willing to give bail to the satisfaction of the Magistrate acting under this section, take a bond with or without sureties for his appearance before the Magistrate having such jurisdiction.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

208. When an offence is committed outside India—

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India,

Offence committed outside India.

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found or where the offence is registered in India:

Provided that notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

209. When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of section 208, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced, either in physical form or in electronic form, before a Judicial officer, in or for that territory or before a diplomatic or consular representative of India in or for that territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Receipt of evidence relating to offences committed outside India.

CHAPTER XV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

210. (1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Judicial Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence—

Cognizance of offences by Magistrates.

(a) upon receiving a complaint of facts, including any complaint filed by a person authorised under any special law, which constitutes such offence;

(b) upon a police report (recorded in any mode including digital mode) of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

(3) Any Magistrate empowered under this section, shall upon receiving a complaint against a public servant arising in course of the discharge of his official duties, take cognizance, subject to—

(a) receiving a report containing facts and circumstances of the incident from the officer superior to such public servant; and

(b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged.

Transfer on application of accused.

211. When a Magistrate takes cognizance of an offence under clause (c) of sub-section (1) of section 210, the accused shall, before any evidence is taken, be informed that he is entitled to have the case inquired into or tried by another Magistrate, and if the accused or any of the accused, if there be more than one, objects to further proceedings before the Magistrate taking cognizance, the case shall be transferred to such other Magistrate as may be specified by the Chief Judicial Magistrate in this behalf.

Making over of cases to Magistrates.

212. (1) Any Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to any competent Magistrate subordinate to him.

(2) Any Judicial Magistrate of the first class empowered in this behalf by the Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to such other competent Judicial Magistrate as the Chief Judicial Magistrate may, by general or special order, specify, and thereupon such Magistrate may hold the inquiry or trial.

Cognizance of offences by Courts of Session.

213. Except as otherwise expressly provided by this Sanhita or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Sanhita.

Additional Sessions Judges to try cases made over to them.

214. An Additional Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

215. (1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 204 to 224 (both inclusive but excluding section 207) of the *Bhartiya Nyaya Sanhita, 2023*, or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant so to do;

(b) (i) of any offence punishable under any of the following sections of the *Bhartiya Nyaya Sanhita, 2023*, namely, sections 227 to 231 (both inclusive), 234, 235, 240 to 246 (both inclusive) and 265, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court; or

(ii) of any offence described in section 334, or punishable under section 337, section 340 or section 341 of the said *Sanhita*, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court; or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant or by some other public servant who has been authorised to do so by him under clause (a) of sub-section (1), any authority to which he is administratively subordinate or who has authorised such public servant may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

216. A witness or any other person may file a complaint in relation to an offence under section 230 of the Bharatiya Nyaya Sanhita, 2023.

Procedure for witnesses in case of threatening, etc.

217. (1) No Court shall take cognizance of—

(a) any offence punishable under Chapter VI or under section 194, section 297 or sub-section (1) of section 351 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a criminal conspiracy to commit such offence; or

(c) any such abetment, as is described in section 47 of the Bharatiya Nyaya Sanhita, 2023,

Prosecution for offences against the State and for criminal conspiracy to commit such offence.

except with the previous sanction of the Central Government or of the State Government.

(2) No Court shall take cognizance of—

(a) any offence punishable under section 195 or sub-section (2) or sub-section (3) of section 351 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.

(3) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 61 of the Bharatiya Nyaya Sanhita, 2023, other than a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of section 215 apply, no such consent shall be necessary.

(4) The Central Government or the State Government may, before according sanction under sub-section (1) or sub-section (2) and the District Magistrate may, before according sanction under sub-section (2) and the State Government or the District Magistrate may, before giving consent under sub-section (3), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 174. 5

Prosecution of
Judges and
public
servants.

218. (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013— 10

1 of 2014.

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government; 15

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted: 20

Provided further that such Government shall take a decision within a period of one hundred and twenty days from the date of the receipt of the request for sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such Government: 25

Provided also no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 197, section 198, section 63, section 66, section 68, section 70, section 73, section 74, section 75, section 76, section 77, section 141, or section 351 of the Bharatiya Nyaya Sanhita, 2023. 30

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted. 35

(4) Notwithstanding anything contained in sub-section (3), no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government. 40

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(5) The Central Government or the State Government, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

219. (1) No Court shall take cognizance of an offence punishable under Chapter V of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:

Prosecution for offences against marriage.

Provided that—

5 (a) where such person is under the age of eighteen years, or is having intellectual disability requiring higher support needs or a person with mental illness, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf;

10 (b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;

15 (c) where the person aggrieved by an offence punishable under section 81 of the Bharatiya Nyaya Sanhita, 2023 is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister, or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.

20 (2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 83 of the Bharatiya Nyaya Sanhita, 2023:

25 Provided that in the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf.

30 (3) When in any case falling under clause (a) of the proviso to sub-section (1), the complaint is sought to be made on behalf of a person under the age of eighteen years or of a person with mental illness by a person who has not been appointed or declared by a competent authority to be the guardian of the person of the minor or a person with mental illness, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give him a reasonable opportunity of being heard.

35 (4) The authorisation referred to in clause (b) of the proviso to sub-section (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

40 (5) Any document purporting to be such an authorisation and complying with the provisions of sub-section (4), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.

45 (6) No Court shall take cognizance of an offence under section 64 of the Bharatiya Nyaya Sanhita, 2023, where such offence consists of sexual intercourse by a man with his own wife, the wife being under eighteen years of age, if more than one year has elapsed from the date of the commission of the offence.

(7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence.

Prosecution of offences under section 84 of Bharatiya Nyaya Sanhita, 2023. **220.** No Court shall take cognizance of an offence punishable under section 84 of the Bharatiya Nyaya Sanhita, 2023 except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption. 5

Cognizance of offence. **221.** No Court shall take cognizance of an offence punishable under section 67 of the Bharatiya Nyaya Sanhita, 2023 where the persons are in a marital relationship, except upon *prima facie* satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband. 10

Prosecution for defamation. **222. (1)** No Court shall take cognizance of an offence punishable under Chapter XIX of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:

Provided that where such person is under the age of eighteen years, or is having intellectual disability requiring higher support needs or a person with mental illness, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf. 15

(2) Notwithstanding anything contained in this Sanhita, when any offence falling under Chapter XIX of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor. 20 25

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him. 30

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction—

(a) of the State Government,— 35

(i) in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(ii) in the case of any other public servant employed in connection with the affairs of the State;

(b) of the Central Government, in any other case. 40

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence 45

before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

CHAPTER XVI

COMPLAINTS TO MAGISTRATES

5 **223.** A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate: Examination of complainant.

10 Provided that no cognizance of an offence under this section shall be taken by the Magistrate without giving the accused an opportunity of being heard:

 Provided further that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

 (a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

15 (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:

 Provided further that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them:

20 Provided further that in case of a complaint against a public servant, the Magistrate shall comply with the procedure provided in section 217.

224. If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall,— Procedure by Magistrate not competent to take cognizance of case.

25 (a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;

 (b) if the complaint is not in writing, direct the complainant to the proper Court.

30 **225.** (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 212, may, if he thinks fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding: Postponement of issue of process.

 Provided that no such direction for investigation shall be made,—

35 (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

 (b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 223.

40 (2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

 Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

45 (3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Sanhita on an officer in-charge of a police station except the power to arrest without warrant.

Dismissal of
complaint.

226. If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 225, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

CHAPTER XVIII

5

COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

Issue of
process.

227. (1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be—

(a) a summons-case, he shall issue summons to the accused for his attendance;
or

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(b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

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(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint:

Provided that summons or warrants may also be issued through electronic means.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

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(5) Nothing in this section shall be deemed to affect the provisions of section 90.

Magistrate
may dispense
with personal
attendance of
accused.

228. (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

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(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

Special
summons in
cases of petty
offence.

229. (1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under sections 283, 284 or section 285, the Magistrate shall, except where he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader:

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Provided that the amount of the fine specified in such summons shall not exceed five thousand rupees.

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(2) For the purposes of this section, "petty offence" means any offence punishable only with fine not exceeding five thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 1988, or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

59 of 1988.

(3) The State Government may, by notification, specially empower any Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable under section 359 or any offence punishable with imprisonment for a term not exceeding three months, or with fine, or with both where the Magistrate is of opinion that, having regard to the facts and circumstances of the case, the imposition of fine only would meet the ends of justice.

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230. In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:—

Supply to accused of copy of police report and other documents.

- 5 (i) the police report;
- (ii) the first information report recorded under section 193;
- (iii) the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 193;
- 10 (iv) the confessions and statements, if any, recorded under section 183;
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 193:

15 Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

20 Provided further that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through advocate in Court:

Provided also that supply of documents in electronic form shall be considered as duly furnished.

25 **231.** Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 227 that the offence is triable exclusively by the Court of Session, the Magistrate shall forthwith furnish to the accused, free of cost, a copy of each of the following:—

Supply of copies of statements and documents to accused in other cases triable by Court of Session.

- (i) the statements recorded under section 223 or section 225, of all persons examined by the Magistrate;
- 30 (ii) the statements and confessions, if any, recorded under section 180 or section 183;
- (iii) any documents produced before the Magistrate on which the prosecution proposes to rely:

35 Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court:

Provided further that supply of documents in electronic form shall be considered as duly furnished.

40 **232.** When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

Commitment of case to Court of Session when offence is triable exclusively by it.

- (a) commit, after complying with the provisions of section 230 or section 231 the case to the Court of Session, and subject to the provisions of this Sanhita relating to bail, remand the accused to custody until such commitment has been made;
- 45 (b) subject to the provisions of this Sanhita relating to bail, remand the accused to custody during, and until the conclusion of, the trial;
- (c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session:

Provided that the proceedings under this section shall be completed within a period of ninety days from the date of taking cognizance, and such period may be extended by the Magistrate for a period not exceeding one hundred and eighty days for the reasons to be recorded in writing: 5

Provided further that any application filed before the Magistrate by the accused or the victim or any person authorised by such person in a case triable by Court of Session, shall be forwarded to the Court of Session with the committal of the case.

Procedure to be followed when there is a complaint case and police investigation in respect of same offence.

233. (1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. 10 15

(2) If a report is made by the investigating police officer under section 193 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report. 20

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Sanhita.

CHAPTER XIX

THE CHARGE 25

A.—*Form of charges*

Contents of charge.

234. (1) Every charge under this Sanhita shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only. 30

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

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge. 35

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

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit, to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed. 40 45

Illustrations.

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 98 and 99 of the Bharatiya Nyaya Sanhita,

2023; that it did not fall within any of the general exceptions of the said Sanhita; and that it did not fall within any of the five exceptions to section 99, or that, if it did fall within *Exception 1*, one or other of the three provisos to that exception applied to it.

5 (b) A is charged under section 116 of the Bharatiya Nyaya Sanhita, 2023, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 120 of the said Sanhita, and that the general exceptions did not apply to it.

10 (c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions, of those crimes contained in the Bharatiya Nyaya Sanhita, 2023; but the sections under which the offence is punishable must, in each instance be referred to in the charge.

15 (d) A is charged under section 220 of the Bharatiya Nyaya Sanhita, 2023, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

20 **235.** (1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged. Particulars as to time, place and person.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 242:

Provided that the time included between the first and last of such dates shall not exceed one year.

30 **236.** When the nature of the case is such that the particulars mentioned in sections 234 and 235 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose. When manner of committing offence must be stated.

Illustrations.

35 (a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

40 (c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

45 (e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

50 **237.** In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable. Words in charge taken in sense of law under which offence is punishable.

Effect of errors.

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

Illustrations.

(a) A is charged under section 178 of the Bharatiya Nyaya Sanhita, 2023, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 2023. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 2023. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 2023, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 2023. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Court may alter charge.

239. (1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.

(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

Recall of witnesses when charge altered.

240. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed—

(a) to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice;

(b) also to call any further witness whom the Court may think to be material.

241. (1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately:

Separate charges for distinct offences.

5 Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.

(2) Nothing in sub-section (1) shall affect the operation of the provisions of sections 242, 243, 244 and 246.

Illustration.

10 A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

242. (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding five.

Offences of same kind within year may be charged together.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Bharatiya Nyaya Sanhita, 2023 or of any special or local law:

20 Provided that, for the purposes of this section, an offence punishable under section 301 of the Bharatiya Nyaya Sanhita, 2023 shall be deemed to be an offence of the same kind as an offence punishable under section 303 of the said Sanhita, and that an offence punishable under any section of the said Sanhita, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

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

Trial for more than one offence.

30 (2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 235 or in sub-section (1) of section 242, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

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

40 (4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(5) Nothing contained in this section shall affect section 12 of the Bharatiya Nyaya Sanhita, 2023.

Illustrations to sub-section (1)

45 (a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 261 and 119 of the Bharatiya Nyaya Sanhita, 2023.

50 (b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under section 330 of the Bharatiya Nyaya Sanhita, 2023.

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under section 83 of the Bharatiya Nyaya Sanhita, 2023.

(d) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 335 of the Bharatiya Nyaya Sanhita, 2023. A may be separately charged with, and convicted of, the possession of each seal under section 339 of the Bharatiya Nyaya Sanhita. 5

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding, and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 246 of the Bharatiya Nyaya Sanhita, 2023. 10

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 246 and 228 of the Bharatiya Nyaya Sanhita, 2023. 15

(g) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 189, 115 and 193 of the Bharatiya Nyaya Sanhita, 2023. 20

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 309 of the Bharatiya Nyaya Sanhita, 2023.

The separate charges referred to in *illustrations (a) to (h)*, respectively, may be tried at the same time. 25

Illustrations to sub-section (3)

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 129 and 113 of the Bharatiya Nyaya Sanhita, 2023.

(j) Several stolen sacks of corn are made over to A and B, who knew they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under section 315 of the Bharatiya Nyaya Sanhita, 2023. 30

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 91 and 103 of the Bharatiya Nyaya Sanhita, 2023. 35

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 199 of the Bharatiya Nyaya Sanhita, 2023. A may be separately charged with, and convicted of, offences under sections 338 (read with section 466) and 196 of that Sanhita. 40

Illustration to sub-section (4)

(m) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Bharatiya Nyaya Sanhita, 2023.

Where it is doubtful what offence has been committed.

244. (1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences. 45

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

5 *Illustrations.*

(a) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

10 (b) In the case mentioned, A is only charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

15 (c) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

20 **245.** (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When offence proved included in offence charged.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

25 (3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

30 *Illustrations.*

(a) A is charged, under section 314 of the Bharatiya Nyaya Sanhita, 2023, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under section 314 of that Sanhita in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under the said section 314.

(b) A is charged, under section 115 of the Bharatiya Nyaya Sanhita, 2023, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 120 of that Sanhita.

246. The following persons may be charged and tried together, namely:—

What persons may be charged jointly.

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

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

45 (c) persons accused of more than one offence of the same kind, within the meaning of section 242 committed by them jointly within the period of twelve months;

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

50 (e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have

been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(f) persons accused of offences under section 315 of the Bharatiya Nyaya Sanhita, 2023 or either of those sections in respect of stolen property the possession of which has been transferred by one offence; 5

(g) persons accused of any offence under Chapter XII of the Bharatiya Nyaya Sanhita, 2023 relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges: 10

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate or Court of Session may, if such persons by an application in writing, so desire, and if he or it is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together. 15

Withdrawal of remaining charges on conviction on one of several charges.

247. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges and such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn. 20

CHAPTER XX

TRIAL BEFORE A COURT OF SESSION 25

Trial to be conducted by Public Prosecutor.

248. In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

Opening case for prosecution.

249. When the accused appears or is brought before the Court, in pursuance of a commitment of the case under section 232, or under any other law for the time being in force, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused. 30

Discharge.

250. (1) The accused may prefer an application for discharge within a period of sixty days from the date of committal under section 232.

(2) If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing. 35

Framing of charge.

251. (1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report; 40

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge. 45

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused present either physically or through electronic means and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

5 **252.** If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon. Conviction on plea of guilty.

253. If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 252, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing. Date for prosecution evidence.

10 **254.** (1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution: Evidence for prosecution.

 Provided that evidence of a witness under this sub-section may be recorded by audio-video electronic means.

15 (2) The deposition of evidence of any police officer or public servant may be taken through audio-video electronic means.

 (3) The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

20 **255.** If, after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Judge considers that there is no evidence that the accused committed the offence, the Judge shall record an order of acquittal. Acquittal.

256. (1) Where the accused is not acquitted under section 255, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof. Entering upon defence.

25 (2) If the accused puts in any written statement, the Judge shall file it with the record.

 (3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

30 **257.** When the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his pleader shall be entitled to reply: Arguments.

 Provided that where any point of law is raised by the accused or his pleader, the prosecution may, with the permission of the Judge, make his submissions with regard to such point of law.

258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days. Judgment of acquittal or conviction.

40 (2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 401, hear the accused on the questions of sentence, and then pass sentence on him according to law.

259. In a case where a previous conviction is charged under the provisions of sub-section (7) of section 234, and the accused does not admit that he has been previously convicted as alleged in the charge, the Judge may, after he has convicted the said accused under section 252 or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon: Previous conviction.

45

Provided that no such charge shall be read out by the Judge nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under section 252 or section 258.

Procedure in cases instituted under sub-section (1) of Section 223.

260. (1) A Court of Session taking cognizance of an offence under sub-section (1) of section 222 shall try the case in accordance with the procedure for the trial of warrant-cases instituted otherwise than on a police report before a Court of Magistrate: 5

Provided that the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded, otherwise directs, be examined as a witness for the prosecution. 10

(2) Every trial under this section shall be held *in camera* if either party thereto so desires or if the Court thinks fit so to do.

(3) If, in any such case, the Court discharges or acquits all or any of the accused and is of opinion that there was no reasonable cause for making the accusation against them or any of them, it may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor of a State or the Administrator of a Union territory) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one. 15

(4) The Court shall record and consider any cause which may be shown by the person so directed, and if it is satisfied that there was no reasonable cause for making the accusation, it may, for reasons to be recorded, make an order that compensation to such amount not exceeding five thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them. 20

(5) Compensation awarded under sub-section (4) shall be recovered as if it were a fine imposed by a Magistrate. 25

(6) No person who has been directed to pay compensation under sub-section (4) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter. 30

(7) The person who has been ordered under sub-section (4) to pay compensation may appeal from the order, in so far as it relates to the payment of compensation, to the High Court. 35

(8) When an order for payment of compensation to an accused person is made, the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

CHAPTER XXI

TRIAL OF WARRANT-CASES BY MAGISTRATES 40

A.—Cases instituted on a police report

Compliance with section 231.

261. When, in any warrant-case instituted on a police report, the accused appears or is brought before a Judicial Magistrate at the commencement of the trial, the Judicial Magistrate shall satisfy himself that he has complied with the provisions of section 230.

When accused shall be discharged.

262. (1) The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges. 45

(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks

necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

5 **263.** (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge. Framing of charge.

10 (2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

264. If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon. Conviction on plea of guilty.

15 **265.** (1) If the accused refuses to plead or does not plead, or claims to be tried or the Magistrate does not convict the accused under section 264, the Magistrate shall fix a date for the examination of witnesses: Evidence for prosecution.

 Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police.

 (2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

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

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

25 Provided further that evidence of a witness under this sub-section may be recorded by audio-video electronic means.

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

30 (2) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing:

 Provided that when the accused has cross-examined or had the opportunity of cross-examining any witness before entering on his defence, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the ends of justice.

40 (3) The Magistrate may, before summoning any witness on an application under sub-section (2), require that the reasonable expenses incurred by the witness in attending for the purposes of the trial be deposited in Court.

B.—Cases instituted otherwise than on police report

45 **267.** (1) When, in any warrant-case instituted otherwise than on a police report, the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution. Evidence for prosecution.

 (2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

When accused shall be discharged.

268. (1) If, upon taking all the evidence referred to in section 267, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless. 5

Procedure where accused is not discharged.

269. (1) If, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused. 10

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty or has any defence to make.

(3) If the accused pleads guilty, the Magistrate shall record the plea, and may, in his discretion, convict him thereon. 15

(4) If the accused refuses to plead, or does not plead or claims to be tried or if the accused is not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. 20

(5) If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged.

(6) The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any), they shall also be discharged.

(7) Where, despite giving opportunity to the prosecution and after taking all reasonable measures under this Sanhita, if the attendance of the prosecution witnesses under sub-sections (5) and (6) cannot be secured for cross examination, it shall be deemed that such witness has not been examined for not being available, and the Magistrate may close the prosecution evidence for reasons to be recorded in writing and proceed with the case on the basis of the materials on record. 25
30

Evidence for defence.

270. The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 266 shall apply to the case.

C.—Conclusion of trial

Acquittal or conviction.

271. (1) If, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal. 35

(2) Where, in any case under this Chapter, the Magistrate finds the accused guilty, but does not proceed in accordance with the provisions of section 364 or section 401, he shall, after hearing the accused on the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction is charged under the provisions of sub-section (7) of section 234 and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused, take evidence in respect of the alleged previous conviction, and shall record a finding thereon: 40

Provided that no such charge shall be read out by the Magistrate nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under sub-section (2). 45

272. When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may after giving thirty days' time to the complainant to be present, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

Absence of complainant.

273. (1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

Compensation for accusation without reasonable cause.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of fine he is empowered to impose, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Bharatiya Nyaya Sanhita, 2023 shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second class to pay compensation exceeding one thousand rupees, may appeal from the order, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(7) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided; and where such order is made in a case which is not so subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

(8) The provisions of this section apply to summons-cases as well as to warrant-cases.

45

CHAPTER XXII

TRIAL OF SUMMONS-CASES BY MAGISTRATES

274. When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge:

Substance of accusation to be stated.

50

Provided that if the Magistrate considers the accusation as groundless, he shall, after recording reasons in writing, release the accused and such release shall have the effect of discharge.

- Conviction on plea of guilty. **275.** If the accused pleads guilty, the Magistrate shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him thereon. 5
- Conviction on plea of guilty in absence of accused in petty cases. **276.** (1) Where a summons has been issued under section 229 and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or by messenger, a letter containing his plea and also the amount of fine specified in the summons.
- (2) The Magistrate may, in his discretion, convict the accused in his absence, on his plea of guilty and sentence him to pay the fine specified in the summons, and the amount transmitted by the accused shall be adjusted towards that fine, or where a pleader authorised by the accused in this behalf pleads guilty on behalf of the accused, the Magistrate shall record the plea as nearly as possible in the words used by the pleader and may, in his discretion, convict the accused on such plea and sentence him as aforesaid. 15
- Procedure when not convicted. **277.** (1) If the Magistrate does not convict the accused under section 275 or section 276, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.
- (2) The Magistrate may, if he thinks fit, on the application of the prosecution or the accused, issue a summons to any witness directing him to attend or to produce any document or other thing. 20
- (3) The Magistrate may, before summoning any witness on such application, require that the reasonable expenses of the witness incurred in attending for the purposes of the trial be deposited in Court. 25
- Acquittal or conviction. **278.** (1) If the Magistrate, upon taking the evidence referred to in section 277 and such further evidence, if any, as he may, of his own motion, cause to be produced, finds the accused not guilty, he shall record an order of acquittal.
- (2) Where the Magistrate does not proceed in accordance with the provisions of section 364 or section 401, he shall, if he finds the accused guilty, pass sentence upon him according to law. 30
- (3) A Magistrate may, under section 275 or section 278, convict the accused of any offence triable under this Chapter, which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons, if the Magistrate is satisfied that the accused would not be prejudiced thereby. 35
- Non-appearance or death of complainant. **279.** (1) If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day: 40
- Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may, dispense with his attendance and proceed with the case.
- (2) The provisions of sub-section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant is due to his death. 45
- Withdrawal of complaint. **280.** If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, or if there be more than one accused, against

all or any of them, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused against whom the complaint is so withdrawn.

5 **281.** In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.

Power to stop proceedings in certain cases.

10 **282.** When in the course of the trial of a summons-case relating to an offence punishable with imprisonment for a term exceeding six months, it appears to the Magistrate that in the interests of justice, the offence should be tried in accordance with the procedure for the trial of warrant-cases, such Magistrate may proceed to re-hear the case in the manner provided by this Sanhita for the trial of warrant-cases and may re-call any witness who may have
15 been examined.

Power of Court to convert summons-cases into warrant-cases.

CHAPTER XXIII

SUMMARY TRIALS

283. (1) Notwithstanding anything contained in this Sanhita—

Power to try summarily.

(a) any Chief Judicial Magistrate;

20 (b) Magistrate of the first class,

shall try in a summary way all or any of the following offences:—

(i) theft, under section 301, section 303 or section 304 of the Bharatiya Nyaya Sanhita, 2023 where the value of the property stolen does not exceed twenty thousand rupees;

25 (ii) receiving or retaining stolen property, under section 315 of the Bharatiya Nyaya Sanhita, 2023, where the value of the property does not exceed twenty thousand rupees;

30 (iii) assisting in the concealment or disposal of stolen property under section 315 of the Bharatiya Nyaya Sanhita, 2023, where the value of such property does not exceed twenty thousand rupees;

(iv) offences under section 330 of the Bharatiya Nyaya Sanhita, 2023;

(v) insult with intent to provoke a breach of the peace, under section 350, and criminal intimidation, under section 349 of the Bharatiya Nyaya Sanhita, 2023;

35 (vi) abetment of any of the foregoing offences;

(vii) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(viii) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871.

1 of 1871.

40 (2) The Magistrate may, after giving the accused a reasonable opportunity of being heard, for reasons to be recorded in writing, try in a summary way all or any of the offences not punishable with death or imprisonment for life or imprisonment for a term exceeding three years.

45 (3) When, in the course of a summary trial it appears to the Magistrate that the nature of the case is such that it is undesirable to try it summarily, the Magistrate shall re-call any witnesses who may have been examined and proceed to re-hear the case in the manner provided by this Sanhita.

but does not apply where such offence affects the socio-economic condition of the country or has been committed against a woman, or a child below the age of fourteen years.

(2) For the purposes of sub-section (1), the Central Government shall, by notification, determine the offences under the law for the time being in force which shall be the offences affecting the socio-economic condition of the country.

290. (1) A person accused of an offence may file an application for plea bargaining within a period of thirty days from the date of framing of charge in the Court in which such offence is pending for trial.

Application for plea bargaining.

(2) The application under sub-section (1) shall contain a brief description of the case relating to which the application is filed including the offence to which the case relates and shall be accompanied by an affidavit sworn by the accused stating therein that he has voluntarily preferred, after understanding the nature and extent of punishment provided under the law for the offence, the plea bargaining in his case and that he has not previously been convicted by a Court in a similar case.

(3) After receiving the application under sub-section (1), the Court shall issue notice to the Public Prosecutor or the complainant of the case and to the accused to appear on the date fixed for the case.

(4) When the Public Prosecutor or the complainant of the case and the accused appear on the date fixed under sub-section (3), the Court shall examine the accused in camera, where the other party in the case shall not be present, to satisfy itself that the accused has filed the application voluntarily and where—

(a) the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time, not exceeding sixty days, to the Public Prosecutor or the complainant of the case and the accused to work out a mutually satisfactory disposition of the case which may include giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case;

(b) the Court finds that the application has been filed involuntarily by the accused or he has previously been convicted by a Court in a case in which he had been charged with the same offence, it shall proceed further in accordance with the provisions of this Sanhita from the stage such application has been filed under sub-section (1).

291. In working out a mutually satisfactory disposition under clause (a) of sub-section (4) of section 290, the Court shall follow the following procedure, namely:—

Guidelines for mutually satisfactory disposition.

(a) in a case instituted on a police report, the Court shall issue notice to the Public Prosecutor, the police officer who has investigated the case, the accused and the victim of the case to participate in the meeting to work out a satisfactory disposition of the case:

Provided that throughout such process of working out a satisfactory disposition of the case, it shall be the duty of the Court to ensure that the entire process is completed voluntarily by the parties participating in the meeting:

Provided further that the accused, if he so desires, participate in such meeting with his pleader, if any, engaged in the case;

(b) in a case instituted otherwise than on police report, the Court shall issue notice to the accused and the victim of the case to participate in a meeting to work out a satisfactory disposition of the case:

Provided that it shall be the duty of the Court to ensure, throughout such process of working out a satisfactory disposition of the case, that it is completed voluntarily by the parties participating in the meeting:

Provided further that if the victim of the case or the accused so desires, he may participate in such meeting with his pleader engaged in the case.

Report of mutually satisfactory disposition to be submitted before Court.

292. Where in a meeting under section 291, a satisfactory disposition of the case has been worked out, the Court shall prepare a report of such disposition which shall be signed by the presiding officer of the Court and all other persons who participated in the meeting and if no such disposition has been worked out, the Court shall record such observation and proceed further in accordance with the provisions of this Sanhita from the stage the application under sub-section (1) of section 290 has been filed in such case. 5

Disposal of case.

293. Where a satisfactory disposition of the case has been worked out under section 292, the Court shall dispose of the case in the following manner, namely:— 10

(a) the Court shall award the compensation to the victim in accordance with the disposition under section 292 and hear the parties on the quantum of the punishment, releasing of the accused on probation of good conduct or after admonition under section 401 or for dealing with the accused under the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force and follow the procedure specified in the succeeding clauses for imposing the punishment on the accused; 15 20 of 1958.

(b) after hearing the parties under clause (a), if the Court is of the view that section 401 or the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force are attracted in the case of the accused, it may release the accused on probation or provide the benefit of any such law; 20 of 1958. 20

(c) after hearing the parties under clause (b), if the Court finds that minimum punishment has been provided under the law for the offence committed by the accused, it may sentence the accused to half of such minimum punishment, and where the accused is a first-time offender and has not been convicted of any offence in the past, it may sentence the accused to one-fourth of such minimum punishment; 25

(d) in case after hearing the parties under clause (b), the Court finds that the offence committed by the accused is not covered under clause (b) or clause (c), then, it may sentence the accused to one-fourth of the punishment provided or extendable, as the case may be, for such offence and where the accused is a first-time offender and has not been convicted of any offence in the past, it may sentence the accused to one-sixth of the punishment provided or extendable, as the case may be, for such offence. 30

Judgment of Court.

294. The Court shall deliver its judgment in terms of section 293 in the open Court and the same shall be signed by the presiding officer of the Court.

Finality of judgement.

295. The judgment delivered by the Court under this section shall be final and no appeal (except the special leave petition under article 136 and writ petition under articles 226 and 227 of the Constitution) shall lie in any Court against such judgment. 35

Power of Court in plea bargaining.

296. A Court shall have, for the purposes of discharging its functions under this Chapter, all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Sanhita. 40

Period of detention undergone by accused to be set off against sentence of imprisonment.

297. The provisions of section 469 shall apply, for setting off the period of detention undergone by the accused against the sentence of imprisonment imposed under this Chapter, in the same manner as they apply in respect of the imprisonment under other provisions of this Sanhita.

Savings.

298. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Sanhita and nothing in such other provisions shall be construed to constrain the meaning of any provision of this Chapter. 45

Explanation.—For the purposes of this Chapter, the expression "Public Prosecutor" has the meaning assigned to it under clause (t) of section 2 and includes an Assistant Public Prosecutor appointed under section 19.

5 **299.** Notwithstanding anything contained in any law for the time being in force, the statements or facts stated by an accused in an application for plea bargaining filed under section 290 shall not be used for any other purpose except for the purpose of this Chapter. Statements of accused not to be used.

2 of 2016. **300.** Nothing in this Chapter shall apply to any juvenile or child as defined in section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Non-application of Chapter.

CHAPTER XXV

10 ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

301. In this Chapter,— Definitions.

(a) "detained" includes detained under any law providing for preventive detention;

(b) "prison" includes,—

15 (i) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail;

(ii) any reformatory, Borstal institution or institution of a like nature.

302. (1) Whenever, in the course of an inquiry, trial or proceeding under this Sanhita, it appears to a Criminal Court,— Power to require attendance of prisoners.

20 (a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him; or

(b) that it is necessary for the ends of justice to examine such person as a witness,

25 the Court may make an order requiring the officer in charge of the prison to produce such person before the Court answering to the charge or for the purpose of such proceeding or for giving evidence.

30 (2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate, to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.

35 **303.** (1) The State Government or the Central Government, as the case may be, may, at any time, having regard to the matters specified in sub-section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under section 302, whether before or after the order of the State Power of State Government or Central Government to exclude certain persons from operation of section 302.

40 Government, shall have effect in respect of such person or class of persons.
(2) Before making an order under sub-section (1), the State Government or the Central Government in the cases instituted by its central agency, as the case may be, shall have regard to the following matters, namely:—

45 (a) the nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;

(b) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison;

(c) the public interest, generally.

Officer in charge of prison to abstain from carrying out order in certain contingencies.

304. Where the person in respect of whom an order is made under section 302—

(a) is by reason of sickness or infirmity unfit to be removed from the prison; or 5

(b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

(c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or 10

(d) is a person to whom an order made by the State Government under section 303 applies,

the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining:

Provided that where the attendance of such person is required for giving evidence at a place not more than twenty-five kilometres distance from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in clause (b). 15

Prisoner to be brought to Court in custody.

305. Subject to the provisions of section 304, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 302 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained. 20

Power to issue commission for examination of witness in prison.

306. The provisions of this Chapter shall be without prejudice to the power of the Court to issue, under section 319, a commission for the examination, as a witness, of any person confined or detained in a prison; and the provisions of Part B of Chapter XXVI shall apply in relation to the examination on commission of any such person in the prison as they apply in relation to the examination on commission of any other person. 25

CHAPTER XXVI 30

EVIDENCE IN INQUIRIES AND TRIALS

A.—*Mode of taking and recording evidence*

Language of Courts.

307. The State Government may determine what shall be, for purposes of this Sanhita, the language of each Court within the State other than the High Court.

Evidence to be taken in presence of accused.

308. Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader: 35

Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused. 40

Explanation.—In this section, "accused" includes a person in relation to whom any proceeding under Chapter IX has been commenced under this Sanhita.

Record in summons-cases and inquiries.

309. (1) In all summons-cases tried before a Magistrate, in all inquiries under sections 165 to 168 (both inclusive), and in all proceedings under section 493 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of the evidence in the language of the Court: 45

Provided that if the Magistrate is unable to make such memorandum himself, he shall, after recording the reason of his inability, cause such memorandum to be made in writing or from his dictation in open Court.

5 (2) Such memorandum shall be signed by the Magistrate and shall form part of the record.

10 **310.** (1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf:

Record in
warrant-cases.

Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence.

15 (2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative; but the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

20 (4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

25 **311.** (1) In all trials before a Court of Session, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the presiding Judge himself or by his dictation in open Court, or under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

Record in trial
before Court
of Session.

(2) Such evidence shall ordinarily be taken down in the form of a narrative, but the presiding Judge may, in his discretion, take down, or cause to be taken down, any part of such evidence in the form of question and answer.

30 (3) The evidence so taken down shall be signed by the presiding Judge and shall form part of the record.

312. In every case where evidence is taken down under sections 310 or 311,—

Language of
record of
evidence.

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

35 (b) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or presiding Judge, and shall form part of the record;

40 (c) where under clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or presiding Judge, and shall form part of the record:

45 Provided that when under clause (b) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

313. (1) As the evidence of each witness taken under section 310 or section 311 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

Procedure in
regard to such
evidence when
completed.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or presiding Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness and shall add such remarks as he thinks necessary.

(3) If the record of the evidence is in a language different from that in which it has been given and the witness does not understand that language, the record shall be interpreted to him in the language in which it was given, or in a language which he understands. 5

Interpretation of evidence to accused or his pleader.

314. (1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interpreted to him in open Court in a language understood by him. 10

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary. 15

Remarks respecting demeanour of witness.

315. When a presiding Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Record of examination of accused.

316. (1) Whenever the accused is examined by any Magistrate, or by a Court of Session, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full by the presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf. 20

(2) The record shall, if practicable, be in the language in which the accused is examined or, if that is not practicable, in the language of the Court. 25

(3) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(4) It shall thereafter be signed by the accused and by the Magistrate or presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused: 30

Provided that where the accused is in custody and is examined through electronic communication, his signature shall be taken within seventy-two hours of such examination.

(5) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial. 35

Interpreter to be bound to interpret truthfully.

317. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Record in High Court.

318. Every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it, and such evidence and examination shall be taken down in accordance with such rule. 40

B.—*Commissions for the examination of witnesses*

When attendance of witness may be dispensed with and commission issued.

319. (1) Whenever, in the course of any inquiry, trial or other proceeding under this Sanhita, it appears to a Court or Magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, 45

would be unreasonable, the Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter:

5 Provided that where the examination of the President or the Vice-President of India or the Governor of a State or the Administrator of a Union territory as a witness is necessary for the ends of Justice, a commission shall be issued for the examination of such a witness.

(2) The Court may, when issuing a commission for the examination of a witness for the prosecution, direct that such amount as the Court considers reasonable to meet the expenses of the accused, including the pleader's fees, be paid by the prosecution.

10 **320.** (1) If the witness is within the territories to which this Sanhita extends, the commission shall be directed to the Chief Judicial Magistrate within whose local jurisdiction the witness is to be found. Commission to whom to be issued.

(2) If the witness is in India, but in a State or an area to which this Sanhita does not extend, the commission shall be directed to such Court or officer as the Central Government 15 may, by notification, specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission as 20 the Central Government may, by notification, prescribe in this behalf.

321. Upon receipt of the commission, the Chief Judicial Magistrate or Judicial Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials or warrant-cases under this Sanhita. Execution of commissions.

25 **322.** (1) The parties to any proceeding under this Sanhita in which a commission is issued may respectively forward any interrogatories in writing which the Court or Magistrate directing the commission may think relevant to the issue, and it shall be lawful for the Magistrate, Court or officer to whom the commission, is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories. Parties may examine witnesses.

30 (2) Any such party may appear before such magistrate, Court or Officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine the said witness.

35 **323.** (1) After any commission issued under section 310 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court or Magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record. Return of commission.

40 (2) Any deposition so taken, if it satisfies the conditions specified by section 27 of the Bharatiya Sakshya Adhinyam, 2023, may also be received in evidence at any subsequent stage of the case before another Court.

324. In every case in which a commission is issued under section 319, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission. Adjournment of proceeding.

45 **325.** (1) The provisions of section 321 and so much of section 322 and section 323 as relate to the execution of a commission and its return shall apply in respect of commissions issued by any of the Courts, Judges or Magistrates hereinafter mentioned as they apply to commissions issued under section 319. Execution of foreign commissions.

(2) The Courts, Judges and Magistrates referred to in sub-section (1) are—

(a) any such Court, Judge or Magistrate exercising jurisdiction within an area in India to which this Sanhita does not extend, as the Central Government may, by notification, specify in this behalf;

(b) any Court, Judge or Magistrate exercising jurisdiction in any such country or place outside India, as the Central Government may, by notification, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters. 5

Deposition of medical witness.

326. (1) The deposition of civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Sanhita, although the deponent is not called as a witness. 10

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition. 15

Identification report of Magistrate.

327. (1) Any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property may be used as evidence in any inquiry, trial or other proceeding under this Sanhita, although such Magistrate is not called as a witness:

Provided that where such report contains a statement of any suspect or witness to which the provisions of section 19, section 26, section 27, section 158 or section 160 of the Bharatiya Sakshya Adhiniyam, 2023, apply, such statement shall not be used under this sub-section except in accordance with the provisions of those sections. 20

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or of the accused, summon and examine such Magistrate as to the subject-matter of the said report. 25

Evidence of officers of the Mint.

328. (1) Any document purporting to be a report under the hand of any such officer of any Mint or of any Note Printing Press or of any Security Printing Press (including the officer of the Controller of Stamps and Stationery) or of any Forensic Department or Division of Forensic Science Laboratory or any Government Examiner of Questioned Documents or any State Examiner of Questioned Documents as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Sanhita, may be used as evidence in any inquiry, trial or other proceeding under this Sanhita, although such officer is not called as a witness. 30 35

(2) The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

(3) Without prejudice to the provisions of sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023, no such officer shall, except with the permission of the General Manager or any officer in charge of any Mint or of any Note Printing Press or of any Security Printing Press or of any Forensic Department or any officer in charge of the Forensic Science Laboratory or of the Government Examiner of Questioned Documents Organisation or of the State Examiner of Questioned Documents Organisation, as the case may be, be permitted— 40 45

(a) to give any evidence derived from any unpublished official records on which the report is based; or

(b) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

5 **329.** (1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Sanhita, may be used as evidence in any inquiry, trial or other proceeding under this Sanhita. Reports of certain Government scientific experts.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

10 (3) Where any such expert is summoned by a Court, and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:—

- 15 (a) any Chemical Examiner or Assistant Chemical Examiner to Government;
- (b) the Chief Controller of Explosives;
- (c) the Director of the Finger Print Bureau;
- (d) the Director, Haffkeine Institute, Bombay;
- (e) the Director, Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;
- 20 (f) the Serologist to the Government;
- (g) any other scientific expert specified or certified, by notification, by the State Government or the Central Government for this purpose.

25 **330.** (1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused or the advocate for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document soon after supply of such documents and in no case later than thirty days after such supply: No formal proof of certain documents.

Provided that the Court may, in its discretion, relax the time limit with reasons to be recorded in writing:

30 Provided further that no expert shall be called to appear before the Court unless the report of such expert is disputed by any of the parties to the trial.

(2) The list of documents shall be in such form as the State Government may, be rules, provide.

35 (3) Where the genuineness of any document is not disputed, such document may be read in evidence in inquiry, trial or other proceeding under this Sanhita without proof of the signature of the person by whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.

40 **331.** When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Sanhita, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given. Affidavit in proof of conduct of public servants.

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

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

Authorities before whom affidavits may be sworn.

333. (1) Affidavits to be used before any Court under this Sanhita may be sworn or affirmed before—

(a) any Judge or Judicial or Executive Magistrate; or

(b) any Commissioner of Oaths appointed by a High Court or Court of Session;

or

(c) any notary appointed under the Notaries Act, 1952.

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53 of 1952.

(2) Affidavits shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

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(3) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.

Previous conviction or acquittal how proved.

334. In any inquiry, trial or other proceeding under this Sanhita, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

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(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was held, to be a copy of the sentence or order; or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the Jail in which the punishment or any part thereof was undergone, or by production of the warrant of commitment under which the punishment was suffered,

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together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

Record of evidence in absence of accused.

335. (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try, or commit for trial, such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

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(2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.

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Evidence of public servants, experts, police officers in certain cases.

336. Where any document or report prepared by a public servant, scientific expert, medical officer or investigating officer is purported to be used as evidence in any inquiry, trial or other proceeding under this Sanhita, and—

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(i) such public servant, expert or officer is either transferred, retired, or died; or

(ii) such public servant, expert or officer cannot be found or is incapable of giving deposition; or

(iii) securing presence of such public servant, expert or officer is likely to cause delay in holding the inquiry, trial or other proceeding,

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the Court shall secure presence of successor officer of such public servant, expert, or officer who is holding that post at the time of such deposition to give deposition on such document or report.

CHAPTER XXVII

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

5 **338.** (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 244, or for which he might have been convicted under sub-section (2) thereof.

Person once convicted or acquitted not to be tried for same offence.

10 (2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 243.

15 (3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

20 (4) A person acquitted convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 281 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

25 (6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 or of section 208 of this Sanhita.
10 of 1897.

Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Illustrations.

30 (a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

35 (c) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(d) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within sub-section (3) of this section.

40 (e) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may subsequently be charged with, and tried for, robbery on the same facts.

45 (f) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

338. (1) The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

Appearance by Public Prosecutors.

(2) If in any such case any private person instructs his advocate to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the advocate so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case. 5

Permission to conduct prosecution.

339. (1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of inspector; but no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission: 10

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) Any person conducting the prosecution may do so personally or by an advocate.

Right of person against whom proceedings are instituted to be defended.

340. Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Sanhita, may of right be defended by an advocate of his choice. 15

Legal aid to accused at State expense in certain cases.

341. (1) Where, in a trial or appeal before a Court, the accused is not represented by an advocate, and where it appears to the Court that the accused has not sufficient means to engage an advocate, the Court shall assign an advocate for his defence at the expense of the State. 20

(2) The High Court may, with the previous approval of the State Government, make rules providing for—

(a) the mode of selecting advocates for defence under sub-section (1);

(b) the facilities to be allowed to such advocates by the Courts; 25

(c) the fees payable to such advocates by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Session. 30

Procedure when corporation or registered society is an accused.

342. (1) In this section, "corporation" means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860. 21 of 1860.

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation. 35

(3) Where a representative of a corporation appears, any requirement of this Sanhita that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall be examined. 40

(4) Where a representative of a corporation does not appear, any such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the managing director of the corporation or by any person duly authorised by him (by whatever name called) having, or being one of the persons having the management of the affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, is filed, the Court shall, unless the contrary is proved, presume that such person has been so appointed.

(6) If a question arises as to whether any person, appearing as the representative of a corporation in an inquiry or trial before a Court is or is not such representative, the question shall be determined by the Court.

10 **343.** (1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making
15 a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

Tender of
pardon to
accomplice.

(2) This section applies to—

20 (a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under any other law for the time being in force;

(b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record—

(a) his reasons for so doing;

25 (b) whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)—

30 (a) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) shall, unless he is already on bail, be detained in custody until the termination of the trial.

35 (5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case—

(a) commit it for trial—

(i) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

40 (ii) to a Court of Special Judge appointed under any other law for the time being in force, if the offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

45 **344.** At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

Power to
direct tender
of pardon.

Trial of person not complying with conditions of pardon.

345. (1) Where, in regard to a person who has accepted a tender of pardon made under section 343 or section 344, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence: 5

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 215 or section 379 shall apply to that offence. 10

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 183 or by a Court under sub-section (4) of section 343 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with. 15

(4) At such trial, the Court shall—

(a) if it is a Court of Session, before the charge is read out and explained to the accused; 20

(b) if it is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall, notwithstanding anything contained in this Sanhita, pass judgment of acquittal. 25

Power to postpone or adjourn proceedings.

346. (1) In every inquiry or trial the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded: 30

Provided that when the inquiry or trial relates to an offence under section 64, section 66, section 67, section 68 and section 70 of the Bharatiya Nyaya Sanhita, 2023 the inquiry or trial shall be completed within a period of two months from the date of filing of the chargesheet. 35

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody: 40

Provided that no Court shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing: 45

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him:

Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

5 (b) where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court after hearing the objections of the other party and for the reasons to be recorded in writing;

(c) the fact that the advocate of a party is engaged in another Court, shall not be a ground for adjournment;

10 (d) where a witness is present in Court but a party or his advocate is not present or the party or his advocate though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

15 *Explanation 1.*—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

20 **347.** (1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place in which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection. Local inspection.

25 (2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost.

30 **348.** Any Court may, at any stage of any inquiry, trial or other proceeding under this Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case. Power to summon material witness, or examine person present.

35 **349.** If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Sanhita, it is expedient to direct any person, including an accused person, to give specimen signatures or finger impressions or handwriting or voice sample, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or finger impressions or handwriting or voice sample: Power of Magistrate to order person to give specimen signatures or handwriting.

40 Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding:

Provided further that the Magistrate may, for the reasons to be recorded in writing, order any person to give such specimen or sample without him being arrested.

45 **350.** Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of the Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Sanhita. Expenses of complainants and witnesses.

Power to examine the accused.

351. (1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court—

(a) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

(b) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case: 5

Provided that in a summon-case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1). 10

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed. 15

(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section.

Oral arguments and memorandum of arguments.

352. (1) Any party to a proceeding may, as soon as may be, after the close of his evidence, address concise oral arguments, and may, before he concludes the oral arguments, if any, submit a memorandum to the Court setting forth concisely and under distinct headings, the arguments in support of his case and every such memorandum shall form part of the record. 20

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party. 25

(3) No adjournment of the proceedings shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The Court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments. 30

Accused person to be competent witness.

353. (1) Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that— 35

(a) he shall not be called as a witness except on his own request in writing;

(b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him that the same trial.

(2) Any person against whom proceedings are instituted in any Criminal Court under section 101, or section 126 or section 127, or section 128, or section 129, or under Chapter X or under Part B, Part C or Part D of Chapter XI, may offer himself as a witness in such proceedings: 40

Provided that in proceedings under section 127, section 128, or section 129, the failure of such person to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against him or any other person proceeded against together with him at the same inquiry. 45

354. Except as provided in sections 343 and 344, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosure.

355. (1) At any stage of an inquiry or trial under this Sanhita, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by an advocate, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

Provision for inquiries and trial being held in the absence of accused in certain cases.

(2) If the accused in any such case is not represented by an advocate, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

Explanation.—For the purpose of this section, personal attendance of the accused includes attendance through audio video electronic means.

356. (1) Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present, under this Sanhita and pronounce the judgment:

Inquiry trial or judgment in absentia of proclaimed offender.

Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge.

(2) The Court shall ensure that the following procedure has been complied with before proceeding under sub-section (1) namely:—

(i) issuance of execution of two consecutive warrants of arrest within the interval of atleast thirty days;

(ii) publish in a national or local daily newspaper circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;

(iii) inform his relative or friend, if any, about the commencement of the trial; and

(iv) affix information about the commencement of the trial on some conspicuous part of the house or homestead in which such person ordinarily resides and display in the police station of the district of his last known address of residence.

(3) Where the proclaimed offender is not represented by any advocate, he shall be provided with an advocate for his defence at the expense of the State.

(4) Where the Court, competent to try the case or commit for trial, has examined any witnesses for prosecution and recorded their depositions, such depositions shall be given in evidence against such proclaimed offender on the inquiry into, or in trial for, the offence with which he is charged:

Provided that if the proclaimed offender is arrested and produced or appears before the Court during such trial, the Court may, in the interest of justice, allow him to examine any evidence which may have been taken in his absence.

(5) Where a trial is related to a person under this section, the deposition and examination of the witness, may, as far as practicable, be recorded by audio-video electronic means preferably mobile phone and such recording shall be kept in such manner as the Court may direct.

(6) In prosecution for offences under this Sanhita, voluntary absence of accused after the trial has commenced under sub-section (1) shall not prevent continuing the trial including the pronouncement of the judgment even if he is arrested and produced or appears at the conclusion of such trial. 5

(7) No appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal: 10

Provided that no appeal against conviction shall lie after the expiry of three years from the date of the judgment.

(8) The State may, by notification, extend the provisions of this section to any absconder mentioned in sub-section (1) of section 84 of this Sanhita.

Procedure where accused does not understand proceedings. 357. If the accused, though not a person with mental illness, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit. 15

Power to proceed against other persons appearing to be guilty of offence. 358. (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed. 20

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid. 25

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then—

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard; 30

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

Compounding of offences. 359. (1) The offences punishable under the sections of the Bharatiya Nyaya Sanhita, 2023 specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table:— 35

TABLE

Offence	Section of the Bharatiya Nyaya Sanhita, 2023 applicable	Person by whom offence may be compounded	
1	2	3	
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	300	The person whose religious feelings are intended to be wounded.	45
Voluntarily causing hurt.	113(2)	The person to whom the hurt is caused.	

	1	2	3
	Voluntarily causing hurt on provocation.	120(1)	Ditto.
5	Voluntarily causing grievous hurt on grave and sudden provocation.	120(2)	The person to whom the hurt is caused.
	Wrongfully restraining or confining any person.	124(2)	The person restrained or confined.
	Wrongfully confining a person for three days or more.	125(3)	The person confined.
10	Wrongfully confining a person for ten days or more.	125(4)	Ditto.
	Wrongfully confining a person in secret.	125(6)	The person confined.
15	Assault or use of criminal force.	129, 131	The person assaulted or to whom criminal force is used.
	House-trespassing or house-breaking after sunset or before sunrise.	329(6)	Person in possession of property trespassed upon.
20	Theft.	301(2)	The owner of the property stolen.
	Dishonest misappropriation of property.	312	The owner of the property misappropriated.
25	Criminal breach of trust by a carrier, wharfinger, etc.	314(3)	The owner of the property in respect of which the breach of trust has been committed.
	Dishonestly receiving stolen property knowing it to be stolen.	315(2)	The owner of the property stolen.
	Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	315(5)	Ditto.
30	Cheating.	316(2)	The person cheated.
	Cheating by personation.	317(2)	Ditto.
35	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	318	The creditors who are affected thereby.
	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	319	Ditto.
40	Fraudulent execution of deed of transfer containing false statement of consideration.	320	The person affected thereby.
	Fraudulent removal or concealment of property.	321	Ditto.

1	2	3	
Mischief, when the only loss or damage caused is loss or damage to a private person.	322(2), 322(4)	The person to whom the loss or damage is caused.	
Mischief by killing or maiming animal.	323	The owner of the animal.	5
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	324(a)	The person to whom the loss or damage is caused.	10
Criminal trespass.	327(3)	The person in possession of the property trespassed upon.	
House-trespass.	327(4)	Ditto.	
House-trespass to commit an offence (other than theft) punishable with imprisonment.	330(c)	The person in possession of the house trespassed upon.	15
Using a false trade or property mark.	343(3)	The person to whom loss or injury is caused by such use.	
Counterfeiting a property mark used by another.	345(1)	Ditto.	20
Selling goods marked with a counterfeit property mark.	347	Ditto.	
Breach of contract to attend on and supply wants of helpless person.	355	The person with whom the offender has contracted.	
Enticing or taking away or detaining with criminal intent a married woman.	83	The husband of the woman and the woman.	25
Defamation.	354(2)	The person defamed.	
Printing or engraving matter, knowing it to be defamatory.	354(3)	Ditto.	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	354(4)	Ditto.	30
Insult intended to provoke a breach of the peace.	350	The person insulted.	35
Criminal intimidation.	349(2)	The person intimidated.	
Inducing person to believe himself an object of divine displeasure.	352	The person induced.	

(2) The offences punishable under the sections of the Bharatiya Nyaya Sanhita specified in the first two columns of the Table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that Table:—

Table

	Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person by whom offence may be compounded
	1	2	3
5	Causing miscarriage.	86	The woman to whom miscarriage is caused.
	Voluntarily causing grievous hurt.	115(2)	The person to whom hurt is caused.
10	Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	123(a)	Ditto.
15	Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	123(b)	Ditto.
20	Assault or criminal force in attempting wrongfully to confine a person.	133	The person assaulted or to whom the force was used.
	Theft, by clerk or servant of property in possession of master.	304	The owner of the property stolen.
25	Criminal breach of trust.	314(2)	The owner of the property in respect of which breach of trust has been committed.
	Criminal breach of trust by a clerk or servant.	314(4)	The owner of the property in respect of which the breach of trust has been committed.
30	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	316(3)	The person cheated.
35	Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	316(4)	The person cheated.
	Marrying again during the life-time of a husband or wife.	81(2)	The husband or wife of the person so marrying.
40	Defamation. Word, gesture or act intended to insult the modesty of a woman.	354(2) 78	The person defamed. The woman whom it was intended to insult or whose privacy was intruded upon.

(3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under sub-section (5) of section 3 or section 188 of the Bharatiya Nyaya Sanhita, 2023, may be compounded in like manner.

(4) (a) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or has intellectual disability requiring high support needs or is a person with mental illness, any person competent to contract on his behalf may, with the permission of the Court, compound such offence. 5

(b) When the person who would otherwise be competent to compound an offence under this section is dead, the legal representative, as defined in the Code of Civil Procedure, 1908 of such person may, with the consent of the Court, compound such offence. 10 5 of 1908.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard. 15

(6) A High Court or Court of Session acting in the exercise of its powers of revision under section 442 may allow any person to compound any offence which such person is competent to compound under this section.

(7) No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence. 20

(8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(9) No offence shall be compounded except as provided by this section.

Withdrawal
from
prosecution.

360. The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and, upon such withdrawal,— 25

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences; 30

(b) if it is made after a charge has been framed, or when under this Sanhita no charge is required, he shall be acquitted in respect of such offence or offences:

Provided that where such offence—

(i) was against any law relating to a matter to which the executive power of the Union extends, or 35

(ii) was investigated under any Central Act, or

(iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, 40

and the Prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution: 45

Provided further that no Court shall allow such withdrawal without giving an opportunity of being heard to the victim in the case.

361. (1) If, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption—

(a) that he has no jurisdiction to try the case or commit it for trial, or

5 (b) that the case is one which should be tried or committed for trial by some other Magistrate in the district, or

(c) that the case should be tried by the Chief Judicial Magistrate, he shall stay the proceedings and submit the case, with a brief report explaining its nature, to the Chief Judicial Magistrate or to such other Magistrate, having jurisdiction, as the Chief Judicial Magistrate directs.

10 (2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

362. If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing the judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained and thereupon the provisions of Chapter XIX shall apply to the commitment so made.

363. (1) Where a person, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Bharatiya Nyaya Sanhita, 2023, with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, and the Magistrate before whom the case is pending is satisfied that there is ground for presuming that such person has committed the offence, he shall be sent for trial to the Chief Judicial Magistrate or committed to the Court of Session, unless the Magistrate is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial Magistrate or committed to the Court of Session under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly sent or committed, unless the Magistrate discharges such other person under section 262 or section 268, as the case may be.

30 **364.** (1) Whenever a Magistrate is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or, being a Magistrate of the second class, is of opinion that the accused ought to be required to execute a bond under section 125, he may record the opinion and submit his proceedings, and forward the accused, to the Chief Judicial Magistrate to whom he is subordinate.

(2) When more accused person than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1), in regard to any of such accused, he shall forward all the accused, who are in his opinion guilty, to the Chief Judicial Magistrate.

40 (3) The Chief Judicial Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence and shall pass such judgment, sentence or order in the case as he thinks fit, and is according to law.

45 **365.** (1) Whenever any Judge or Magistrate, after having heard and recorded the whole or any part of the evidence in any enquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Judge or Magistrate who has and who exercises such jurisdiction, the Judge or Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself:

Procedure in cases which Magistrate cannot dispose of.

Procedure when after commencement of inquiry or trial, Magistrate finds case should be committed.

Trial of persons previously convicted of offences against coinage, stamp-law or property.

Procedure when Magistrate cannot pass sentence sufficiently severe.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

Provided that if the succeeding Judge or Magistrate is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged. 5

(2) When a case is transferred under the provisions of this Sanhita from one Judge to another Judge or from one Magistrate to another Magistrate, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter, within the meaning of sub-section (1).

(3) Nothing in this section applies to summary trials or to cases in which proceedings have been stayed under section 361 or in which proceedings have been submitted to a superior Magistrate under section 364. 10

Court to be open.

366. (1) The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court, to which the public generally may have access, so far as the same can conveniently contain them: 15

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 64, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 shall be conducted *in camera*: 20 32 of 2012.

Provided that the presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court: 25

Provided further that *in camera* trial shall be conducted as far as practicable by a woman Judge or Magistrate.

(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings except with the previous permission of the Court: 30

Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.

CHAPTER XXVIII

35

PROVISIONS AS TO ACCUSED PERSONS WITH MENTAL ILLNESS

Procedure in case of accused being person with mental illness.

367. (1) When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is of person with mental illness and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such mental illness, and shall cause such person to be examined by the civil surgeon of the district or such other medical person as the State Government may direct, and thereupon shall examine such surgeon or other medical person as a witness, and shall reduce the examination to writing. 40

(2) If the civil surgeon finds the accused to be a person with mental illness, he shall refer such person to a psychiatrist or clinical psychologist of Government hospital or Government medical college for care, treatment and prognosis of the condition and the psychiatrist or clinical psychologist, as the case may be, shall inform the Magistrate whether the accused is suffering from mental illness: 45

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest Government hospital; and

5 (b) a faculty member in psychiatry in the nearest Government medical college.

(3) Pending such examination and inquiry, the Magistrate may deal with such person in accordance with the provisions of section 369.

(4) If the Magistrate is informed that the person referred to in sub-section (2) has mental illness, the Magistrate shall further determine whether the mental illness renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate shall record a finding to that effect, and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if he finds that no *prima facie* case is made out against the accused, he shall, instead of postponing the enquiry, discharge the accused and deal with him in the manner provided under section 369:

Provided that if the Magistrate finds that a *prima facie* case is made out against the accused in respect of whom a finding of mental illness is arrived at, he shall postpone the proceeding for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused, and order the accused to be dealt with as provided under section 369.

(5) If the Magistrate is informed that the person referred to in sub-section (2) is a person with mental illness, the Magistrate shall further determine whether the mental illness renders the accused incapable of entering defence, and if the accused is found so incapable, the Magistrate shall order closure of the inquiry and deal with the accused in the manner provided under section 369.

368. (1) If at the trial of any person before a Magistrate or Court of Session, it appears to the Magistrate or Court that such person is suffering from mental illness and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such mental illness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

Procedure in case of person with mental illness tried before Court.

(2) If during trial, the Magistrate or Court of Sessions finds the accused to be a person with mental illness, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be, shall report to the Magistrate or Court whether the accused is suffering from mental illness:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest Government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.

(3) If the Magistrate or Court is informed that the person referred to in sub-section (2) is a person with mental illness, the Magistrate or Court shall further determine whether the mental illness renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no *prima facie* case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 369:

Provided that if the Magistrate or Court finds that a *prima facie* case is made out against the accused in respect of whom a finding of mental illness is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(4) If the Magistrate or Court finds that a *prima facie* case is made out against the accused and he is incapable of entering defence by reason of mental illness, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 369. 5

Release of person with mental illness pending investigation or trial.

369. (1) Whenever a person is found under section 367 or section 368 to be incapable of entering defence by reason of mental illness, the Magistrate or Court, as the case may be, shall, whether the case is one in which bail may be taken or not, order release of such person on bail: 10

Provided that the accused is suffering from mental illness which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person. 15

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a public mental health establishment shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017. 20

10 of 2017.

(3) Whenever a person is found under section 367 or section 368 to be incapable of entering defence by reason of mental illness, the Magistrate or Court, as the case may be, shall keep in view the nature of the act committed and the extent of mental illness, further determine if the release of the accused can be ordered: 25

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be, decide to order discharge of the accused, as provided under section 367 or section 368, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person; 30

(b) if the Magistrate or Court, as the case may be, is of the opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons with mental illness may be ordered wherein the accused may be provided care and appropriate education and training. 35

Resumption of inquiry or trial.

370. (1) Whenever an inquiry or a trial is postponed under section 367 or section 368, the Magistrate or Court, as the case may be, may at any time after the person concerned has ceased to be suffering from mental illness, resume the inquiry or trial and require the accused to appear or be brought before such Magistrate or Court. 40

(2) When the accused has been released under section 369, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before Magistrate or Court.

371. (1) If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed. 45

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall act according to the provisions of section 367 or section 368, as the case may be, and if the accused is found to be suffering from mental illness and consequently incapable of making his defence, shall deal with such accused in accordance with the provisions of section 369. 50

372. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act, which, if he had not been having a mental illness, would have been an offence, and that he was, at the time when the act was committed, by reason
5 of mental illness, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be tried by the Court of Session, commit him for trial before the Court of Session.

When accused appears to have been of sound mind.

373. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of mental illness, incapable of
10 knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Judgment of acquittal on ground of mental illness.

374. (1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence,—

Person acquitted on ground of mental illness to be detained in safe custody.

15 (a) order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit; or

(b) order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a public mental health establishment shall be made under clause (a) of sub-section (1) otherwise than in accordance with such
10 of 2017. 20 rules as the State Government may have made under the Mental Healthcare Act, 2017.

(3) No order for the delivery of the accused to a relative or friend shall be made under clause (b) of sub-section (1) except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or Court that the person delivered shall—

25 (a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct.

30 (4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

375. The State Government may empower the officer-in-charge of the jail in which a person is confined under the provisions of section 369 or section 374 to discharge all or any of the functions of the Inspector-General of Prisons under section 376 or section 377.

Power of State Government to empower officer-in-charge to discharge.

35 **376.** If a person with mental illness is detained under the provisions of sub-section (2) of section 369, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a public mental health establishment, the Mental Health Review Board constituted under the Mental Healthcare Act, 2017, shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time
40 as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 371; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where prisoner with mental illness is reported capable of making his defence.

45 **377.** (1) If a person with mental illness is detained under the provisions of sub-section (2) of section 369, or section 374, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the State Government may thereupon order him to be released, or to be detained in custody, or to be transferred to a public mental health establishment if he has not been already sent to such establishment; and, in case it orders him to be transferred to public mental health establishment, may appoint a Commission,
50 consisting of a Judicial and two medical officers.

Procedure where person with mental illness detained is declared fit to be released.

(2) Such Commission shall make a formal inquiry into the state of mind of such person, take such evidence as is necessary, and shall report to the State Government, which may order his release or detention as it thinks fit.

Delivery of person with mental illness to care of relative or friend.

378. (1) Whenever any relative or friend of any person detained under the provisions of section 369 or section 374 desires that he shall be delivered to his care and custody, the State Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such State Government, that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct;

(c) in the case of a person detained under sub-section (2) of section 369, be produced when required before such Magistrate or Court, order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence, the trial of which has been postponed by reason of his being of mental illness and incapable of making his defence, and the inspecting officer referred to in clause (b) of sub-section (1), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production the Magistrate or Court shall proceed in accordance with the provisions of section 371, and the certificate of the inspecting officer shall be receivable as evidence.

CHAPTER XXIX

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

Procedure in cases mentioned in section 215.

379. (1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 215, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 215.

(3) A complaint made under this section shall be signed,—

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, "Court" has the same meaning as in section 215.

380. (1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of section 379, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 215, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 379, and, if it makes such complaint, the provisions of that section shall apply accordingly.

Appeal.

(2) An order under this section, and subject to any such order, an order under section 379, shall be final, and shall not be subject to revision.

381. Any Court dealing with an application made to it for filing a complaint under section 379 or an appeal under section 380, shall have power to make such order as to costs as may be just.

Power to order costs.

382. (1) A Magistrate to whom a complaint is made under section 379 or section 380 shall, notwithstanding anything contained in Chapter XVI, proceed, as far as may be, to deal with the case as if it were instituted on a police report.

Procedure of Magistrate taking cognizance.

(2) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage, adjourn the hearing of the case until such appeal is decided.

383. (1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding, a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, it or he may, if satisfied that it is necessary and expedient in the interest of justice that the witness should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or with both.

Summary procedure for trial for giving false evidence.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

(3) Nothing in this section shall affect the power of the Court to make a complaint under section 379 for the offence, where it does not choose to proceed under this section.

(4) Where, after any action is initiated under sub-section (1), it is made to appear to the Court of Session or Magistrate of the first class that an appeal or an application for revision has been preferred or filed against the judgment or order in which the opinion referred to in that sub-section has been expressed, it or he shall stay further proceedings of the trial until the disposal of the appeal or the application for revision, as the case may be, and thereupon the further proceedings of the trial shall abide by the results of the appeal or application for revision.

384. (1) When any such offence as is described in section 209, section 211, section 212, section 213 or section 265 of the Bharatiya Nyaya Sanhita, 2023 is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender to be detained in custody, and may, at any time before the rising of the Court or the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding one thousand rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

(2) In every such case the Court shall record the fact constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 265 of the Bharatiya Nyaya Sanhita, 2023, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult. 5

Procedure where Court considers that case should not be dealt with under section 384.

385. (1) If the Court in any case considers that a person accused of any of the offences referred to in section 384 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 384, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate. 10

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police report. 15

When Registrar or Sub-Registrar to be deemed a Civil Court.

386. When the State Government so directs, any Registrar or any Sub-Registrar appointed under the Registration Act, 1908, shall be deemed to be a Civil Court within the meaning of sections 384 and 385. 16 of 1908.

Discharge of offender on submission of apology.

387. When any Court has under section 384 adjudged an offender to punishment, or has under section 385 forwarded him to a Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction. 20 25

Imprisonment or committal of person refusing to answer or produce document.

388. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 384 or section 385. 30 35

Summary procedure for punishment for non-attendance by a witness in obedience to summons.

389. (1) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interest of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding five hundred rupees. 40

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials. 45

Appeals from convictions under sections 383, 384, 388 and 389.

390. (1) Any person sentenced by any Court other than a High Court under section 383, section 384, section 388, or section 389 may, notwithstanding anything contained in this Sanhita appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any Registrar or Sub-Registrar deemed to be a Civil Court by virtue of a direction issued under section 386 shall lie to the Court of Session for the sessions division within which the office of such Registrar or Sub-Registrar is situate.

10 **391.** Except as provided in sections 383, 384, 388 and 389, no Judge of a Criminal Court (other than a Judge of a High Court) or Magistrate shall try any person for any offence referred to in section 215, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Certain Judges and Magistrates not to try certain offences when committed before themselves.

15 **392. (1)** The judgment in every trial in any Criminal Court or original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time not later than forty-five days of which notice shall be given to the parties or their advocates,—

Judgment.

(a) by delivering the whole of the judgment; or

20 (b) by reading out the whole of the judgment; or

(c) by reading out the operative part of the judgment and explaining the substance of the judgment in a language which is understood by the accused or his advocate.

(2) Where the judgment is delivered under clause (a) of sub-section (1), the presiding officer shall cause it to be taken down in short-hand, sign the transcript and every page thereof as soon as it is made ready, and write on it the date of the delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out under clause (b) or clause (c) of sub-section (1), as the case may be, it shall be dated and signed by the presiding officer in open Court, and if it is not written with his own hand, every page of the judgment shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in clause (c) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their advocates free of cost:

35 Provided that the Court shall, as far as practicable, upload the copy of the judgment on its portal within a period of seven days from the date of judgment.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced either in person or through audio-video electronic means.

(6) If the accused is not in custody, he shall be required by the Court to attend to hear the judgment pronounced, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted:

40 Provided that where there are more accused persons than one, and one or more of them do not attend the Court on the date on which the judgment is to be pronounced, the presiding officer may, in order to avoid undue delay in the disposal of the case, pronounce the judgment notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his advocate on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their advocates, or any of them, the notice of such day and place.

(8) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 513. 5

Language and contents of judgment.

393. (1) Except as otherwise expressly provided by this Sanhita, every judgment referred to in section 392,—

(a) shall be written in the language of the Court;

(b) shall contain the point or points for determination, the decision thereon and the reasons for the decision; 10

(c) shall specify the offence (if any) of which, and the section of the Bharatiya Nyaya Sanhita, 2023 or other law under which, the accused is convicted, and the punishment to which he is sentenced;

(d) if it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty. 15

(2) When the conviction is under the Bharatiya Nyaya Sanhita, 2023 and it is doubtful under which of two sections, or under which of two parts of the same section, of that Sanhita the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative. 20

(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Sanhita.

(5) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead. 30

(6) Every order under section 136 or sub-section (2) of section 157 and every final order made under section 144, section 164 or section 166 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

Order for notifying address of previously convicted offender.

394. (1) When any person, having been convicted by a Court in India of an offence punishable with imprisonment for a term of three years, or upwards, is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by any Court other than that of a Magistrate of the second class, such Court may, if it thinks fit, at the time of passing a sentence of imprisonment on such person, also order that his residence and any change of, or absence from, such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence. 35 40

(2) The provisions of sub-section (1) with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abatement of such offences and attempts to commit them. 45

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) The State Government may, by notification, make rules to carry out the provisions of this section relating to the notification of residence or change of, or absence from, residence by released convicts.

(6) Such rules may provide for punishment for the breach thereof and any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated.

395. (1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

Order to pay compensation.

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

396. (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

Victim compensation scheme.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 395 is not adequate for such rehabilitation, or where the cases end

in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation. 5

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit. 10

(7) The compensation payable by the State Government under this section shall be in addition to the payment of fine to the victim under section 67(4), section 68, section 70(I) and section 70(2) of Bharatiya Nyaya Sanhita, 2023. 15

Treatment of victims.

397. All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 122, section 64, section 66, section 67, section 68, section 70, section 71 or section 122 of the Bharatiya Nyaya, Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012, and shall immediately inform the police of such incident. 20

32 of 2012.

Witness protection scheme.

398. Every State Government shall prepare and notify a Witness Protection Scheme for the State with a view to ensure protection of the witnesses. 25

Compensation to persons groundlessly arrested.

399. (1) Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one thousand rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit. 30

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding one thousand rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid. 35

Order to pay costs in non-cognizable cases.

400. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witnesses and advocate's fees which the Court may consider reasonable. 40

(2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision. 45

Order to release on probation of good conduct or after admonition.

401. (1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence

not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on
 5 probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behavior:

10 Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

15 (2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

20 (3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Bharatiya Nyaya Sanhita, 2023, punishable with not more than two years, imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or
 25 mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

30 (5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

35 Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 140, 143 and 414 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

40 (7) The Court, before directing the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

45 (8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

50 (10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958, or the Juvenile Justice (Care and Protection of Children) Act, 2015 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

Special reasons to be recorded in certain cases.	402. Where in any case the Court could have dealt with,—	20 of 1958.
	(a) an accused person under section 401 or under the provisions of the Probation of Offenders Act, 1958; or	
	(b) a youthful offender under the Juvenile Justice (Care and Protection of Children) Act, 2015 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders,	5 2 of 2016.
	but has not done so, it shall record in its judgment the special reasons for not having done so.	
Court not to alter judgment.	403. Save as otherwise provided by this Sanhita or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.	10
Copy of judgment to be given to the accused and other persons.	404. (1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.	
	(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:	15
	Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.	20
	(3) The provisions of sub-section (2) shall apply in relation to an order under section 136 as they apply in relation to a judgment which is appealable by the accused.	
	(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.	25
	(5) Save as otherwise provided in sub-section (2), any person affected by a judgment or order passed by a Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or of any deposition or other part of the record:	
	Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost:	30
	Provided further that the Court may, on an application made in this behalf by the Prosecuting Officer, provide to the Government, free of cost, a certified copy of such judgment, order, deposition or record.	
	(6) The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.	35
Judgment when to be translated.	405. The original judgment shall be filed with the record of the proceedings and where the original is recorded in a language different from that of the Court, and if either party so requires, a translation thereof into the language of the Court shall be added to such record.	40
Court of Session to send copy of finding and sentence to District Magistrate.	406. In cases tried by the Court of Session or a Chief Judicial Magistrate, the Court or such Magistrate, as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.	45

CHAPTER XXX

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

5 **407.** (1) When the Court of Session passes a sentence of death, the proceedings shall forthwith be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

Sentence of death to be submitted by Court of Session for confirmation.

(2) The Court passing the sentence shall commit the convicted person to jail custody under a warrant.

10 **408.** (1) If, when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

Power to direct further inquiry to be made or additional evidence to be taken.

(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.

15 (3) When the inquiry or evidence (if any) is not made or taken by the High Court, the result of such inquiry or evidence shall be certified to such Court.

409. In any case submitted under section 407, the High Court—

Power of High Court to confirm sentence or annul conviction.

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

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

(c) may acquit the accused person:

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

25 **410.** In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Confirmation or new sentence to be signed by two Judges.

411. Where any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case shall be decided in the manner provided by section 433.

Procedure in case of difference of opinion.

30 **412.** In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send either physically, or through electronic means, a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted to High Court for confirmation.

CHAPTER XXXI

APPEALS

413. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Sanhita or by any other law for the time being in force:

No appeal to lie unless otherwise provided.

40 Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.	<p>414. Any person,—</p> <p style="padding-left: 2em;">(i) who has been ordered under section 136 to give security for keeping the peace or for good behaviour, or</p> <p style="padding-left: 2em;">(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 140,</p> <p>may appeal against such order to the Court of Session:</p> <p>Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4), of section 141.</p>	5
Appeals from convictions.	<p>415. (1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.</p> <p>(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed against him or against any other person convicted at the same trial, may appeal to the High Court.</p> <p>(3) Save as otherwise provided in sub-section (2), any person,—</p> <p style="padding-left: 2em;">(a) convicted on a trial held by Magistrate of the first class, or of the second class, or</p> <p style="padding-left: 2em;">(b) sentenced under section 364, or</p> <p style="padding-left: 2em;">(c) in respect of whom an order has been made or a sentence has been passed under section 401 by any Magistrate,</p> <p>may appeal to the Court of Session.</p> <p>(4) When an appeal has been filed against a sentence passed under section 64, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.</p>	10 15 20 25
No appeal in certain cases when accused pleads guilty.	<p>416. Notwithstanding anything in section 415, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,—</p> <p style="padding-left: 2em;">(i) if the conviction is by a High Court; or</p> <p style="padding-left: 2em;">(ii) if the conviction is by a Court of Session or Magistrate of the first or second class, except as to the extent or legality of the sentence.</p>	30
No appeal in petty cases.	<p>417. Notwithstanding anything in section 415, there shall be no appeal by a convicted person in any of the following cases, namely:—</p> <p style="padding-left: 2em;">(a) where a High Court passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;</p> <p style="padding-left: 2em;">(b) where a Court of Session passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine;</p> <p style="padding-left: 2em;">(c) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or</p> <p style="padding-left: 2em;">(d) where, in a case tried summarily, a Magistrate empowered to act under section 283 passes only a sentence of fine not exceeding two hundred rupees:</p> <p>Provided that an appeal may be brought against such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground—</p>	35 40 45

(i) that the person convicted is ordered to furnish security to keep the peace; or

(ii) that a direction for imprisonment in default of payment of fine is included in the sentence; or

(iii) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case.

418. (1) Save as otherwise provided in sub-section (2), the State Government may, in any case of conviction on a trial held by any Court other than a High Court, direct the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy—

Appeal by the State Government against sentence.

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court.

(2) If such conviction is in a case in which the offence has been investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita, the Central Government may also direct the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy—

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court.

(3) When an appeal has been filed against the sentence on the ground of its inadequacy, the Court of Session or, as the case may be, the High Court shall not enhance the sentence except after giving to the accused a reasonable opportunity of showing cause against such enhancement and while showing cause, the accused may plead for his acquittal or for the reduction of the sentence.

(4) When an appeal has been filed against a sentence passed under section 64, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

419. (1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-sections (3) and (5),—

Appeal in case of acquittal.

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court not being an order under clause (a) or an order of acquittal passed by the Court of Session in revision.

(2) If such an order of acquittal is passed in a case in which the offence has been investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita, the Central Government may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal—

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court not being an order under clause (a) or an order of acquittal passed by the Court of Session in revision.

(3) No appeal to the High Court under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special

leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal. 5

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).

Appeal against conviction by High Court in certain cases. 420. Where the High Court has, on appeal, reversed an order of acquittal of an accused person and convicted him and sentenced him to death or to imprisonment for life or to imprisonment for a term of ten years or more, he may appeal to the Supreme Court. 10

Special right of appeal in certain cases. 421. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal. 15

Appeal to Court of Session how heard. 422. (1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a Magistrate of the second class may be heard and disposed of by the Chief Judicial Magistrate. 20

(2) An Additional Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

Petition of appeal. 423. Every appeal shall be made in the form of a petition in writing presented by the appellant or his advocate, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against. 25

Procedure when appellant in jail. 424. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court. 30

Summary dismissal of appeal. 425. (1) If upon examining the petition of appeal and copy of the judgment received under section 423 or section 424, the Appellate Court considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that— 35

(a) no appeal presented under section 423 shall be dismissed unless the appellant or his advocate has had a reasonable opportunity of being heard in support of the same;

(b) no appeal presented under section 424 shall be dismissed except after giving the appellant a reasonable opportunity of being heard in support of the same, unless the Appellate Court considers that the appeal is frivolous or that the production of the accused in custody before the Court would involve such inconvenience as would be disproportionate in the circumstances of the case; 40

(c) no appeal presented under section 424 shall be dismissed summarily until the period allowed for preferring such appeal has expired. 45

(2) Before dismissing an appeal under this section, the Court may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this section is a Court of Session or of the Chief Judicial Magistrate, it shall record its reasons for doing so.

(4) Where an appeal presented under section 424 has been dismissed summarily under this section and the Appellate Court finds that another petition of appeal duly presented under section 423 on behalf of the same appellant has not been considered by it, that Court may, notwithstanding anything contained in section 434, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

426. (1) If the Appellate Court does not dismiss the appeal summarily, it shall cause notice of the time and place at which such appeal will be heard to be given—

Procedure for hearing appeals not dismissed summarily.

- (i) to the appellant or his advocate;
- (ii) to such officer as the State Government may appoint in this behalf;
- (iii) if the appeal is from a judgment of conviction in a case instituted upon complaint, to the complainant;
- (iv) if the appeal is under section 419 or section 420, to the accused, and shall also furnish such officer, complainant and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record of the case, if such record is not already available in that Court, and hear the parties:

Provided that if the appeal is only as to the extent or the legality of the sentence, the Court may dispose of the appeal without sending for the record.

(3) Where the only ground for appeal from a conviction is the alleged severity of the sentence, the appellant shall not, except with the leave of the Court, urge or be heard in support of any other ground.

427. After perusing such record and hearing the appellant or his advocate, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 418 or section 419, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

Powers of the Appellate Court.

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

(b) in an appeal from a conviction—

(i) reverse the finding and sentence and acquit or discharge the accused, or order him to be re-tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or

(ii) alter the finding, maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same;

(c) in an appeal for enhancement of sentence—

(i) reverse the finding and sentence and acquit or discharge the accused or order him to be re-tried by a Court competent to try the offence, or

(ii) alter the finding maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, so as to enhance or reduce the same;

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

(e) make any amendment or any consequential or incidental order that may be just or proper:

Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement:

Provided further that the Appellate Court shall not inflict greater punishment for the offence which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal. 5

Judgments of Subordinate Appellate Court.

428. The rules contained in Chapter XXVIII as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment in appeal of a Court of Session or Chief Judicial Magistrate:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered. 10

Order of High Court on appeal to be certified to lower Court.

429. (1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed and if such Court is that of a Judicial Magistrate other than the Chief Judicial Magistrate, the High Court's judgment or order shall be sent through the Chief Judicial Magistrate, and if such Court is that of an Executive Magistrate, the High Court's judgment or order shall be sent through the District Magistrate. 15

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending the appeal; release of appellant on bail.

430. (1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond: 20

Provided that the Appellate Court shall, before releasing on bail or on his own bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release: 25

Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto. 30

(3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall,—

(i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years, or 35

(ii) where the offence of which such person has been convicted is a bailable one, and he is on bail,

order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended. 40

(4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced. 45

Arrest of accused in appeal from acquittal.

431. When an appeal is presented under section 419, the High Court may issue a warrant directing that the accused be arrested and brought before it or any Subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit him to bail.

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

Appellate Court may take further evidence or direct it to be taken.

5 (2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) The accused or his advocate shall have the right to be present when the additional evidence is taken.

10 (4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIV, as if it were an inquiry.

433. When an appeal under this Chapter is heard by a High Court before a Bench of Judges and they are divided in opinion, the appeal, with their opinions, shall be laid before another Judge of that Court, and that Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow that opinion:

Procedure where Judges of Court of Appeal are equally divided.

Provided that if one of the Judges constituting the Bench, or, where the appeal is laid before another Judge under this section, that Judge, so requires, the appeal shall be re-heard and decided by a larger Bench of Judges.

20 **434.** Judgments and orders passed by an Appellate Court upon an appeal shall be final, except in the cases provided for in section 418, section 419, sub-section (4) of section 425 or Chapter XXXII:

Finality of judgments and orders on appeal.

Provided that notwithstanding the final disposal of an appeal against conviction in any case, the Appellate Court may hear and dispose of, on the merits,—

25 (a) an appeal against acquittal under section 419, arising out of the same case, or

(b) an appeal for the enhancement of sentence under section 418, arising out of the same case.

435. (1) Every other appeal under section 418 or section 419 shall finally abate on the death of the accused.

Abatement of appeals.

30 (2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

35 Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation.—In this section, "near relative" means a parent, spouse, lineal descendant, brother or sister.

CHAPTER XXXII

REFERENCE AND REVISION

40 **436.** (1) Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that Court is Subordinate or by the Supreme Court, the Court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Reference to High Court.

Explanation.—In this section, "Regulation" means any Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

10 of 1897.

(2) A Court of Session may, if it or he thinks fit in any case pending before it or him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

5

(3) Any Court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.

Disposal of case according to decision of High Court.

437. (1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Court by which the reference was made, which shall dispose of the case conformably to the said order.

10

(2) The High Court may direct by whom the costs of such reference shall be paid.

Calling for records to exercise powers of revision.

438. (1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on bail or on his own bond pending the examination of the record.

15

Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 439.

20

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

25

Power to order inquiry.

439. On examining any record under section 438 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 226 or sub-section (4) of section 227, or into the case of any person accused of an offence who has been discharged:

30

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

35

Sessions Judge's powers of revision.

440. (1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of section 442.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 442 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

40

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.

45

Power of Additional Sessions Judge.

441. An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge.

50

442. (1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 427, 430, 431 and 432 or on a Court of Session by section 344, and, when the Judges composing the Court of Revision are
5 equally divided in opinion, the case shall be disposed of in the manner provided by section 433.

High Court's powers of revision.

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

10 (3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one conviction.

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

15 (5) Where under this Sanhita an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

20 443. (1) Whenever one or more persons convicted at the same trial makes or make application to a High Court for revision and any other person convicted at the same trial makes an application to the Sessions Judge for revision, the High Court shall decide, having regard to the general convenience of the parties and the importance of the questions involved, which of the two Courts should finally dispose of the applications for revision and when the High Court decides that all the applications for revision should be disposed
25 of by itself, the High Court shall direct that the applications for revision pending before the Sessions Judge be transferred to itself and where the High Court decides that it is not necessary for it to dispose of the applications for revision, it shall direct that the applications for revision made to it be transferred to the Sessions Judge.

Power of High Court to withdraw or transfer revision cases.

30 (2) Whenever any application for revision is transferred to the High Court, that Court shall deal with the same as if it were an application duly made before itself.

(3) Whenever any application for revision is transferred to the Sessions Judge, that Judge shall deal with the same as if it were an application duly made before himself.

35 (4) Where an application for revision is transferred by the High Court to the Sessions Judge, no further application for revision shall lie to the High Court or to any other Court at the instance of the person or persons whose applications for revision have been disposed of by the Sessions Judge.

40 444. Save as otherwise expressly provided by this Sanhita, no party has any right to be heard either personally or by an advocate before any Court exercising its powers of revision; but the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by advocate.

Option of Court to hear parties.

45 445. When the record of any trial held by a Magistrate is called for by the High Court or Court of Session under section 438, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue, and that Court shall consider such statement before overruling or setting aside the said decision or order.

Statement by Magistrate of grounds of his decision to be considered by High Court.

50 446. When a case is revised under this Chapter by the High Court or a Sessions Judge, it or he shall, in the manner provided by section 429, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith.

High Court's order to be certified to lower Court.

CHAPTER XXXIII

TRANSFER OF CRIMINAL CASES

Power of Supreme Court to transfer cases and appeals.

447. (1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court. 5

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney-General of India or the Advocate-General of the State, be supported by affidavit or affirmation. 10

(3) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum as it may consider appropriate in the circumstances of the case. 15

Power of High Court to transfer cases and appeals.

448. (1) Whenever it is made to appear to the High Court—

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or 20

(c) that an order under this section is required by any provision of this Sanhita, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order—

(i) that any offence be inquired into or tried by any Court not qualified under sections 197 to 205 (both inclusive), but in other respects competent to inquire into or try such offence; 25

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction; 30

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him. 35

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation. 40

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the applications unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application. 45

(6) Where the application is for the transfer of a case or appeal from any Subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interest of justice, order that, pending the disposal of the application the proceedings in the Subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

5 Provided that such stay shall not affect the Subordinate Court's power of remand under section 346.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application
10 such sum as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under
15 section 218.

449. (1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

Power of Sessions Judge to transfer cases and appeals.

(2) The Sessions Judge may act either on the report of the lower Court, or on the
20 application of a party interested, or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 448 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under sub-section (1) of section 448, except that sub-section (7) of that section shall so apply as
25 if for the word "sum" occurring therein, the words "sum not exceeding ten thousand rupees" were substituted.

450. (1) A Sessions Judge may withdraw any case or appeal from, or recall any case or appeal which he has made over to a Chief Judicial Magistrate subordinate to him.

Withdrawal of cases and appeals by Session Judge.

(2) At any time before the trial of the case or the hearing of the appeal has commenced
30 before the Additional Sessions Judge, a Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(3) Where a Sessions Judge withdraws or recalls case or appeal under sub-section (1) or sub-section (2), he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Sanhita to another Court for trial or
35 hearing, as the case may be.

451. (1) Any Chief Judicial Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Withdrawal of cases by Judicial Magistrate.

(2) Any Judicial Magistrate may recall any case made over by him under sub-section (2) of section 213 to any other Magistrate and may inquire into or try such cases himself.

452. Any District Magistrate or Sub-Divisional Magistrate may—

(a) make over, for disposal, any proceeding which has been started before him,
45 to any Magistrate subordinate to him;

(b) withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and dispose of such proceeding himself or refer it for disposal to any other Magistrate.

Making over or withdrawal of cases by Executive Magistrates.

Reasons to be recorded. **453.** A Sessions Judge or Magistrate making an order under section 450, section 451, section 452 or section 453 shall record his reasons for making it.

CHAPTER XXXIV

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A.—*Death Sentences* 5

Execution of order passed under section 410. **454.** When in a case submitted to the High Court for the confirmation of a sentence of death, the Court of Session receives the order of confirmation or other order of the High Court thereon, it shall cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

Execution of sentence of death passed by High Court. **455.** When a sentence of death is passed by the High Court in appeal or in revision, the Court of Session shall, on receiving the order of the High Court, cause the sentence to be carried into effect by issuing a warrant. 10

Postponement of execution of sentence of death in case of appeal to Supreme Court. **456.** (1) Where a person is sentenced to death by the High Court and an appeal from its judgment lies to the Supreme Court under sub-clause (a) or sub-clause (b) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until the period allowed for preferring such appeal has expired, or if, an appeal is preferred within that period, until such appeal is disposed of. 15

(2) Where a sentence of death is passed or confirmed by the High Court, and the person sentenced makes an application to the High Court for the grant of a certificate under article 132 or under sub-clause (c) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until such application is disposed of by the High Court, or if a certificate is granted on such application, until the period allowed for preferring an appeal to the Supreme Court on such certificate has expired. 20

(3) Where a sentence of death is passed or confirmed by the High Court, and the High Court is satisfied that the person sentenced intends to present a petition to the Supreme Court for the grant of special leave to appeal under article 136 of the Constitution, the High Court shall order the execution of the sentence to be postponed for such period as it considers sufficient to enable him to present such petition. 25

Postponement of capital sentence on pregnant woman. **457.** If a woman sentenced to death is found to be pregnant, the High Court shall commute the sentence to imprisonment for life. 30

B.—*Imprisonment*

Power to appoint place of imprisonment. **458.** (1) Except when otherwise provided by any law for the time being in force, the State Government may direct in what place any person liable to be imprisoned or committed to custody under this Sanhita shall be confined.

(2) If any person liable to be imprisoned or committed to custody under this Sanhita is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail. 35

(3) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been released from the civil jail under section 58 of the Code of Civil Procedure, 1908; or 5 of 1908.

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be released under section 58 of the Code of Civil Procedure, 1908. 5 of 1908.

459. (1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 455, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined, and, unless the accused is already confined in such jail or other place, shall forward him to such jail or other place, with the warrant:

Execution of sentence of imprisonment.

Provided that where the accused is sentenced to imprisonment till the rising of the Court, it shall not be necessary to prepare or forward a warrant to a jail, and the accused may be confined in such place as the Court may direct.

(2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in sub-section (1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

460. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

Direction of warrant for execution.

461. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant with whom to be lodged.

C.-Levy of fine

462. (1) When an offender has been sentenced to pay a fine, but no such payment has been made, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

Warrant for levy of fine.

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 395.

(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

463. A warrant issued under clause (a) of sub-section (1) of section 462 by any Court may be executed within the local jurisdiction of such Court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local jurisdiction such property is found.

Effect of such warrant.

464. Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in any territory to which this Sanhita does not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Sanhita extends, authorising him to realise the amount as if it were an arrear of land revenue, such warrant shall be deemed to be a warrant issued under clause (b) of sub-section (1) of section 462 by

Warrant for levy of fine issued by a Court in any territory to which this Sanhita does not extend.

a Court in the territories to which this Sanhita extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

Suspension of execution of sentence of imprisonment.

465. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

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

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

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

D.—General provisions regarding execution

Who may issue warrant.

466. Every warrant for the execution of a sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor-in-office.

Sentence on escaped convict when to take effect.

467. (1) When a sentence of death, imprisonment for life or fine is passed under this Sanhita on an escaped convict, such sentence shall, subject to the provisions hereinbefore contained, take effect immediately.

(2) When a sentence of imprisonment for a term is passed under this Sanhita on an escaped convict,—

(a) if such sentence is severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately;

(b) if such sentence is not severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

(3) For the purposes of sub-section (2), a sentence of rigorous imprisonment shall be deemed to be severer in kind than a sentence of simple imprisonment.

Sentence on offender already sentenced for another offence.

468. (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 141 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

469. Where an accused person has, on conviction, been sentenced to imprisonment for a term, not being imprisonment in default of payment of fine, the period of detention, if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him:
- Period of detention undergone by accused to be set off against sentence of imprisonment.
- Provided that in cases referred to in section 476, such period of detention shall be set off against the period of fourteen years referred to in that section.
470. (1) Nothing in section 467 or section 468 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.
- Saving.
- (2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences of imprisonment, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.
471. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it is issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.
- Return of warrant on execution of sentence.
472. Any money (other than a fine) payable by virtue of any order made under this Sanhita, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine:
- Money ordered to be paid recoverable as a fine.
- Provided that section 462 shall, in its application to an order under section 400, by virtue of this section, be construed as if in the proviso to sub-section (1) of section 462, after the words and figures "under section 395", the words and figures "or an order for payment of costs under section 401" had been inserted.
473. (1) A convict under the sentence of death or his legal heir or any other relative may, if he has not already submitted a petition for mercy, file a mercy petition before the President of India under article 72 or the Governor of the State under article 161 of the Constitution within a period of thirty days after the date on which the Superintendent of the Jail,—
- Mercy Petition in death sentence cases.
- (i) informs him about the dismissal of the appeal or special leave to appeal by the Supreme Court; or
- (ii) informs him about the date of confirmation of the sentence of death by the High Court and the time allowed to file an appeal or special leave in the Supreme Court has expired,
- and that may present the mercy petition to the Home Department of the State Government or the Central Government, as the case may be.
- (2) The petition under sub-section (1) may, initially be made to the Governor and on its rejection or disposal by the Governor, the petition shall be made to the President within a period of sixty days from the date of rejection or disposal of his petition.
- (3) The Superintendent of the Jail or officer in charge of the Jail shall ensure, that every convict, in case there are more than one convict in a case, also makes the mercy petition within a period of sixty days and on non-receipt of such petition from the other convicts, Superintendent of the Jail shall send the names, addresses, copy of the record of the case and all other details of the case to the Central Government or State Government for consideration along with the said mercy petition.
- (4) The Central Government shall, on receipt of the mercy petition seek the comments of the State Government and consider the petition along with the records of the case and

make recommendations to the President in this behalf, as expeditiously as possible, within a period of sixty days from the date of receipt of comments of the State Government and records from Superintendent of the Jail.

(5) The President may, consider, decide and dispose of the mercy petition and, in case there are more than one convict in a case, the petitions shall be decided by the President together in the interests of justice. 5

(6) Upon receipt of the order of the President on the mercy petition, the Central Government shall within forty-eight hours, communicate the same to the Home Department of the State Government and the Superintendent of the Jail or officer in charge of the Jail.

(7) No appeal shall lie in any Court against the order of the President made under article 72 of the Constitution and it shall be final, and any question as to the arriving of the decision by the President shall not be enquired into in any Court. 10

Power to
suspend or
remit
sentences.

474. (1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced. 15

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists. 20

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence. 25

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will. 30

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and— 35

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail. 40

(6) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Sanhita or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 475, the expression "appropriate Government" means,— 45

(a) in cases where the sentence is for an offence against, or the order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

(b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

475. The appropriate Government may, without the consent of the person sentenced, commute— Power to commute sentence.

- 5 (a) a sentence of death, for imprisonment for life;
- (b) a sentence of imprisonment for life, for imprisonment for a term not less than seven years;
- (c) a sentence of imprisonment for seven years or ten years, for imprisonment for a term not less than three years;
- 10 (d) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced;
- (e) a sentence of imprisonment up to three years, for fine.

476. Notwithstanding anything contained in section 474, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under section 475 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment. Restriction on powers of remission or commutation in certain cases.

477. The powers conferred by sections 474 and 475 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government. Concurrent power of Central Government in case of death sentences.

478. (1) The powers conferred by sections 474 and 475 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence— State Government to act after concurrence with Central Government in certain cases.

- (a) which was investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita; or
- 25 (b) which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government; or

(c) which was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, shall not be exercised by the State Government except after concurrence with the Central Government.

(2) No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

CHAPTER XXXV

PROVISIONS AS TO BAIL AND BONDS

479. In this Sanhita, unless the context otherwise requires,— Bail and bond.

40 (a) "bail" means release of a person accused of an offence from the custody of law upon certain conditions imposed by an officer or court including execution by such person of a bond or a bail bond.

(b) "bond" means a personal bond or an undertaking for release without payment of any surety;

(c) "bail bond" means an undertaking for release with payment of surety.

In what cases bail to be taken.

480. (1) When any person other than a person accused of a non-bailable offence is arrested without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail: 5

Provided that such officer or Court, if he or it thinks fit, may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail bond from such person, discharge him on his executing a bond for his appearance as hereinafter provided. 10

Explanation.—Where a person is unable to give bail bond within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso:

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 135 or section 494. 15

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 493. 20

Maximum period for which undertrial prisoner can be detained.

481. (1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail: 25

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bail by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law: 30

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of the personal bond: 35

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded. 40

(2) Notwithstanding anything contained in sub-section (1), where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court. 45

(3) The Superintendent of jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail.

482. (1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of session, he may be released on bail, but—

When bail may be taken in case of non-bailable offence.

5 (i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been
10 previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but less than seven years:

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of eighteen years or is a woman or is sick
15 or infirm:

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being
20 identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court:

Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or
25 more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for
30 further inquiry into his guilt, the accused shall, subject to the provisions of section 494 and pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under
35 Chapter VI, Chapter XVI or Chapter XVII of the Bharatiya Nagarik Suraksha Sanhita, 2023 or abatement of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court shall impose the conditions,—

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter;

40 (b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected; and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the
45 evidence,

and may also impose, in the interests of justice, such other conditions as it considers necessary.

(4) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons or special reasons for so doing.

(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time, after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

Bail to require accused to appear before next Appellate Court.

483. (1) Before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bond or bail bond, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bond shall be in force for six months.

(2) If such accused fails to appear, the bond stand forfeited and the procedure under section 493 shall apply.

Direction for grant of bail to person apprehending arrest.

484. (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 482, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should be issued in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (2) of section 64 or section 66 or section 70 of the Bharatiya Nyaya Sanhita, 2023.

Special powers of High Court or Court of Session regarding bail.

485. (1) A High Court or Court of Session may direct,—

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 482, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice:

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under section 64 or section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under section 64 or section 66 or section 70 of the Bhartiya Nyaya Sanhita, 2023.

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

486. (1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

Amount of bond and reduction thereof.

(2) The High Court or the Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

487. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

Bond of accused and sureties.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an enquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

488. Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.

Declaration by sureties.

489. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the orders shall release him.

Discharge from custody.

(2) Nothing in this section, section 480 or section 482, shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

490. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Discharge of sureties.

491. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants. 5

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail. 10

Deposit instead of recognizance.

492. When any person is required by any Court or officer to execute a bond with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond. 15

Procedure when bond has been forfeited.

493. (1) Where a bond under this Sanhita is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited, 20

or where, in respect of any other bond under this Sanhita, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited,

the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid. 25

Explanation.—A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, before any Court to which the case may subsequently be transferred. 30

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Sanhita:

Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months. 35

(3) The Court may, after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond. 40

(5) Where any person who has furnished security under section 125 or section 136 or section 401 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 496, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved. 45

494. Without prejudice to the provisions of section 493, where a bond under this Sanhita is for appearance of a person in a case and it is forfeited for breach of a condition,— Cancellation of bond and bail bond.

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

5 (b) thereafter no such person shall be released only on his own bond in that case, if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

10 Provided that subject to any other provisions of this Sanhita he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the police officer or the Court, as the case may be, thinks sufficient.

495. When any surety to a bond under this Sanhita becomes insolvent or dies, or when any bond is forfeited under the provisions of section 493, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh securities in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order. Procedure in case of insolvency or death of surety or when a bond is forfeited.

496. When the person required by any Court, or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only. Bond required from minor.

497. All orders passed under section 493 shall be appealable,—

(i) in the case of an order made by a Magistrate, to the Sessions Judge;

25 (ii) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

498. The High Court or Court of Sessions may direct any Magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session. Power to direct levy of amount due on certain recognizances.

CHAPTER XXXVI

DISPOSAL OF PROPERTY

30 **499.** When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, 35 the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. Order for custody and disposal of property pending trial in certain cases.

Explanation.—For the purposes of this section, "property" includes—

(a) property of any kind or document which is produced before the Court or which is in its custody;

40 (b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide. 45

(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

(4) The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter. 5

Order for disposal of property at conclusion of trial.

500. (1) When an investigation, inquiry or trial in any Criminal Court is concluded, the Court or the Magistrate may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence. 10

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without securities, to the satisfaction of the Court or the Magistrate, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision. 15

(3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 505, 506 and 507. 20

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of. 25

(5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise. 30

Payment to innocent purchaser of money found on accused.

501. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him within six months from the date of such order. 35

Appeal against orders under section 500 or section 501.

502. (1) Any person aggrieved by an order made by a Court under section 500 or section 501, may appeal against it to the Court to which appeals ordinarily lie from convictions by the former Court. 40

(2) On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be exercised by a Court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made. 45

Destruction of libellous and other matter.

503. (1) On a conviction under section 292, section 293, section 354 of the Bhartiya Nyaya Sanhita, 2023, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. 50

(2) The Court may, in like manner, on a conviction under section 272, section 273, section 274 or section 275 of the Bharatiya Nyaya Sanhita, 2023, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

5 **504.** (1) When a person is convicted of an offence by use of criminal force or show of force or by criminal intimidation, and it appears to the Court that, by such use of force or show of force or intimidation, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property:

Power to restore possession of immovable property.

10 Provided that no such order shall be made by the Court more than one month after the date of the conviction.

(2) Where the Court trying the offence has not made an order under sub-section (1), the Court of appeal, confirmation or revision may, if it thinks fit, make such order while disposing of the appeal, reference or revision, as the case may be.

15 (3) Where an order has been made under sub-section (1), the provisions of section 502 shall apply in relation thereto as they apply in relation to an order under section 501.

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

20 **505.** (1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Sanhita, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

Procedure by police upon seizure of property.

25 (2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

30 **506.** (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the Magistrate may by order direct that such property shall be at the disposal of the State Government and may be sold by that Government and the proceeds of such sale shall be dealt with in such manner as the State Government may, by rules, provide.

Procedure where no claimant appears within six months.

(2) An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

40 **507.** If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is less than ten thousand rupees, the Magistrate may at any time direct it to be sold; and the provisions of sections 505 and 506 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to sell perishable property.

45 CHAPTER XXXVII

IRREGULAR PROCEEDINGS

508. If any Magistrate not empowered by law to do any of the following things, namely:—

Irregularities which do not vitiate proceedings.

(a) to issue a search-warrant under section 97;

50 (b) to order, under section 174, the police to investigate an offence;

(c) to hold an inquest under section 196;

(d) to issue process under section 207, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;

(e) to take cognizance of an offence under clause (a) or clause (b) of sub-section (1) of section 210; 5

(f) to make over a case under sub-section (2) of section 212;

(g) to tender a pardon under section 343;

(h) to recall a case and try it himself under section 451; or

(i) to sell property under section 506 or section 507, 10

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

509. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(a) attaches and sells property under section 85; 15

(b) issues a search-warrant for a document, parcel or other things in the custody of a postal or telegraph authority;

(c) demands security to keep the peace;

(d) demands security for good behaviour;

(e) discharges a person lawfully bound to be of good behaviour; 20

(f) cancels a bond to keep the peace;

(g) makes an order for maintenance;

(h) makes an order under section 152 as to a local nuisance;

(i) prohibits, under section 162, the repetition or continuance of a public nuisance; 25

(j) makes an order under Part C or Part D of Chapter XI;

(k) takes cognizance of an offence under clause (c) of sub-section (1) of section 210;

(l) tries an offender;

(m) tries an offender summarily; 30

(n) passes a sentence, under section 364, on proceedings recorded by another Magistrate;

(o) decides an appeal;

(p) calls, under section 438, for proceedings; or

(q) revises an order passed under section 493, 35

his proceedings shall be void.

Proceedings in wrong place.

510. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice. 40

511. (1) If any Court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 183 or section 316, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 94 of the Bharatiya Sakshya Adiniyam 2023, take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence on the merits and that he duly made the statement recorded, admit such statement.

Non-compliance with provisions of section 183 or section 316.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

512. (1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

Effect of omission to frame, or absence of, or error in, charge.

(2) If the Court of appeal, confirmation or revision, is of opinion that a failure of justice has in fact been occasioned, it may,—

(a) in the case of an omission to frame a charge, order that a charge be framed, and that the trial be recommended from the point immediately after the framing of the charge;

(b) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

513. (1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Sanhita, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

Finding or sentence when reversible by reason of error, omission or irregularity.

(2) In determining whether any error, omission or irregularity in any proceeding under this Sanhita, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

514. No attachment made under this Sanhita shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of attachment or other proceedings relating thereto.

Defect or error not to make attachment unlawful.

CHAPTER XXXVIII

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

515. For the purposes of this Chapter, unless the context otherwise requires, "period of limitation" means the period specified in section 517 for taking cognizance of an offence.

Definitions.

516. (1) Except as otherwise provided in this Sanhita, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

Bar to taking cognizance after lapse of period of limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment. 5

Explanation.—For the purpose of computing the period of limitation, the relevant date shall be the date of filing complaint under section 223 or the date of recording of information under section 173.

Commencement
of period of
limitation.

517. (1) The period of limitation, in relation to an offender, shall commence,— 10

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier. 15

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

Exclusion of
time in
certain cases.

518. (1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded: 20

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it. 25

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded. 30

Explanation.—In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded. 35

(4) In computing the period of limitation, the time during which the offender—

(a) has been absent from India or from any territory outside India which is under the administration of the Central Government; or 40

(b) has avoided arrest by absconding or concealing himself,

shall be excluded.

Exclusion of
date on which
Court is closed.

519. Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens. 45

Explanation.—A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

520. In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues. Continuing offence.

521. Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice. Extension of period of limitation in certain cases.

CHAPTER XXXIX

MISCELLANEOUS

522. When an offence is tried by the High Court otherwise than under section 448, it shall, in the trial of the offence, observe the same procedure as a Court of Sessions would observe if it were trying the case. Trials before High Courts.

46 of 1950.
62 of 1957.
45 of 1950.

523. (1) The Central Government may make rules consistent with this Sanhita and the Army Act, 1950, the Navy Act, 1957, and the Air Force Act, 1950, and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to military, naval or air-force law, or such other law, shall be tried by a Court to which this Sanhita applies, or by a Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Sanhita applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest military, naval or air-force station, as the case may be, for the purpose of being tried by a Court-martial. Delivery to commanding officers of persons liable to be tried by Court-martial.

Explanation.—In this section—

(a) "Unit" includes a regiment, corps, ship, detachment, group, battalion or Company;

(b) "Court-martial" includes any Tribunal with the powers similar to those of a Court-martial constituted under the relevant law applicable to the Armed Forces of the Union.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any unit or body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

(3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.

524. Subject to the power conferred by article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient. Forms.

525. (1) Every High Court may, with the previous approval of the State Government, make rules— Power of High Court to make rules.

(a) as to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them;

(c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed;

(d) any other matter which is required to be, or may be, provided by rules made by the State Government.

(2) All rules made under this section shall be published in the Official Gazette.

Power to alter functions allocated to Executive Magistrate in certain cases.	526. If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with the High Court, by notification, direct that references in sections 127, 128, 129, 164 and 166 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.	5
Case in which Judge or Magistrate is personally interested.	527. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.	
	<i>Explanation.</i> —A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any case by reason only that he is concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.	10
Practicing advocate not to sit as Magistrate in certain Courts.	528. No advocate who practices in the Court of any Magistrate shall sit as a Magistrate in that Court or in any Court within the local jurisdiction of that Court.	15
Public servant concerned in sale not to purchase or bid for property.	529. A public servant having any duty to perform in connection with the sale of any property under this Sanhita shall not purchase or bid for the property.	20
Saving of inherent powers of High Court.	530. Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.	25
Duty of High Court to exercise continuous superintendence over Courts.	531. Every High Court shall so exercise its superintendence over the Courts of Sessions and Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by the Judges and Magistrates.	30
Trial and proceedings to be held in electronic mode.	532. All trials, inquiries and proceedings under this Code, including— <ul style="list-style-type: none"> (i) summons and warrant, issuance, service and execution thereof; (ii) holding of inquiry; (iii) examination of complainant and witnesses; (iv) trial before a Court of Session, trial in warrant cases, trial in summons-cases, summary trials and plea bargaining; (v) recording of evidence in inquiries and trials; (vi) trials before High Courts; (vii) all appellate proceedings and such other proceedings, may be held in electronic mode, by use of electronic communication or use of audio-video electronic means.	35 40
Repeal and savings.	533. (1) The Code of Criminal Procedure, 1973 is hereby repealed. (2) Notwithstanding such repeal—	45 2 of 1974.

(a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973, as in force immediately before such commencement (hereinafter referred to as the old Code), as if this Sanhita had not come into force:

2 of 1974. 5

Provided that every inquiry under Chapter XIV of the Old Code, which is pending at the commencement of this Sanhita, shall be dealt with and disposed of in accordance with the provisions of this Sanhita;

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(b) all notifications published, proclamations issued, powers conferred, forms provided by rules local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the Old Code and which are in force immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published, issued, conferred, specified, defined, passed or made under the corresponding provisions of this Sanhita;

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(c) any sanction accorded or consent given under the Old Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction of consent;

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(d) the provisions of the Old Code shall continue to apply in relation to every prosecution against a Ruler within the meaning of article 363 of the Constitution.

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(3) Where the period specified for an application or other proceeding under the Old Code had expired on or before the commencement of this Sanhita, nothing in this Sanhita shall be construed as enabling any such application to be made or proceeding to be commenced under this Sanhita by reason only of the fact that a longer period therefor is specified by this Sanhita or provisions are made in this Sanhita for the extension of time.

THE FIRST SCHEDULE

CLASSIFICATION OF OFFENCES

EXPLANATORY NOTES: (1) In regard to offences under the Bharatiya Nyaya Sanhita, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Bharatiya Nyaya Sanhita, but merely as indication of the substance of the section.

(2) In this Schedule, (i) the expression “Magistrate of the first class” and “Any Magistrate” but not including Executive Magistrates; (ii) the word “cognizable” stands for “a police officer may arrest without warrant”; and (iii) the word “non-cognizable” stands for “a police officer shall not arrest without warrant”.

I. –OFFENCES UNDER THE BHARATIYA NYAYA SANHITA

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
49	Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.	Same as for offence abetted.	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
50	Punishment of abetment if person abetted does act with different intention from that of abettor.	Ditto	Ditto	Ditto	Ditto.
51	Liability of abettor when one act abetted and different act done	Same as for offence intended to be abetted.	Ditto	Ditto	Ditto.
52	Abettor when liable to cumulative punishment for act abetted and for act done.	Same as for offence committed.	Ditto	Ditto	Ditto
53	Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.	Same as for offence committed.	Ditto	Ditto	Ditto.
54	Abettor present when offence is committed.	Ditto	Ditto	Ditto	Ditto.
55	(1) Abetment of offence punishable with death or imprisonment for life.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
	(2) If an act which causes harm be done in consequence of the abetment.	Imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.
56	(1) Abetment of offence punishable with imprisonment.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto	According as offence abetted is bailable or non-bailable.	Ditto.
	(2) If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.	Ditto	Ditto	Ditto.

(1)	(2)	(3)	(4)	(5)	(6)
57	Abetting commission of offence by the public or by more than ten persons.	imprisonment of either description for a term which may extend to seven years and with fine	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
58	Concealing design to commit offence punishable with death or imprisonment for life.	(i) if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years; or	Ditto	non-bailable.	Ditto
		(ii) if the offence be not committed, with imprisonment of either description, for a term which may extend to three years,	Ditto	bailable	Ditto
59	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both.	Ditto	According as offence abetted is bailable or non-bailable.	Ditto.
	If the offence be punishable with death or imprisonment for life.	Imprisonment for 10 years.	Ditto	Non-bailable.	Ditto.
	If the offence be not committed.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto	Bailable.	Ditto.
60	Concealing a design to commit an offence punishable with imprisonment, if offence be committed.	Ditto	Ditto	According as offence abetted is bailable or non-bailable.	Ditto.
	If the offence be not committed.	Imprisonment extending to one-eighth part of the longest term provided for the offence, or fine, or both.	Ditto	Bailable.	Ditto.
61	Criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of 2 years or upwards.	Same as for abetment of the offence which is the object of the conspiracy.	According as the offence which is the object of conspiracy is cognizable or non-cognizable.	According as offence which is object of conspiracy is bailable or non-bailable.	Court by which abetment of the offence which is the object of conspiracy is triable.
	Any other criminal conspiracy.	Imprisonment for 6 months, or fine, or both.	Non-cognizable.	Bailable.	Magistrate of the first class.
62	Attempting to commit offences punishable with imprisonment for life, or imprisonment, and in such attempt doing any act towards the commission of the offence.	Imprisonment for life, or imprisonment not exceeding half of the longest term, provided for the offence, or fine, or both	According as the offence is cognizable or non-cognizable.	According as the offence attempted by the offender is bailable or not.	The court by which the offence attempted is triable.
64 (1)	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.

(1)	(2)	(3)	(4)	(5)	(6)
64 (2)	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
65(1)	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
65(2)	Punishment for rape in certain cases.	Rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.	Cognizable	Non-bailable	Court of Session.
66	Person committing an offence of rape and inflicting injury which causes death or causes the woman to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.
67	Sexual intercourse by husband upon his wife during separation or by a person in authority.	Imprisonment for not less than 2 years but which may extend to 7 years and with fine.	Cognizable	Bailable	Court of Session.
68	Sexual intercourse by a person in authority.	rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.	Cognizable	Non-bailable	Court of Session
69	Sexual intercourse by employing deceitful means etc.	imprisonment of either description for a term which may extend to ten years and shall also be liable to fine	Cognizable	Non-bailable	Court of Session
70 (1)	Gang rape	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
70 (2)	Gang rape on a woman under eighteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.
71	Repeat offenders.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.

1	2	3	4	5	6
72 (1)	Disclosure of identity of the victim of certain offences, etc.	Imprisonment for two years and fine.	Cognizable	Ditto	Any Magistrate.
72 (3)	Printing or publication of a proceeding without prior permission of court.	Ditto	Ditto	Ditto	Ditto
73	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non-bailable	Any Magistrate
74	Sexual harassment and punishment for sexual harassment. Offence specified in clause (iv) of sub-section (1).	Rigorous imprisonment with three years, or with fine, or with both. One year, or with fine, or with both.	Cognizable	Bailable	Any Magistrate
75	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Any Magistrate.
76	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction. Imprisonment of not less than 3 years but which may extend 7 years and with fine for second or subsequent conviction.	Cognizable	Bailable	Any Magistrate.
77	Stalking.	Imprisonment up to 3 years and with fine for first conviction. Imprisonment up to 5 years and with fine for second or subsequent conviction.	Cognizable	Bailable	Any Magistrate.
78	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Simple imprisonment for 3 years and with fine.	Cognizable	Ditto	Ditto.
79	Dowry death.	seven years but which may extend to imprisonment for life.	Ditto	Non-bailable	Court of Session.
80	A man by deceit causing a woman not lawfully married to him to believe, that she is lawfully married to him and to cohabit with him in that belief.	Imprisonment for 10 years and fine.	Non-cognizable	Non-bailable	Magistrate of the first class.
81(1)	Marrying again during the life time of a husband or wife.	Imprisonment for 7 years and fine.	Ditto	Bailable	Ditto.
81(2)	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
82	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
83	Enticing or taking away or detaining with a criminal intent a married woman.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.

(1)	(2)	(3)	(4)	(5)	(6)
84	Punishment for subjecting a married woman to cruelty.	Imprisonment for three years and fine.	Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf.	Non-bailable	Magistrate of the first class.]
85	Kidnapping, abducting or inducing woman to compel her marriage, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
86	Causing miscarriage.	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
	If the woman be quick with child.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
87	Causing miscarriage without women's consent	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
88	Death caused by an act done with intent to cause miscarriage.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	If act done without women's consent.	Imprisonment for life, or as above.	Ditto	Ditto	Ditto.
89	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Imprisonment for 10 years, or fine, or both.	Ditto	Ditto	Ditto.
90	Causing death of a quick unborn child by an act amounting to culpable homicide.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
91	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
92	Concealment of birth by secret disposal of dead body.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
93	Hiring, employing or engaging a child to commit an offence.	imprisonment of either description or fine provided for that offence as if the offence has been committed by such person himself	According as offence committed is cognizable or non-cognizable.	According as offence committed is bailable or non-bailable.	Court by which offence committed is triable.
94	Procuration of child.	Ditto	Ditto	Ditto	Ditto.
95	Kidnapping or abducting child under ten years with intent to steal from its person.	Imprisonment for 7 years and fine	Ditto	Ditto	Magistrate of the first class.
96	Selling child for purposes of prostitution, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
97	Buying child for purposes of prostitution, etc.	Imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.

(1)	(2)	(3)	(4)	(5)	(6)
101	Murder	(1) Death, or imprisonment for life, and fine. (2) death or with imprisonment for life or imprisonment for a term which shall not be less than seven years and shall also be liable to fine.	Cognizable	Non-bailable	Court of Session.
102	Murder by life-convict.	death or with imprisonment for life, which shall mean the remainder of that person's natural life.	Ditto	Ditto	Ditto.
103	Culpable homicide not amounting to murder.	imprisonment for life, or imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years and with fine, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.	Ditto	Ditto	Ditto.
104	Causing death by negligence.	(1) Imprisonment for 7 years and fine. (2) Imprisonment for 10 years and fine .	Ditto	Non-bailable	Magistrate of the first class.
105	Abetment of suicide of child or person with mental illness.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
106	Abetment of suicide.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
107	Attempt to murder	(1) , if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. (2) any person offending under subsection (1) is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.	Ditto	Ditto	Ditto.
108	Attempt to commit culpable homicide	(1) three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.	Ditto	Ditto	Ditto.

1	2	3	4	5	6
	If such act causes hurt to any person	(2) Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.
109(2)	For commission of Organised crime or attempt for commission of Organised crime	if such offence has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to fine which shall not be less than rupees ten lakhs in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Cognizable	Non-bailable	Court of Session.
109(3)		Whoever, conspires or organises the commission of an organised crime, or assists, facilitates or otherwise engages in any act preparatory to an organised crime, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
109(4)		Any person who is a member of an organised crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
109(5)		Whoever, intentionally harbours or conceals or attempts to harbour or conceal any person who has committed the offence of an organised crime or any member of an organised crime syndicate or believes that his act will encourage or assist the doing of such crime shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
109(6)		Whoever, holds any property derived, or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime syndicate funds shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees two lakhs	Ditto	Ditto	Ditto
109(7)		If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than rupees one lakh and such property shall also be liable for attachment and forfeiture	Ditto	Ditto	Ditto

(1)	(2)	(3)	(4)	(5)	(6)
110	Petty Organised crime or organised crime in general.	imprisonment for a term which shall not be less than one year but which may extend to seven years and shall also be liable to fine	Non-Cognizable	bailable	Any Magistrate
111	Offence of terrorist act	if such offence has resulted in the death of any person, be punishable with death or imprisonment for life without the benefit of parole and shall also be liable to fine which shall not be less than rupees ten lakhs	Cognizable	Non-bailable	Court of Session.
		in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
		conspires, organises or causes to be organised any organisation, association or a group of persons for terrorist acts, or assists, facilitates or otherwise conspires to engage in any act preparatory to any terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
		member of terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
		intentionally harbours or conceals or attempts to harbour or conceal any person who has committed an offence of any terrorist act shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs	Ditto	Ditto	Ditto
		holds any property directly or indirectly, derived or obtained from commission of terrorist act or proceeds of terrorism, or acquired through the terrorist fund, or possesses, provides, collects or uses property or funds or makes available property, funds or financial service or other related services, by any means, to be used, in full or in part to carry out or facilitate the commission of any terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs and such property shall also be liable for attachment and forfeiture	Ditto	Ditto	Ditto
113(2)	Voluntarily causing hurt.	Imprisonment for 1 year or fine of 10,000 rupees, or both.	Non-cognizable	Ditto	Any Magistrate.
115(2)	Voluntarily causing grievous hurt.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.

(1)	(2)	(3)	(4)	(5)	(6)
116	(1) Voluntarily causing hurt by dangerous weapons or means. (2) Voluntarily causing grievous hurt by dangerous weapons or means.	(1) imprisonment of either description for a term which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both. (2) not less than one year but which may extend to ten years, and shall also be liable to fine.	Cognizable	Ditto	Ditto.
117	Voluntarily causing hurt or grievous hurt to extort property, or to constrain to an illegal to an act.	(1) imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. (2) voluntarily causes grievous hurt for any purpose referred to in sub-section (1), shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.	Ditto	Ditto	Ditto.
118(1)	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 7 years and fine.	Ditto	Bailable	Magistrate of the first class.
118(2)	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
119	Voluntarily causing hurt or grievous hurt to deter public servant from his duty.	(1) five years, or with fine, or with both. (2) ten years, and shall also be liable to fine.	Cognizable	¹ [Non-bailable]	Ditto.
120(1)	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 1 month, or fine of 5000 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
120(2)	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 5 years, or fine of 10,000 rupees, or both.	Cognizable	Ditto	Magistrate of the first class.
121	Causing hurt by means of poison, etc., with intent to commit an offence.	Imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.	Ditto	Ditto	Court of Session.
122(1)	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session
122(2)	Voluntarily throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.]
123	Act endangering life or personal safety of others. (a) where the hurt is caused, (b) where grievous hurt is caused,	Imprisonment for 3 months, or fine of 2500 rupees, or both. six months, or with fine which may extend to five thousand rupees, or with both. three years, or with fine which may extend to ten thousand rupees, or with both.	Ditto	Ditto	Any Magistrate.

1	2	3	4	5	6
124(2)	Wrongfully restraining any person.	Simple imprisonment for 1 month, or fine of 5000 rupees, or both.	Ditto	Ditto	Ditto.
125(2)	Wrongfully confining any person.	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto.
125(3)	Wrongfully confining for three or more days.	Imprisonment for 3 years, or Fine of 10000 rupees, or both.	Ditto	Ditto	Ditto.
125(4)	Wrongfully confining for 10 or more days.	Imprisonment for 5 years and fine of 10000 rupees.	Ditto	Ditto	Ditto.
125(5)	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter and shall also be liable to fine.	Ditto	Ditto	Magistrate of the first class.
125(6)	Wrongful confinement in secret.	Three years in addition to any other punishment to which he may be liable for such wrongful confinement and shall also be liable to fine.	Ditto	Ditto	Ditto.
125(7)	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.	Ditto	Ditto	Any Magistrate.
125(8)	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	Ditto	Ditto.
129	Assault or criminal force otherwise than on grave provocation.	Three months, or with fine which may extend to one thousand rupees, or with both.	Non-cognizable	Ditto	Ditto.
130	Assault or criminal force to deter public servant from discharge of his duty.	imprisonment of either description for a term which may extend to two years, or with fine, or with both	Ditto	Ditto	Ditto
131	Assault or criminal force with intent to dishonor a person, otherwise than on grave and sudden provocation.	imprisonment of either description for a term which may extend to two years, or with fine, or with both	Non-cognizable	Bailable	Ditto.
132	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	imprisonment of either description for a term which may extend to two years, or with fine, or with both.	Cognizable	Ditto	Ditto.
133	Assault or use of criminal force in attempt wrongfully to confine a person.	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto.
134	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for one month, or fine of 1000 rupees, or both.	Non-cognizable	Ditto	Ditto.
135	Kidnapping	Imprisonment for 7 years and fine.	Cognizable	Ditto	Magistrate of the first class.
137(1)	Kidnaping a child.	Rigorous imprisonment which shall not be less than 10 years but which may extend to imprisonment for life, and shall also be liable to fine.	Cognizable	Non-bailable	Magistrate of the first class.
137(2)	Maiming a child for purposes of begging.	Imprisonment which shall not be less than 20 years which may extend to remainder of life, and with fine.	Ditto	Ditto	Court of Session.
138(1)	Kidnapping or abducting in order to murder.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.

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138(2)	Kidnapping for ransom, etc.	Death, or imprisonment for life and fine.	Ditto	Ditto	Ditto.]
138(3)	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Imprisonment for 7 years and fine.	Ditto	Ditto	Court of Session.
138(4)	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
139	Importation of a girl or boy from foreign country.	Ditto	Ditto	Ditto	Ditto.
140	Wrongfully concealing or keeping in confinement, kidnapped or abducted person.	Punishment for kidnapping or abduction.	Ditto	Ditto	Court by which the kidnapping or abduction is triable.
141	Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of a child.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one child.	Imprisonment of not less than 14 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Person convicted of offence of trafficking of child on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Public servant or a police officer involved in trafficking of child.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
142	Exploitation of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Exploitation of a trafficked person.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.]
143	Habitual dealing in slaves.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
144	Unlawful compulsory labour.	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.
145	Waging or attempting to wage war, or abetting the waging of war, against the Government of India.	Death, or imprisonment for life and fine.	Cognizable.	Non-bailable.	Court of Session.
146	Conspiring to commit certain offences against the State.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
147	Collecting arms, etc., with the intention of waging war against the Government of India.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.

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148	Concealing with intent to facilitate a design to wage war.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
149	Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
150	Acts endangering sovereignty unity and integrity of India.	Imprisonment for life and fine, or imprisonment for 7 years and fine, or fine.	Cognizable	Non-bailable	Court of Session.
151	Waging war against Government of any foreign State at peace with the Government of India.	Imprisonment for life and fine, or imprisonment for 7 years and fine, or fine.	Ditto	Ditto	Ditto.
152	Committing depredation on the territories of any power in alliance or at peace with the Government of India.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Ditto	Ditto.	Ditto.
153	Receiving property taken by war or depredation mentioned in sections 153 and 154.	Ditto.	Ditto	Ditto	Ditto.
154	Public servant voluntarily allowing prisoner of state or war to escape.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
155	Public servant negligently suffering such prisoner to escape.	Simple imprisonment for 3 years and fine.	Ditto	Bailable	Magistrate of the first class.
156	Aiding escape of, rescuing or harbouring such prisoner.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
157	Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
158	Abetment of mutiny, if mutiny is committed in consequence thereof.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
159	Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
160	Abetment of such assault, if the assault committed.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
161	Abetment of desertion of soldier, sailor or airman.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Any Magistrate.
162	Harbouring deserter.	Ditto	Ditto	Ditto	Ditto.
163	Deserter concealed on board merchant vessel through negligence of master.	Fine of 3000 rupees.	Non-cognizable	Ditto.	Ditto.
164	Abetment of act of insubordination by soldier, sailor or airman.	Imprisonment for 2 years or fine, or both.	Cognizable	Ditto.	Ditto.
166	Wearing garb or carrying token used by soldier, sailor or airman.	Imprisonment for 3 months, or fine of 2000 rupees, or both.	Ditto.	Ditto	Ditto
171	Bribery.	Imprisonment for 1 year or fine, or both, or if treating only, fine only.	Non-cognizable	Ditto	Magistrate of the first class.
172	Undue influence at an election.	Imprisonment for one year, or fine, or both.	Ditto	Ditto	Ditto.
	Personation at an election	Ditto	Cognizable	Ditto	Ditto.

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173	False statement in connection with an election.	Fine	Non-cognizable	Ditto	Ditto.
174	Illegal payments in connection with elections.	Fine of 10,000 rupees.	Ditto.	Ditto.	Ditto.
175	Failure to keep election accounts.	Fine of 5,000 rupees.	Ditto	Ditto	Ditto.
176	Counterfeiting, or performing any part of the process of counterfeiting, coin.	imprisonment for life, or with imprisonment of either description for a term which may extend to ten years and fine.	Cognizable	Non-bailable	Court of Session.
176	Counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
177	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	Ditto	Ditto.
177	Using as genuine, forged or counterfeit coin, Government stamp, currency-notes or bank notes.	imprisonment for life, or with imprisonment of either description for a term which may extend to ten years and fine.	Ditto	Ditto	Court of Session.
177	Using as genuine, forged or counterfeit coin, Government stamp, currency-notes or bank notes.	imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.	Ditto	Ditto	Ditto.
178	Possession of forged or counterfeit coin, Government stamp, currency-notes or bank-notes.	imprisonment of either description for a term which may extend to seven years, or with fine, or with both.	Ditto	Ditto	Court of Session.
178	Possession of forged or counterfeit coin, Government stamp, currency-notes or bank-notes.	imprisonment of either description for a term which may extend to seven years or with fine, or with both.	Ditto	Ditto	Court of Session.
178	Having possession of a counterfeit Government stamp.	imprisonment of either description for a term which may extend to seven years, or with fine, or with both.	Ditto	Bailable	Ditto.
178	Possession of forged or counterfeit currency-notes or bank-notes.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Ditto.
179	Making or possessing machinery, instrument or material for forging or counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Ditto.
179	Making or possessing instruments or materials for forging or counterfeiting coin, Government stamp, currency notes or bank-notes.	imprisonment for life, or with imprisonment of either description for a term which may extend to ten years and fine.	Ditto	Ditto	Court of Session.
179	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Imprisonment for 10 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
180	Making or using documents resembling currency-notes or bank-notes.	Fine of 300 rupees.	Non-cognizable	Bailable	Any Magistrate.
	On refusal to disclose the name and address of the printer.	Fine of 600 rupees.	Ditto	Ditto	Ditto.

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181	Effacing any writing from a substance bearing a Government stamp, removing from a document a stamp used for it, with intent to cause a loss to Government.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
182	Using a Government stamp known to have been before used.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
183	Erasure of mark denoting that stamps have been used.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
184	Fictitious stamps	Fine of 200 rupees Possession of any person for making any fictitious stamp may be seized and forfeited.	Ditto	Ditto	Any Magistrate.
185	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	imprisonment of either description for a term which may extend to seven years and fine.	Ditto	Ditto	Ditto.
186	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto	Ditto.
187(2)	Being member of an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
187(3)	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto.
187(4)	Joining an unlawful assembly armed with any deadly weapon.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Ditto
187(5)	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Imprisonment for 6 months, or fine or both.	Ditto	Bailable	Any Magistrate.
187(6)	Hiring, engaging or employing persons to take part in an unlawful assembly.	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Cognizable	Ditto	Ditto.
187(7)	Harbouring persons hired for an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto
187(8)	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto
	Or to go armed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
188	Every member of unlawful assembly guilty of offence committed in prosecution of common object.	The same as for the offence.	According as offence is cognizable or non-cognizable	According as offence is bailable or non-bailable	The Court by which the offence is triable.
189(2)	Rioting.	Ditto	Ditto	Ditto	Ditto.
189(3)	Rioting, armed with a deadly weapon.	Imprisonment for 5 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
190	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
	If not committed.	Imprisonment for 6 months, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
191(1)	Owner or occupier of land not giving information of riot, etc.	Fine of 1,000 rupees.	Non-cognizable	Bailable	Any Magistrate.
191(2)	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Fine	Ditto	Ditto	Ditto.

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191(3)	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto
192(2)	Committing affray	Imprisonment for one month, or fine of 1000 rupees or both.	Ditto	Ditto	Ditto.
193	Assaulting or obstructing public servant when suppressing riot, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
194	Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto
	Promoting enmity between classes in place of worship, etc.	Imprisonment for 5 years, and fine.	Ditto	Ditto	Ditto
195	Imputations, assertions prejudicial to national integration.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first- class
	If committed in a place of public worship, etc.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto
196	Public servant disobeying a direction of the law with intent to cause injury to any person.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto.
197	Public servant disobeying direction under law	Imprisonment for minimum 6 months which may extend to 2 years and fine.	Cognizable	Bailable	Magistrate of the first- class
198	Non-treatment of victim by hospital	Imprisonment for 1 year or fine or both.	Non-cognizable	Bailable	Magistrate of the first- class
199	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto.	Ditto.
200	Public servant unlawfully engaging in trade.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Ditto.
201	Public servant unlawfully buying or bidding for property.	Simple imprisonment for 2 years, or fine, or both and confiscation of property, if purchased.	Ditto.	Ditto.	Ditto.
202	Personating a public servant.	imprisonment of either description for a term which shall not be less than six months but may extend to three years and with fine	Cognizable	Non-bailable	Any Magistrate.
203	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for 3 months, or fine of 5000 rupees, or both.	Ditto	Bailable	Ditto.
204	Absconding to avoid service of summons or other proceeding.	Simple imprisonment for 1 month, or fine of 5000 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both	Ditto	Ditto	Ditto.
205	Preventing service of summons or other proceeding, or preventing publication thereof.	Simple imprisonment for 1 month, or fine of 5000 rupees, or both.	Ditto	Ditto	Ditto.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both	Ditto	Ditto	Ditto.
206	Non-attendance in obedience to an order from public servant.	Simple imprisonment for 1 month, or fine of 5000 rupees, or both.	Ditto	Ditto	Ditto.
	If the order requires personal attendance, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Ditto	Ditto	Ditto.

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207	Non-appearance in response to a proclamation under section 82 of Act ___ of 2023	Imprisonment for 3 years, or with fine, or with both	Cognizable	Non-bailable	Magistrate of the first- class
	In a case where declaration has been made under sub-section (4) of section 82 of this Code pronouncing a person as proclaimed offender	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto
208	Omission to produce document to public servant by person legally bound to produce it.	Simple imprisonment for 1 month, or fine of 5000 rupees, or both.	2[Non-cognizable]	2[Bailable]	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed, in a court, any Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Ditto.	Ditto.	Ditto.
209	Omission to give notice or information to public servant by person legally bound to give it..	Simple imprisonment for 1 month, or fine of 5000 rupees, or both.	Ditto.	Ditto.	Any Magistrate.
	If the notice or information required respects the commission of an offence, etc.	Simple imprisonment for 6 months, or fine of 10,000 rupees, or both.	Ditto.	Ditto.	Ditto.
	If the notice or information is required by an order passed under sub-section (1) of section 356 of this Code.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
210	(a) Furnishing false information.	simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both	Ditto	Ditto	Ditto.
	(b) If the information required respects the commission of an offence, etc.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
211	Refusing oath when duly required to take oath by a public servant.	Simple imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non-cognizable	Bailable	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.
212	Refusing to answer public servant authorised to question	Ditto	Ditto	Ditto	Ditto.
213	Refusing to sign a statement made to a public servant when legally required to do so.	imprisonment for a term which may extend to three months, or with fine which may extend to three thousand rupees, or with both.	Ditto	Ditto	Ditto.
214	Knowingly stating to a public servant on oath as true that which is false.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
215	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	imprisonment of either description for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both	Ditto	Ditto	Any Magistrate.

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216	Resistance to the taking of property by the lawful authority of a public servant.	imprisonment of either description for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.	Ditto	Ditto	Ditto.
217	Obstructing sale of property offered for sale by authority of a public servant.	Imprisonment for 1 month, or fine of 5000 rupees, or both.	Ditto	Ditto	Ditto.
218	Illegal purchase or bid for property offered for sale by authority of public servant.	Imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto	Ditto	Ditto.
219	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months, or fine of 2000 rupees, or both.	Ditto	Ditto	Ditto.
220	(a) Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month, or fine of 2500 rupees, or both.	Ditto	Ditto	Ditto.
	(b) Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Simple imprisonment for 6 months, or fine of 5000 rupees, or both.	Ditto	Ditto	Ditto.
221	(a) Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Simple imprisonment for 6 month, or fine of 2000 rupees, or both.	Cognizable	Ditto	Ditto.
	(b) If such disobedience causes danger to human life, health or safety, or causes or tends to cause a riot or affray.	Imprisonment for 1 Year, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto.
222	Threat of injury to public servant.	Imprisonment for 2 years, or fine, or both.	Non- cognizable	Ditto	Ditto.
223	Threat of injury to induce person to refrain from applying for protection to public servant.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.
224	Attempt to commit suicide to compel or restraint exercise of lawful power.	imprisonment for a term which may extend to one year or with fine or with both or with community service.	Ditto	Ditto	Ditto.
227	(1) Giving or fabricating false evidence in a judicial proceeding.	Imprisonment for 7 years and 10000 rupees.	Non-cognizable	Bailable	Magistrate of the first class.
	(2) Giving or fabricating false evidence in any other case.	Imprisonment for 3 years and 5000 rupees.	Ditto	Ditto	Any Magistrate.
228	(1) Giving or fabricating false evidence with intent to cause any person to be convicted of capital offence.	Imprisonment for life, or rigorous imprisonment for 10 years and 50000 rupees.	Ditto	Non- bailable	Court of session.
	(2) If innocent person be thereby convicted and executed.	Death, or as above.	Ditto	Ditto	Ditto.
229	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for 7 years, or upwards.	The same as for the offence.	Ditto	Ditto	Ditto.
230	(1) Threatening any person to give false evidence.	Imprisonment for 7 years, or fine, or both.	Cognizable	Ditto	Court by which offence of giving false evidence is triable.

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	(2) If innocent person is convicted and sentenced in consequence of false evidence with death, or imprisonment for more than seven years.	The same as for the offence.	Ditto	Ditto	Ditto.
231	Using in a judicial proceeding evidence known to be false or fabricated.	The same as for giving or fabricating false evidence.	2[Non-cognizable]	According as offence of giving such evidence is bailable or non-bailable.	Court by which offence of giving or fabricating false evidence is triable.
232	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	Court by which offence of giving false evidence is triable.
233	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto.
234	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto.
235	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto.
236	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Imprisonment for 7 years and fine.	According as the offence in relation to which disappearance of evidence is caused is cognizable or non-cognizable.	Ditto	Court of Session.
	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Non-cognizable	Ditto	Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Court by which the offence is triable.
237	Intentional omission to give information of an offence by a person legally bound to inform.	imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	Ditto	Ditto	Any Magistrate.
238	Giving false information respecting an offence committed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
239	Secreting or destroying any document to prevent its production as evidence.	Imprisonment for 3 years, or fine of 5000 rupees, or both.	Non-cognizable	Bailable	Magistrate of the first class.
240	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
241	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture or in satisfaction of a fine under sentence, or in execution of a decree.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
242	Claiming property without right, or practicing deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.

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243	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	imprisonment of either description for a term which may extend to two years, or with fine, or with both.	Ditto	Ditto	Magistrate of the first class.
244	False claim in a Court of Justice.	Imprisonment for 2 years and fine.	Ditto	Ditto	Ditto.
245	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
246	False charge of offence made with intent to injure,—	imprisonment of either description for a term which may extend to five years, or with fine which may extend to two lakh rupees, or with both.	Ditto	Ditto	Ditto.
	criminal proceeding instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for ten years or upwards.	imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.	Ditto	Ditto	Ditto.
247	Harbouring an offender, if the offence be capital.	Imprisonment for 5 years and fine.	Cognizable	Ditto	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term, and of the descriptions, provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
248	Taking gift, etc., to screen an offender from punishment if the offence be capital.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
249	Offering gift or restoration of property in consideration of screening offender if the offence be capital.	Imprisonment for 7 years and fine.	Non-cognizable	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term, provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
250	Taking gift to help to recover movable property of which a person has been deprived by an offence without causing apprehension of offender.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto.
251	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Imprisonment for 7 years and fine.	Cognizable	Bailable	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Ditto	Ditto	Ditto.

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	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
252	Harbouring robbers or dacoits.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
253	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
254	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Magistrate of the first class.
255	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Imprisonment for 7 years, or fine, or both.	Non- cognizable	Ditto	Ditto.
256	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto.
257	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Imprisonment for 7 years, with or without fine.	According as the offence in relation to which such omission has been made is cognizable or non- cognizable.	Ditto	Ditto.
	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Cognizable	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for 2 years, with or without fine.	Ditto	Ditto	Ditto.
258	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Imprisonment for life, or imprisonment for 14 years, with or without fine.	Ditto	Non- bailable	Court of Session.
	If under sentence of imprisonment for life or imprisonment for 10 years, or upwards.	Imprisonment for 7 years, with or without fine.	Ditto	Ditto	Magistrate of the first class.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Imprisonment for 3 years, or fine, or both.	Ditto	Bailable	Ditto.
259	Escape from confinement negligently suffered by a public servant.	Simple imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
260	Resistance or obstruction by a person to his lawful apprehension.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto.
261	Resistance or obstruction to the lawful apprehension of any person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Non- bailable	Magistrate of the first class.
	If charged with a capital offence.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
	If the person is sentenced to imprisonment for life, or imprisonment for 10 years, or upwards.	Imprisonment for 7 years and fine.	Cognizable	Non- bailable	Magistrate of the first class.
	If under sentence of death	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.

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262	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for:— (a) in case of intentional omission or sufferance; (b) in case of negligent omission or sufferance.	Imprisonment for 3 years, or fine, or both. Simple imprisonment for 2 years, or fine, or both.	Non-cognizable Ditto	Bailable Ditto	Magistrate of the first class. Any Magistrate.
263	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto.
264	Violation of condition of remission of punishment	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	Ditto	Non-bailable	The Court by which the original offence was triable.
265	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for 6 months, or fine of 5,000 rupees, or both.	Non-cognizable	Bailable	The Court in which the offence is committed subject to the provisions of Chapter XXIX.
266	Personation of an assessor.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Magistrate of the first class.
267	Failure by person released on bail or bond to appear in Court	Imprisonment for 1 year, or fine, or both	Cognizable	Non-bailable	Any Magistrate.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
271	Knowingly disobeying any quarantine rule.	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto
273	Selling any food or drink as food and drink, knowing the same to be noxious.	imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both	Ditto	Ditto	Ditto
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both	Ditto	Non-bailable	Ditto
275	Sale of adulterated drugs.	imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both	Ditto	Bailable	Ditto

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276	Sale of drug as a different drug or preparation.	imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	Ditto	Ditto	Ditto
277	Fouling water of public spring or reservoir.	Imprisonment for 6 months, or fine of 5000 rupees, or both.	Cognizable	Bailable	Any Magistrate.
278	Making atmosphere noxious to health.	Fine of 1000 rupees	Non-cognizable	Ditto	Ditto
279	Rash driving or riding on a public way.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Ditto	Ditto
280	Rash navigation of vessel.	Imprisonment for 6 months, or fine of 10,000 rupees, or both.	Ditto	Ditto	Ditto
281	Exhibition of a false light, mark or buoy.	imprisonment of either description for a term which may extend to seven years, and with fine which shall not be less than ten thousand rupees.	Ditto	Ditto	Magistrate of the first class.
282	Conveying person by water for hire in unsafe or overloaded vessel.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Ditto	Ditto	Any Magistrate.
283	Danger or obstruction in public way or line of navigation.	Fine of 5000 rupees.	Ditto	Ditto	Ditto
284	Negligent conduct with respect to poisonous substance.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto
285	Negligent conduct with respect to fire or combustible matter.	Imprisonment for 6 months, or fine of 2,000 rupees, or both.	Ditto	Ditto	Ditto
286	Negligent conduct with respect to explosive substance.	Imprisonment for 6 months, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto
287	Negligent conduct with respect to machinery.	Ditto	Non-cognizable	Ditto	Ditto
288	Negligent conduct with respect to pulling down, repairing or constructing buildings etc.	Ditto	Ditto	Ditto	Ditto
289	Negligent conduct with respect to animal.	Ditto	Cognizable	Ditto	Ditto
290	Punishment for public nuisance in cases not otherwise provided for.	Fine of 1000 rupees	Non-cognizable	Ditto	Ditto
291	Continuance of nuisance after injunction to discontinue.	simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	Cognizable	Ditto	Ditto
292	Sale, etc., of obscene books, etc.	On first conviction, with imprisonment for 2 years, and with fine of 5,000 rupees, and, in the event of second or subsequent conviction, with imprisonment for five years, and with fine of 10,000 rupees.	Ditto	Ditto	Ditto
293	Sale, etc., of obscene objects to child.	On first conviction, with imprisonment for 3 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees.	Ditto	Ditto	Ditto

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294	Obscene acts and songs	imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.	Ditto	Ditto	Ditto.
295	(1) Keeping a lottery office	Imprisonment for 6 months, or fine or both.	Non-cognizable	Ditto	Ditto.
	(2) Publishing proposals relating to lotteries.	fine which may extend to five thousand rupees.	Ditto	Ditto	Ditto.
296	Injuring or defiling place of worship, with intent to insult the religion of any class.	Imprisonment for 2 years, or fine or both.	Cognizable	Non-Bailable	Any Magistrate.
297	Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
298	Disturbing religious assembly.	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.
299	Trespassing on burial places, etc.	Ditto	Ditto	Ditto	Ditto.
300	Uttering words, etc., with deliberate intent to wound religious feelings.	Ditto	Non-cognizable	Ditto	Ditto.
301	Theft	Rigorous imprisonment for a term which shall not be less than one year but which may extend to five years and with fine. In cases of theft where the value of the stolen property is less than five thousand rupees, and a person is convicted for the first time, shall upon return of the value of property or restoration of the stolen property, shall be punished with community service.	Cognizable	Non-bailable	Any Magistrate.
302	Snatching.	imprisonment of either description for a term which may extend to three years, and shall also be liable to fine	Non-cognizable	Bailable	Ditto.
303	Theft in a dwelling house, or means of transportation or place of worship, etc.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
304	Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto.
305	Theft after preparation made for causing death, hurt or restraint in order to the committing of theft.	Rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Magistrate of the first class.
306(2)	Extortion	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
306(3)	Putting or attempting to put in fear of injury, in order to commit extortion.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Ditto.
306(4)	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
306(5)	Extortion by putting a person in fear of death or grievous hurt.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Magistrate of the first class.

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306(6)	Putting a person in fear of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years in order to commit extortion.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
306(7)	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years.	Imprisonment for 10 years and fine.	Ditto	Bailable	Ditto.
	If the offence threatened be an unnatural offence.	Imprisonment for life	Ditto	Ditto	Ditto.
	If the offence be an unnatural offence.	Imprisonment for life.	Ditto	Ditto	Ditto.
307	Robbery	(2) Rigorous imprisonment for 10 years and fine. (3) Rigorous imprisonment for a term which may extend to seven years, and fine. (4) Imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and fine.	Ditto	Non-bailable	Ditto.
308(2)	Dacoity	imprisonment for a term which may extend to ten years, and shall also be liable to fine.	Ditto	Ditto	Court of Session.
308(3)	Murder in dacoity	Death, imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
308(4)	Making preparation to commit dacoity.	Rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
308(5)	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Court of Session.
308(6)	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
309	Robbery or dacoity, with attempt to cause death or grievous hurt.	Rigorous imprisonment for not less than 7 years.	Ditto	Ditto	Ditto.
310	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto.
311	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
312	Dishonest misappropriation of movable property, or converting it to one's own use.	Not be less than six months but which may extend to two years and with fine.	Non-cognizable	Bailable	Any Magistrate.
313	Dishonest misappropriation of property possessed by deceased person at the time of his death.	Imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.	Ditto	Ditto	Magistrate of the first class.

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314(2)	Criminal breach of trust	Imprisonment for 5 years, or fine, or both.	Cognizable	Non-bailable	Ditto.
314(3)	Criminal breach of trust by a carrier, wharfinger, etc.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
314(4)	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto
314(5)	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
315(2)	Dishonestly receiving stolen property knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
315(3)	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
315(4)	Habitually dealing in stolen property.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
315(5)	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
316(2)	Cheating	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Ditto.
316(3)	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Imprisonment for 5 years, or fine, or both.	Ditto	Ditto	Ditto.
317	Cheating by personation.	imprisonment of either description for a term which may extend to five years, or with fine, or with both.	Cognizable	Ditto	Ditto.
318	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Imprisonment of either description for a term which shall not be less than six months but which may extend to two years, or with fine, or with both.	Non-cognizable	Bailable	Any Magistrate.
319	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
320	Fraudulent execution of deed of transfer containing a false statement of consideration.	imprisonment of either description for a term which may extend to three years, or with fine, or with both	Ditto	Ditto	Ditto.
321	Fraudulent removal or concealment of property, of himself or any other person or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	imprisonment of either description for a term which may extend to three years, or with fine, or with both	Ditto	Ditto	Ditto.
322	Mischief	(2) Imprisonment for 6 months or fine, or both.	Ditto	Ditto	Ditto.
		(3) Imprisonment of either description for a term which may extend to one year, or with fine, or with both;	Ditto	Ditto	Ditto.

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		(4) imprisonment of either description for a term which may extend to two years, or with fine, or with both.	Ditto	Ditto	Ditto.
		(5) imprisonment of either description for a term which may extend to five years, or with fine, or with both.	Ditto	Ditto	Ditto.
		(6) imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.	Ditto	Ditto	Ditto.
323	Mischief by killing or maiming animal	imprisonment of either description for a term which may extend to five years, or with fine, or with both	Cognizable	Ditto	Ditto.
324(a)	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto.
324(b)	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	Ditto.
324(c)	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto.
324(d)	Mischief by destroying or moving or rendering less useful a lighthouse or seamark, or by exhibiting false lights.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.
324(e)	Mischief by destroying or moving, etc., a landmark fixed by public authority.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
324(f)	Mischief by fire or explosive substance with intent to cause damage to an amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	Imprisonment for 7 years and fine.	Cognizable	Ditto	Magistrate of the first class.
324(g)	Mischief by fire or explosive substance with intent to destroy a house, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
325(1)	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tonnes burden.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
325(2)	The mischief described in the last section when committed by fire or any explosive substance.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
326	Running vessel ashore with intent to commit theft, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
327(3)	Criminal trespass	Imprisonment for 3 months, or fine of 5000 rupees, or both.	Ditto	Ditto	Any Magistrate.
327(4)	House-trespass	Imprisonment for 1 year, or fine of 5,000 rupees, or both.	Ditto	Ditto	Ditto.
329(1)	Lurking house-trespass or house-breaking.	Imprisonment for 2 years and fine.	Ditto	Ditto	Ditto.

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329(2)	Lurking house-trespass or house-breaking by night.	Imprisonment for 3 years and fine.	Ditto	Ditto	Any Magistrate.
329(3)	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto.
	If the offence be theft	Imprisonment for 10 years and fine.	Ditto	Ditto	Magistrate of the first class.
329(4)	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Imprisonment for 5 years and fine.	Ditto	Ditto	Magistrate of the first class.
	If the offence is theft	Imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.
329(5)	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto.
329(6)	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto	Ditto.
329(7)	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
329(8)	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto	Ditto	Ditto	Ditto.
330(a)	House-trespass in order to the commission of an offence punishable with death.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
330(b)	House-trespass in order to the commission of an offence punishable with imprisonment for life.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
330(c)	House-trespass in order to the commission of an offence punishable with imprisonment.	Imprisonment for 2 years and fine.	Ditto	Bailable	Any Magistrate.
	If the offence is theft	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
331	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto.
332(1)	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Imprisonment for 2 years or fine, or both.	Ditto	Ditto	Any Magistrate.
332(2)	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Imprisonment for 3 years or fine, or both.	Ditto	Bailable	Ditto
334(2)	Forgery	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.

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334(3)	Forgery for the purpose of cheating.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
334(4)	Forgery for the purpose of harming the reputation of any person or knowing that it is likely to be used for that purpose.	Imprisonment for 3 years and fine.	Ditto	Bailable	Ditto.
335	Forgery of a record of a Court of Justice or of a Registrar of Births, etc., kept by a public servant.	Imprisonment for 7 years and fine	Ditto	Non-bailable	Ditto.
336	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	Imprisonment for life, or imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
	When the valuable security is a promissory note of the central government	Ditto	Cognizable	Ditto	Ditto.
337	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 335 of the Bhartiya Nyaya Sanhita.	Ditto.	Ditto.	Ditto.	Ditto.
	If the document is one of the description mentioned in section 336 of the Bhartiya Nyaya Sanhita.	Imprisonment for life, or imprisonment for 7 years and fine.	Non-cognizable	Ditto	Ditto.
338(2)	Using as genuine a forged document which is known to be forged.	Punishment for forgery of such document.	Ditto	Ditto	Ditto.
	When the forged document is a promissory note of the Central Government.	Ditto	Ditto	Ditto	Ditto.
339(1)	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 336 of the Bhartiya Nyaya Sanhita, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
339(2)	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 336 of the Bhartiya Nyaya Sanhita, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
340(1)	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Bhartiya Nyaya Sanhita, or possessing counterfeit marked material.	Ditto.	Ditto.	Ditto.	Ditto.
340(2)	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Bhartiya Nyaya Sanhita, or possessing counterfeit marked material.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
341	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto.	Ditto.
342	Falsification of accounts.	Imprisonment for 7 years or fine, or both.	Ditto	Bailable	Ditto.

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343(3)	Using a false property mark with intent to deceive or injure any person.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
344	Removing, destroying or defacing property mark with intent to cause injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.
345(1)	Counterfeiting a property mark used by another, with intent to cause damage or injury.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
345(2)	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
346	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property mark.	Imprisonment for 3 years, or fine, or both.	Ditto.	Ditto.	Ditto.
347	Knowingly selling goods marked with a counterfeit property mark.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
348(1)	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods, which it does not contain, etc.	Imprisonment for 3 years or, fine, or both.	Ditto	Ditto	Ditto.
348(2)	Making use of any such false mark.	Ditto	Ditto	Ditto	Ditto.
349(2)	Criminal intimidation.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Ditto.
349(3)	If threat be to cause death or grievous hurt, etc.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
349(4)	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Imprisonment for 2 years, in addition to the punishment under above section.	Ditto	Ditto	Ditto.
350	Insult intended to provoke breach of the peace.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
351	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto.
	False statement, rumour, etc., with intent to create enmity, hatred or ill-will between different classes.	Ditto	Cognizable	Ditto	Ditto.
	False statement, rumour, etc., made in place of worship, etc., with intent to create enmity, hatred or ill-will.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto.
352	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
353	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Simple imprisonment for 24 hours, or fine of 1000 rupees, or both or with community service.	Non-cognizable	Ditto	Ditto.
354(2)	Defamation against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Simple imprisonment for 2 years, or community service or fine, or both	Non-cognizable	Bailable	Court of Session.
	Defamation in any other case	Ditto	Ditto	Ditto	Magistrate of the first class.

1	2	3	4	5	6
354(3)	Printing or engraving matter knowing it to be defamatory against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Simple imprisonment for 2 years, or fine, or both	Ditto	Ditto	Court of Session.
	Printing or engraving matter knowing it to be defamatory, in any other case.	Ditto	Ditto	Ditto	Magistrate of the first class.
354(4)	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto	Ditto	Ditto	Court of Session.
	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter in any other case.	Ditto	Ditto	Ditto	Magistrate of the first class.
355	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Imprisonment for 3 months, or fine of 5000 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.

I.—CLASSIFICATION OF OFFENCES AGAINST OTHER LAWS

Offence	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
If punishable with death, imprisonment for life, or imprisonment for more than 7 years	Cognizable	Non-bailable	Court of Session.
If punishable with imprisonment for 3 years and upwards but not more than 7 years	Ditto	Ditto	Magistrate of the first class.
If punishable with imprisonment for less than 3 years or with fine only.	Non-cognizable	Bailable	Any Magistrate.

THE SECOND SCHEDULE

(See section 524)

FORM No. 1

SUMMONS TO AN ACCUSED PERSON

(See section 63)

To (name of accused) of (address)

WHEREAS your attendance is necessary to answer to a charge of _____ (state shortly the offence charged), you are hereby required to appear in person (or by pleader, as the case may be) before the (Magistrate) of _____, on the _____ day _____ . Herein fail not.

Dated, this _____ day of _____, 20 _____ .

(Seal of the Court)

(Signature)

FORM No. 3

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT

(See section 83)

I, _____ (name), of _____, being brought before the District Magistrate of _____ (or as the case may be) under a warrant issued to compel my appearance to answer to the charge of _____, do hereby bind myself to attend in the Court of _____ on the _____ day of _____ next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit, to Government, the sum of rupees _____

Dated, this _____ day of _____, 20 ____ .

(Signature)

I do hereby declare myself surety for the above-named _____ of _____ that he shall attend before _____ in the Court of _____ on the _____ day of _____ next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit, to Government, the sum of rupees _____

Dated, this _____ day of _____, 20 ____ .

(Signature)

FORM No. 4

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

(See section 84)

WHEREAS a complaint has been made before me that _____ (*name, description and address*) has committed (*or is suspected to have committed*) the offence of _____, punishable under section _____ of the Bharatiya Nyaya Sanhita, 2023, and it has been returned to a warrant of arrest thereupon issued that the said _____ (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said _____ (*name*) has absconded (*or is concealing himself to avoid the service of the said warranty*);

Proclamation is hereby made that the said _____ of _____ is required to appear at _____ (*place*) before this Court (*or before me*) to answer the said complaint on the _____ day of _____

Dated, this _____ day of _____, 20 .

(*Seal of the Court*)

(*Signature*)

FORM No. 5

PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

(See sections 84, 90 and 93)

WHEREAS complaint has been made before me that _____ (*name, description and address*) has committed (*or is suspected to have committed*) the offence of _____ (*mention the offence concisely*) and a warrant has been issued to compel the attendance of _____ (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said _____ (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said _____ (*name*) is required to appear at _____ (*place*) before the Court _____ on the _____ day of _____ next at _____ o'clock to be examined touching _____ the offence complained of.

Dated, this _____ day of _____, 20 .

(Seal of the Court)

(Signature)

FORM No. 6

ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

(See section 85)

To the officer in charge of the police station at

WHEREAS a warrant has been duly issued to compel the attendance of _____ (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*); and thereupon a Proclamation has been or is being duly issued and published requiring the said _____ to appear and give evidence at the time and place mentioned therein;

This is to authorise and require you to attach by seizure the movable property belonging to the said _____ to the value of rupees _____ which you may find within the District _____ of _____ and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20 .

(*Seal of the Court*)

(*Signature*)

FORM No. 7

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(See section 85)

To

(name and designation of the person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that _____ *(name, description and address)* has committed *(or is suspected to have committed)* the offence of _____ punishable under section _____ of the Bhartiya Nyaya Sanhita, and it has been returned to a warrant of arrest thereupon issued that the said _____ *(name)* cannot be found; and whereas it has been shown to my satisfaction that the said _____ *(name)* has absconded *(or is concealing himself to avoid the service of the said warrant)* and thereupon a Proclamation has been or is being duly issued and published requiring the said _____ to appear to answer the said charge within _____ days; and whereas the said _____ is possessed of the following property, other than land paying revenue to Government, in the village *(or town)*, of _____, in the District of _____, viz., _____, and an order has been made for the attachment thereof;

You are hereby required to attach the said property in the manner specified in clause *(a)*, or clause *(c)*, or both*, of sub-section *(2)* of section 85, and to hold the same under attachment pending further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20 .

(Seal of the Court)

(Signature)

* Strike out the one which is not applicable, depending on the nature of the property to be attached.

FORM No. 8

ORDER AUTHORISING AN ATTACHMENT BY THE DISTRICT MAGISTRATE OR COLLECTOR

(See section 85)

To the District Magistrate/Collector of the District of

WHEREAS complaint has been made before me that _____ (*name, description and address*) has committed (*or is suspected to have committed*) the offence of _____, punishable under section _____ of the Bharatiya Nyaya Sanhita, 2023 and it has been returned to a warrant of arrest thereupon issued that the said _____ (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said _____ (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*) and thereupon a Proclamation has been or is being duly issued and published requiring the said _____ (*name*) to appear to answer the said charge within _____ days; and whereas the said _____ is possessed of certain land paying revenue to Government in the village (*or town*) of _____, in the District of _____;

You are hereby authorised and requested to cause the said land to be attached, in the manner specified in clause (*a*), or clause (*c*), or both*, of sub-section (*4*) of section 85, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated, this _____ day of _____, 20 _____.

(*Seal of the Court*)

(*Signature*)

* Strike out the one which is not desired.

FORM No. 9

WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(See section 90)

To

(name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name and description of accused) of (address) has (or is suspected to have) committed the offence of (mention the offence concisely), and it appears likely that (name and description of witness) can give evidence concerning the said complaint, and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (name of witness), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Dated, this day of , 20 .

(Seal of the Court)

(Signature)

FORM No. 10

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

(See section 96)

To

(name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (mention the offence concisely), and it has been made to appear to me that the production of (specify the thing clearly) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorise and require you to search for the said (the thing specified) in the (describe the house or place or part thereof to which the search is to be confined), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of ,20 .

(Seal of the Court)

(Signature)

FORM No. 11

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(See section 97)

To

(name and designation of the police officer above the rank of a constable).

WHEREAS information has been laid before me, and on due inquiry thereupon had, I have been led to believe that the (describe the house or other place) is used as a place for the deposit (or sale) of stolen property (or if for either of the other purposes expressed in the section, state the purpose in the words of the section);

This is to authorise and require you to enter the said house (or other place) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (or other place, or if the search is to be confined to a part, specify the part clearly), and to seize and take possession of any property (or documents, or stamps, or seals, or coins, or obscene objects, as the case may be) (add, when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coins or counterfeit currency notes (as the case may be), and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of ,20 .

(Seal of the Court)

(Signature)

FORM No. 12

BOND TO KEEP THE PEACE

(See sections 125 and 126)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to keep the peace for the term of or until the completion of the inquiry in the matter of now pending in the Court of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term or until the completion of the said inquiry and, in case of my making default therein, I hereby bind myself to forfeit, to Government, the sum of rupees

Dated, this day of ,20 .

(Signature)

FORM No. 13

BOND FOR GOOD BEHAVIOUR

(See sections 127, 128 and 129)

WHEREAS I, _____ (*name*), inhabitant of _____ (*place*),
have been called upon to enter into a bond to be of good behaviour to Government and all the citizens
of India for the term of (*state the period*) or until the completion of the inquiry in the matter of
_____ now pending in the Court of _____, I hereby bind myself to be of
good behaviour to Government and all the citizens of India during the said term or until the completion of
the said inquiry; and, in case of my making default therein, I hereby bind myself to forfeit to Government
the sum of rupees _____

Dated, this _____ day of _____, 20____.

(*Signature*)

(*Where a bond with sureties is to be executed, add*)

We do hereby declare ourselves sureties for the above-named
that he will be of good behaviour to Government and all the citizens of India during the said term or until
the completion of the said inquiry; and, in case of his making default therein, we bind ourselves, jointly and
severally, to forfeit to Government the sum of rupees _____

Dated, this _____ day of _____, 20____.

(*Signature*)

FORM No. 14

SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(See section 132)

To _____ of _____

WHEREAS it has been made to appear to me by credible information that _____ (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or by which act a breach of the peace will probably be occasioned*), you are hereby required to attend in person (*or by a duly authorised agent*) at the office of the Magistrate of _____ on the _____ day of _____ 20____, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees _____ [*when sureties are required, add*, and also to give security by the bond of one (*or two, as the case may be*) surety (*or sureties*) in the sum of rupees _____ (*each if more than one*)], that you will keep the peace for the term of _____

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 15

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

(See section 141)

To the Officer in charge of the Jail at

WHEREAS *(name and address)* appeared before me in person
(or by his authorised agent) on the _____ day of _____ in obedience to a summons
calling upon him to show cause why he should not enter into a bond for rupees _____ with one
surety (or a bond with two sureties each in rupees _____), that he, the said *(name)*
would keep the peace for the period of _____ months; and whereas an order was then made requiring the
said *(name)* to enter into and find such security *(state*
the security ordered when it differs from that mentioned in the summons), and he has failed to comply
with the said order;

This is to authorise and require you to receive the said *(name)* into your custody,
together with this warrant, and him safely to keep in the said Jail for the said period of
(term of imprisonment) unless he shall in the meantime be lawfully
ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20__ .

(Seal of the Court)

(Signature)

FORM No. 16

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR

(See section 141)

To the Officer in charge of the Jail at

WHEREAS it has been made to appear to me that _____ (*name and description*)
has been concealing his presence within the district of _____ and that there is
reason to believe that he is doing so with a view to committing a cognizable offence;

or

WHEREAS evidence of the general character of _____ (*name and description*)
has been adduced before me and recorded, from which it appears that he is an habitual robber (*or house-
breaker, etc., as the case may be*);

AND WHEREAS an order has been recorded stating the same and requiring the said (*name*) to furnish
security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety
(*or two or more sureties, as the case may be*), himself for rupees, _____ and _____ the said
surety (or each of the said sureties) rupees _____, and the said _____ (*name*)
has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the
term*) unless the said security be sooner furnished;

This is to authorise and require you receive the said _____ (*name*) into your
custody, together with this warrant and him safely to keep in the Jail, or if he is already in prison, be detained
therein, for the said period of (*term of imprisonment*) unless he shall in the meantime be lawfully ordered to
be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20 _____.

(*Seal of the Court*)

(*Signature*)

FORM No. 17

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See sections 141 and 142)

To the Officer in charge of the Jail at _____ (or other officer in whose custody the person is).

WHEREAS _____ (name and description of prisoner) was committed to your custody under warrant of the Court, dated the _____ day of _____ 20____; and has since duly given security under section _____ of the Bharatiya Nagarik Suraksha Sanhita, 2023.

or

WHEREAS _____ (name and description of prisoner) was committed to your custody under warrant of the Court, dated the _____ day of _____ 19____; and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorise and require you forthwith to discharge the said _____ (name) from your custody unless he is liable to be detained for some other cause.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 18

WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(See section 145)

To the Officer in charge of the Jail at

WHEREAS (name, description and address) has been proved before me to be possessed of sufficient means to maintain his wife (name) [or his child (name) or his father or mother (name), who is by reason of (state the reason) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

And thereupon an order was made adjudging him to undergo imprisonment in the said Jail for the period of ;

This is to authorise and require you receive the said (name) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of ,20 .

(Seal of the Court)

(Signature)

FORM No. 19

WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY ATTACHMENT AND SALE

(See section 144)

To

(name and designation of the police officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring _____ (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees _____, and whereas the said _____ (name) in wilful disregard of the said order has failed to pay rupees _____, being the amount of the allowance for the month (or months) of _____

This is to authorise and require you to attach any movable property belonging to the said _____ (name) which may be found within the district of _____, and if within _____ (state the number of days or hours allowed) next after such attachment the said sum shall not be paid (or forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this _____ day of _____, 20 _____.

(Seal of the Court)

(Signature)

FORM No. 20

ORDER FOR THE REMOVAL OF NUISANCES

(See section 152)

To _____ (name, description and address).

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway (or other public place) which, etc., (describe the road or public place) _____ by, etc., (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on, as owner, or manager, the trade or occupation of _____ (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason _____ (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to different place;

or

WHEREAS it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well or excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence *or* insecurely fenced);

or

WHEREAS, etc., etc., (*as the case may be*);

I do hereby direct and require you within _____ (*state the time allowed*) (*state what is required to be done to abate the nuisance*) _____ or to appear at _____ in the _____ Court of _____ on the _____ day of _____ next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within _____ (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within _____ (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.;

or

I do hereby direct and require you, etc., etc. (*as the case may be*).

Dated, this _____ day of _____, 20 .

(*Seal of the Court*)

(*Signature*)

FORM No. 21

MAGISTRATE'S NOTICE AND PEREMPTORY ORDER

(*See section 160*)

To _____ (*name, description and address*).

I HEREBY give you notice that it has been found that the order issued on the _____ day of _____ requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Bharatiya Nyaya Sanhita, 2023 for disobedience thereto.

Dated, this _____ day of _____, 20 .

(*Seal of the Court*)

(*Signature*)

FORM No. 22

INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY

(See section 161)

To (name, description and address).

WHEREAS the inquiry into the conditional order issued by me on the _____ day of _____, 20____, is pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with such imminent danger or injury of a serious kind to the public as to render necessary immediate measures to prevent such danger or injury, I do hereby, under the provisions of section 161 of the Bharatiya Nagarik Suraksha Sanhita, 2023, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the inquiry.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 23

MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE

(See section 162)

To (name, description and address).

WHEREAS it has been made to appear to me that, etc. (*state the proper recital, guided by Form No. 20 or Form No. 24, as the case may be*);

I do hereby strictly order and enjoin you not to repeat or continue, the said nuisance.

Dated, this day of ,20 .

(Seal of the Court)

(Signature)

FORM No. 24

MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(See section 163)

To (name, description and address).

WHEREAS it has been made to appear to me that you are in possession (*or have the management*) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug-up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a procession along the public street, etc., (*as the case may be*) and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., etc., (*as the case may be*);

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Dated, this day of , 20 .

(*Seal of the Court*)

(*Signature*)

FORM No. 25

MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE

(*See section 164*)

It appears to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within my local jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true; I do decide and declare that he is (or they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime.

Dated, this day of , 20 .

(*Seal of the Court*)

(*Signature*)

FORM No. 26

WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(See section 165)

To the officer in charge of the police station at

(or, To the Collector of _____).

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace, existed between _____ (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain _____ (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said _____ (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said _____ (*the subject of dispute*) (or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid);

This is to authorise and require you to attach the said _____ (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 27

MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER

(See section 166)

A dispute having arisen concerning the right of use of _____ (state concisely the subject of dispute) situate within my local jurisdiction, the possession of which land (or water) is claimed exclusively by _____ (describe the person or persons), and it appears to me, on due inquiry into the same, that the said land (or water) has been open to the enjoyment of such use by the public (or if by an individual or a class of persons, describe him or them) and (if the use can be enjoyed throughout the year) that the said use has been enjoyed within three months of the institution of the said inquiry (or if the use is enjoyable only at a particular season, say, "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said _____ (the claimant or claimants of possession) or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession;

Dated, this _____ day of _____, 20 .

(Seal of the Court)

(Signature)

FORM No. 28

BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE OFFICER

(See section 189)

I, (name), of _____, being charged with the offence of _____, and after inquiry required to appear before the Magistrate of _____

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at _____, in the Court of _____, on the _____ day of _____ next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and in case of my making default herein. I bind myself to forfeit to Government, the sum of rupees;

Dated, this _____ day of _____, 20 .

(Signature)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the above said (name) that he shall attend _____ in the Court of _____, on the _____ day of _____ next (or on such day as he may hereafter be required to attend), further to

answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself
(or we hereby bind ourselves) to forfeit to Government the sum of rupees;

Dated, this day of , 20 .

(Signature)

FORM No. 29

BOND TO PROSECUTE OR GIVE EVIDENCE

(See section 190)

I, _____ (*name*) of _____ (*place*), do hereby bind myself to attend at _____ in the Court of _____ at _____ o'clock on the _____ day of _____ next and then and there to prosecute (*or to prosecute and give evidence*) (*or to give evidence*) in the matter of a charge of _____ against one A.B., and, in case of making default herein, I bind myself to forfeit to Government the sum of rupees.....

Dated, this _____ day of _____, 20 _____.

(*Signature*)

FORM No. 30

SPECIAL SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

To, _____ (*See section 229*)

(*Name of the accused*)

of _____ (*address*)

WHEREAS your attendance is necessary to answer a charge of a petty offence (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader*) before _____ (Magistrate) of _____ on the _____ day of _____ 20 _____, or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty in writing and the sum of _____ rupees as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein fail not.

Dated, this _____ day of _____, 20 _____.

(*Seal of the Court*)

(*Signature*)

(*Note.*—The amount of fine specified in this summons shall not exceed on hundred rupees.)

FORM No. 31

NOTICE OF COMMITMENT BY MAGISTRATE TO PUBLIC PROSECUTOR

(See section 232)

The Magistrate of _____ hereby gives notice that he has committed one _____ for trial at the next Sessions; and the Magistrate hereby instructs the Public Prosecutor to conduct the prosecution of the said case.

The charge against the accused is that, _____ etc. (*state the offence as in the charge*)

Dated, this _____ day of _____, 20____ .
(*Seal of the Court*) _____ (*Signature*)

FORM No. 32

CHARGES

(See sections 234, 235 and 236)

I. CHARGES WITH ONE-HEAD

(1) (a) I, _____, (name and office of Magistrate, etc.),
hereby charge you _____ (name of accused person) as follows:—

(b) On section 147.—That you, on or about the _____ day of _____, at _____, waged war against the Government of India and thereby committed an offence punishable under section 121 of the Bharatiya Nyaya Sanhita, and within the cognizance of this Court.

(c) And I hereby direct that you be tried by this Court on the said charge.

(Signature and seal of the Magistrate)

[To be substituted for (b)]:—

(2) On section 151.—That you, on or about the _____ day of _____, at _____, with the intention of inducing the President of India [or, as the case may be, the Governor of _____ (name of State)] to refrain from exercising a lawful power as such President (or, as the case may be, the Government) assaulted President (or, as the case may be, the Governor), and thereby committed an offence punishable under section 151 of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(3) On section 199.—That you, on or about the _____ day of _____, at _____, did (or omitted to do, as the case may be) _____, such conduct being contrary to the provisions of _____ Act _____, section _____, and known by you to be prejudicial to _____, and thereby committed an offence punishable under section 199 of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(4) On section 199.—That you, on or about the _____ day of _____, at _____, in the course of the trial of _____ before _____, stated in evidence that “_____” which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 230 of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(5) On section 105.—That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, causing the death of _____, and thereby committed an offence punishable under section 105 of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(6) On section 108.—That you, on or about the _____ day of _____, at _____, abetted the commission of suicide by A.B., a person in a state of intoxication, and thereby committed an offence punishable under section 108 of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(7) On section 117(2).—That you, on or about the _____ day of _____, at _____, voluntarily caused grievous hurt to _____, and thereby committed an offence punishable under section 117(2) of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(8) On section 310(2).—That you, on or about the _____ day of _____, at _____, robbed _____ (state the name), and thereby committed an offence punishable under section 310(2) of the Bharatiya Nyaya Sanhita, 2023, and within the cognizance of this Court.

(9) On section 311(2).—That you, on or about the _____ day of _____, at _____, committed dacoity, an offence punishable under section 311(2) of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of this Court.

II. CHARGES WITH TWO OR MORE HEADS

(1) (a) I, _____ (name and office of Magistrate, etc.), hereby charge you _____ (name of accused person) as follows:—

(b) On section 179.—*First*—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, delivered the same to another person, by name, A.B., as genuine, and thereby committed an offence punishable under section 179 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

Secondly—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit attempted to induce another person, by name, A.B., to receive it as genuine, and thereby committed an offence punishable under section 179 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

(c) And I hereby direct that you be tried by the said Court on the said charge.

(Signature and seal of the Magistrate)

[To be substituted for (b)]:—

(2) On sections 103 and 105.—*First*—That you, on or about the _____ day of _____, at _____, committed murder by causing the death of _____, and thereby committed an offence punishable under section 103 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

Secondly—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 105 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

(3) On sections 304(2) and 308.—*First*—That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 304(2) of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

Secondly—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 308 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

Thirdly—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 308 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

Fourthly—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing fear of hurt to a person in order to the restraining of property taken by such theft and thereby committed an offence punishable under section 308 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

(4) Alternative charge on section 230.—That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____, before _____, stated in evidence that “_____”, and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in the evidence that “_____”, one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 230 of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session.

(In cases tried by Magistrates substitute “within my cognizance” for “within the cognizance of the Court of Session”.)

III. CHARGES FOR THEFT AFTER PREVIOUS CONVICTION

I, _____ (name and office of Magistrate, etc.)
hereby charge you _____ (name of accused person) as follows: —

That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 304(2) of the Bharatiya Nyaya Sanhita, 2023 and within the cognizance of the Court of Session (or Magistrate, as the case may be). And you, the said (name of accused), stand further charged that you, before the committing of the said offence, that is to say, on the day of _____, had been convicted by the _____ (state Court by which conviction was had) at _____ of an offence punishable under Chapter XVIII of the Bhartiya Nyaya Sanhita, 2023 with imprisonment for a term of three years, that is to say, the offence of house-breaking by night _____ (describe the offence in the words used in the section under which the accused was convicted), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 16 of the Bharatiya Nyaya Sanhita, 2023.

And I hereby direct that you be tried, etc.

FORM No. 33
SUMMONS TO WITNESS

(See sections 63 and 267)

To _____ of _____

WHEREAS complaint has been made before me that _____ (name of the accused) of _____ (address) has (or is suspected to have) committed the offence of _____ (state the offence concisely with time and place), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this Court on the _____ day of _____ next at ten o'clock in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Dated, this _____ day of _____, 20 .

(Seal of the Court)

(Signature)

FORM No. 34

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A COURT

(See sections 258, 271 and 278)

To the Officer in charge of Jail at

WHEREAS on the _____ day of _____, _____ (*name of the prisoner*),
the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. _____ of the Calendar for 20_____,
was convicted before me _____ (*name and official designation*) of the
offence of _____ (*mention the offence or offences concisely*)
under section (*or sections*) _____ of the Bharatiya Nyaya Sanhita, 2023 (*or of*
Act _____), and was sentenced to _____ (*state the*
punishment fully and distinctly);

This is to authorise and require you to receive the said _____ (*prisoner's name*)
into your custody in the said Jail, together with this warrant, and thereby carry the aforesaid sentence into
execution according to law.

Dated, this _____ day of _____, 20____.

(*Seal of the Court*)

(*Signature*)

FORM No. 35

WARRANT OF IMPRISONMENT ON FAILURE TO PAY COMPENSATION

(See section 273)

To the Officer in charge of Jail at

WHEREAS (name and description) has brought against (name and description of the accused person) the complaint that (mention it concisely) and the same has been dismissed on the ground that there was no reasonable ground for making the accusation against the said (name) and the order of dismissal awards payment by the said (name of complainant) of the sum of rupees as compensation; and whereas the said sum has not been paid and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorise and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment), subject to the provisions of section 10(6b) of the Bharatiya Nyaya Sanhita, 2023, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 20 .

(Seal of the Court)

(Signature)

FORM No. 36

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR ANSWERING TO CHARGE OF OFFENCE

(See section 302)

To the Officer in charge of Jail at

WHEREAS the attendance of _____ (*name of prisoner*) at present confined/detained in the above-mentioned prison, is required in this Court to answer to a charge of _____ (*state shortly the offence charged*) or for the purpose of a proceeding _____ (*state shortly the particulars of the proceeding*):

You are hereby required to produce the said _____ under safe and sure conduct before this Court at _____ on the _____ day of _____, 20____, by _____ A.M. there to answer to the said charge, or for the purpose of the said proceeding, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said _____ of the contents of this order and deliver to him the attached copy thereof.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

Countersigned.

(Seal)

(Signature)

FORM No. 37

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR GIVING EVIDENCE

(See section 302)

To the Officer in charge of the Jail at

WHEREAS complaint has been made before this Court that _____ (*name of the accused*) of has committed the offence of _____ (*state offence concisely with time and place*) and it appears that _____ (*name of prisoner*) at present confined/detained in the above-mentioned prison, is likely to give material evidence for the prosecution/defence;

You are hereby required to produce the said _____ under safe and sure conduct before this Court at _____ on the _____ day of _____, 20____, by A.M. there to give evidence in the matter now pending before this Court, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison;

And you are further required to inform the said _____ of the contents of this order and deliver to him the attached copy thereof.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

Countersigned.

(Seal)

(Signature)

FORM No. 38

WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED

(See section 384)

To the Officer in charge of the Jail at

WHEREAS at a Court held before me on this day _____ (*name and description of the offender*) in the presence (or view) of the Court committed wilful contempt;

And whereas for such contempt the said _____ (*name of the offender*) has been adjudged by the Court to pay a fine of rupees _____, or in default to suffer simple imprisonment for the period of _____ (state the number of months or days);

This is to authorise and require you to receive the said _____ (*name of the offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of _____ (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20 .

(Seal of the Court)

(Signature)

FORM No. 39

MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER OR TO
PRODUCE DOCUMENT

(See section 388)

To

(name and designation of officer of Court)

WHEREAS

(name and description),

being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, or having been called upon to produce any document touching the said alleged offence, and duly recorded, or having been called upon to produce any document has refused to produce such document, without alleging any just excuse for such refusal, and for his refusal has been ordered to be detained in custody for *(term of detention adjudged)*;

This is to authorise and require you to take the said *(name)* into custody, and him safely to keep in your custody for the period of _____ days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, or to produce the document called for from him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20 ____ .

(Seal of the Court)

(Signature)

FORM No. 40

WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

(See section 407)

To the Officer in charge of the Jail at

WHEREAS at the Session held before me on the _____ day of _____, 20____, _____ (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*), prisoner in case No. _____ of the Calendar for 20____ at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section _____ of the Bharatiya Nyaya Sanhita, 2023, and sentenced to death, subject to the confirmation of the said sentence by the _____ Court of;

This is to authorise and require you to receive the said _____ (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Dated, this _____ day of _____, 20____.

(*Seal of the Court*)

(*Signature*)

FORM No. 41

WARRANT AFTER A COMMUTATION OF A SENTENCE

(See sections 427, 454 and 457)

To the Officer in charge of the Jail at

WHEREAS at a Session held on the _____ day of _____, 20____, _____ (*name of the prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. _____ of the Calendar for 20____ at the said Session, was convicted of the offence of _____, punishable under section _____ of the Bharatiya Nyaya Sanhita, and sentenced to _____, and was thereupon committed to your custody; and whereas by the order of the _____ Court of _____ (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of imprisonment for life;

This is to authorise and require you safely to keep the said _____ (*prisoner's name*) in your custody in the said Jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of imprisonment for life under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said Jail", "and there to carry into execution the punishment of imprisonment under the said order according to law".

Dated, this _____ day of _____, 20____.

(*Seal of the Court*)

(*Signature*)

FORM No. 42

WARRANT OF EXECUTION OF A SENTENCE OF DEATH

(See sections 454 and 455)

To the Officer in charge of the Jail at

WHEREAS *(name of the prisoner)*, the (1st, 2nd, 3rd, *as the case may be*) Prisoner in case No. _____ of the Calendar for 20____ at the Session held before me on the ____ day of _____, 20____, has been by a warrant of the Court, dated the ____ day of _____, committed to your custody under sentence of death; _____ and whereas the order of the High Court at _____ confirming the said sentence has been received by this Court;

This is to authorise and require you to carry the said sentence into execution by causing the said _____ to be hanged by the neck until he be dead, at _____ *(time and place of execution)*, and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 43

WARRANT TO LEVY A FINE BY ATTACHMENT AND SALE

(See section 462)

To

(name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS *(name and description of the offender)* was on the _____ day of _____, 20____, convicted before me of the offence of _____ *(mention the offence concisely)*, and sentenced to pay a fine of rupees _____; and whereas the said _____ *(name)*, although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to attach any movable property belonging to the said *(name)*, which may be found within the district of _____; and, if within _____ *(state the number of days or hours allowed)* next after such attachment the said sum shall not be paid *(or forthwith)*, to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 44

WARRANT FOR RECOVERY OF FINE

(See section 462)

To the Collector of the district of

WHEREAS _____ (*name, address and description of the offender*) was on the _____ day of _____, 20____, convicted before me of the offence of _____ (*mention the offence concisely*), and sentenced to pay a fine of rupees _____; and

WHEREAS the said _____ (*name*), although require to pay the said fine, has not paid the same or any part of thereof;

You are hereby authorised and requested to realise the amount of the said fine as arrears of land revenue from the movable or immovable property, or both, of the said _____ (*name*) and to certify without delay what you have done in pursuance of this order.

Dated, this _____ day of _____, 20____.

(*Seal of the Court*)

(*Signature*)

[FORM No. 44A

BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE

[See section 465 (1) (b)]

WHEREAS I, _____ (*name*) inhabitant of _____ (*place*), have been sentenced to pay a fine of rupees _____ and in default of payment thereof to undergo imprisonment for _____ ; and whereas the Court has been pleased to order my release on condition of my executing a bond for my appearance on the following date (*or dates*), namely:—

I hereby bind myself to appear before the Court of _____ at _____ o'clock on the following date (*or dates*), namely:—

and, in case of making default herein, I bind myself to forfeit to Government the sum of rupees.

Dated, this _____ day of _____, 20 _____ .

(*Signature*)

WHERE A BOND WITH SURETIES IS TO BE EXECUTED, ADD—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of _____ on the following date (*or dates*), namely:—

And, in case of his making default therein, we bind ourselves jointly and severally to forfeit to Government the sum of rupees.

(*Signature*).]

FORM No. 45

BOND AND BAIL-BOND FOR ATTENDANCE BEFORE OFFICER IN CHARGE OF POLICE STATION OR COURT

(See sections 480, 481, 482, 483, 484 and 487)

I, _____ (*name*), of _____ (*place*), having been arrested or detained without warrant by the Officer in charge of _____ police station (*or* having been brought before the Court of _____), charged with the offence of _____, and required to give security for my attendance before such Officer of Court on condition that I shall attend such Officer or Court on every day on which any investigation or trial is held with regard to such charge, and in case of my making default herein, I bind myself to forfeit to Government the sum of rupees.

Dated, this _____ day of _____, 20 ____ .

(*Signature*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the above said _____ (*name*) that he shall attend the Officer in charge of _____ police station or the Court of _____ on every day on which any investigation into the charge is made or any trial on such charge is held, that he shall be, and appear, before such Officer or Court for the purpose of such investigation or to answer the charge against him (as the case may be), and, in case of his making default herein, I hereby bind myself (*or* we, hereby bind ourselves) to forfeit to Government the sum of _____ rupees.

Dated, this _____ day of _____, 20 ____ .

(*Signature*)

FORM No. 46

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See section 489)

To the Officer in charge of the Jail at

(or other officer in whose custody the person is)

WHEREAS *(name and description of prisoner)* was committed to your custody under warrant of this Court, dated the _____ day of _____, and has since with his surety *(or sureties)* duly executed a bond under section 487 of the Bharatiya Nagarik Suraksha Sanhita;

This is to authorise and require you forthwith to discharge the said _____ *(name)* from your custody, unless he is liable to be detained for some other matter.

Dated, this _____ day of _____, 20 _____.

(Seal of the Court)

(Signature)

[FORM No. 47

WARRANT OF ATTACHMENT TO ENFORCE A BOND

(See section 493)

To the Police Officer in charge of the police station at

WHEREAS _____ (*name, description and address of person*) has failed to appear on _____ (*mention the occasion*) pursuant to his recognizance, and has by default forfeited to Government the sum of rupees _____ (*the penalty in the bond*); and whereas the said _____ (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorise and require you to attach any movable property of the said _____ (*name*) that you may find within the district of _____, by seizure and detention, and, if the said amount be not paid within _____, days to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this _____ day of _____, 20 _____.

(Seal of the Court)

(Signature).]

FORM No. 48

NOTICE TO SURETY ON BREACH OF A BOND

(See section 493)

To _____ of _____

WHEREAS on the _____ day of _____, 20____, you became surety for _____ (*name*) of _____ (*place*) that he should appear before this Court on the _____ day of _____ and bound yourself in default thereof to forfeit the sum of rupees _____ to Government; and whereas the said _____ (*name*) has failed to appear before this Court and by reason of such default you have forfeited the aforesaid sum of rupees.

You are hereby required to pay the said penalty or show cause, within _____ days from this date, why payment of the said sum should not be enforced against you.

Dated, this _____ day of _____, 20____.

(*Seal of the Court*)

(*Signature*)

FORM No. 49

NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 493)

To _____ of _____

WHEREAS on the _____ day of _____, 20____, you became surety by a bond for _____ (*name*) of _____ (*place*) that he would be of good behaviour for the period of _____ and bound yourself in default thereof to forfeit the sum of rupees _____ to Government; and whereas the said _____ (*name*) has been convicted of the offence of _____ (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited;

You are hereby required to pay the said penalty of rupees _____ or to show cause within _____ days why it should not be paid.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 50

WARRANT OF ATTACHMENT AGAINST A SURETY

(See section 493)

To _____ of _____

WHEREAS _____ (*name, description and address*) has bound himself
as surety for the appearance of _____ (*mention the condition of the bond*) and
the said _____ (*name*) has made default, and thereby forfeited to Government
the sum of rupees _____ (*the penalty in the bond*);

This is to authorise and require you to attach any movable property of the said _____ (*name*)
which you may find within the district of _____, by seizure and detention; and, if the
said amount be not paid within _____ days, to sell the property so attached, or so much of it
as may be sufficient to realise the amount aforesaid, and make return of what you have done under this
warrant immediately upon its execution.

Dated, this _____ day of _____, 20 _____.

(*Seal of the Court*)

(*Signature*)

FORM No. 51

WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL

(See section 493)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS *(name and description of surety)* has bound himself as a surety for the appearance of *(state the condition of the bond)* and the said *(name)* has therein made default whereby the penalty mentioned in the said bond has been forfeited to Government; and whereas the said *(name of surety)* has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of his movable property, and an order has been made for his imprisonment in the Civil Jail for *(Specify the period)*;

This is to authorise and require you, the said Superintendent *(or Keeper)* to receive the said *(name)* into your custody with the warrant and to keep him safely in the said Jail for the said *(term of imprisonment)*, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20__ .

(Seal of the Court)

(Signature)

FORM No. 52

NOTICE TO THE PRINCIPAL OF FORFEITURE OF BOND TO KEEP THE PEACE

(See section 493)

To (name, description and address)

WHEREAS on the _____ day of _____, 20____, you entered into a bond not to commit, etc., (as in the bond), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees _____ or to show cause before me within _____ days why payment of the same should not be enforced against you.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 53

WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE

(See section 493)

To

(name and designation of police officer), at the police station of

WHEREAS (name and description) did, on the _____ day of _____, 20____, enter into a bond for the sum of rupees _____ binding himself not to commit a breach of the peace, etc., (as in the bond), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said (name) to the value of rupees _____, which you may find within the district of _____, and, if the said sum be not paid within _____, to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Dated, this _____ day of _____, 20____.

(Seal of the Court)

(Signature)

FORM No. 54

WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE

(See section 493)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS proof has been given before me and duly recorded that _____ (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Government the sum of rupees _____; and whereas the said _____ (*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said _____ (*name*) in the Civil Jail of the period of _____ (*term of imprisonment*);

This is to authorise and require you, the said Superintendent _____ (or Keeper) of the said Civil Jail to receive the said _____ (*name*) into your custody, together with this warrant, and to keep his safely in the said Jail for the said period of _____ (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 20 _____.

(Seal of the Court)

(Signature)

FORM No. 55

WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 493)

To the Police Officer in charge of the police station at

WHEREAS (name, description and address) did, on the day of , 20 , give security by bond in the sum of rupees for the good behaviour of (name, etc., of the principal), and proof has been given before me and duly recorded of the commission by the said (name) of the offence of whereby the said bond has been forfeited; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said (name) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 20 .

(Seal of the Court)

(Signature)

FORM No. 56

WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 493)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS (name, description and address) did, on the day of , 20 , give security by bond in the sum of rupees for the good behaviour of (name, etc., of the principal), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (name) has forfeited to Government the sum of rupees , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said (name) in the Civil Jail for the period of (term of imprisonment);

This is to authorise and require you, the Superintendent (or Keeper), to receive the said (name) into your custody, together with this warrant, and to keep him safely in the said Jail for the said period of (term of imprisonment), returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 20 .

(Seal of the Court)

(Signature)

STATEMENT OF OBJECTS AND REASONS

The Code of Criminal Procedure, 1973 regulates the procedure for arrest, investigation, inquiry and trial of offences under the Indian Penal Code and under any other law governing criminal offences. The Code provides for a mechanism for conducting trials in a criminal case. It gives the procedure for registering a complaint, conducting a trial and passing an order, and filing an appeal against any order.

2. Fast and efficient justice system is an essential component of good governance. However, delay in delivery of justice due to complex legal procedures, large pendency of cases in the Courts, low conviction rates, low level of uses of technology in legal system, delays in investigation system, complex procedures, inadequate use of forensics are the biggest hurdles in speedy delivery of justice, which impacts poor man adversely. In order to address these issues a citizens centric criminal procedures are need of hour.

3. The experience of seven decades of Indian democracy calls for comprehensive review of our criminal laws, including the Code of Criminal Procedure and adopt them in accordance with the contemporary needs and aspirations of the people.

4. The Government with the mantra, "Sabka Saath, Sabka Vikas, Sabka Vishwas and Sabka Prayas" is committed to ensure speedy justice to all citizens in conformity with these constitutional democratic aspirations. The Government is committed to make comprehensive review of the framework of criminal laws to provide accessible and speedy justice to all.

5. In view of the above, it is proposed to repeal the Code of Criminal Procedure, 1973 and enact a new law, namely, the Bharatiya Nagarik Suraksha Sanhita, 2023. It provides for the use of technology and forensic sciences in the investigation of crime and furnishing and lodging of information, service of summons, etc., through electronic communication. Specific time-lines have been prescribed for time bound investigation, trial and pronouncement of judgements. Citizen centric approach have been adopted for supply of copy of first information report to the victim and to inform them about the progress of investigation, including by digital means. In cases where the punishment is seven years or more, the victim shall be given an opportunity of being heard before withdrawal of the case by the Government. Summary trial has been made mandatory for petty and less serious cases. The accused persons may be examined through electronic means, like video conferencing. The magisterial system has also been streamlined.

6. The Notes on Clauses explains the various provisions of the Bill.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 9th August, 2023.

AMIT SHAH.

NOTES ON CLAUSES

Clause 1 of the Bill seeks to provide for short title, extent and commencement.

Clause 2 of the Bill seeks to provide to Definitions.

This Clause relates to definition of certain expressions used in the proposed legislation.

Clause 3 of the Bill relates to Construction of references.

Clause 4 of the Bill relates to Trial of offences under Bhartiya Nyaya Sanhita and other laws.

This Clause provides all offences under the Bhartiya Nyaya Sanhita, 2023 shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions.

Clause 5 of the Bill relates to Saving.

This Clause provides, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

Clause 6 of the Bill relates to Classes of Criminal Courts.

This Clause provides in every State, the Criminal Courts are established, namely, Courts of Session; Judicial Magistrates of the first class; Judicial Magistrates of the second class; and Executive Magistrates.

Clause 7 of the Bill relates to Territorial divisions.

This Clause provides every State shall be a sessions division or shall consist of sessions divisions; and every sessions divisions shall, for the purposes of this Sanhita, be a district or consist of districts.

Clause 8 of the Bill relates to Court of Session.

This Clause provides the State Government shall establish a Court of Session for every sessions division, presided over by a Judge, to be appointed by the High Court.

Clause 9 of the Bill relates to Courts of Judicial Magistrates.

This Clause provides every district there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the High Court, by notification.

Clause 10 of the Bill relates to Chief Judicial Magistrate and Additional Chief Judicial Magistrate.

This Clause provides every district, the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate

Clause 11 of the Bill relates to Special Judicial Magistrates.

This Clause provides the High Court may, if requested by the Central or State Government, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Sanhita on a Judicial Magistrate of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area and such Magistrates shall be called Special Judicial Magistrates.

Clause 12 of the Bill relates to Local jurisdiction of Judicial Magistrates.

This Clause provides, subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas.

Clause 13 of the Bill relates to Subordination of Judicial Magistrates.

This Clause provides Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

Clause 14 of the Bill relates to Executive Magistrates.

This Clause provides that in every district, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates.

Clause 15 of the Bill relates to Special Executive Magistrates.

This Clause provides the State Government may appoint, for such term as it may think fit, Executive Magistrates or any police officer not below the rank of Superintendent of Police or equivalent, to be known as Special Executive Magistrates.

Clause 16 of the Bill relates to Local Jurisdiction of Executive Magistrates.

This Clause provides the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested.

Clause 17 of the Bill relates to Subordination of Executive Magistrates.

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

Clause 18 of the Bill relates to Public Prosecutors.

This Clause provides for every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor.

Clause 19 of the Bill relates to Assistant Public Prosecutors.

This Clause provides the Central Government and the State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.

Clause 20 of the Bill relates to Directorate of Prosecution.

This Clause provides the State Government may establish Directorate of Prosecution in the State consisting of a Director of Prosecution and as many Deputy Directors of Prosecution.

Clause 21 of the Bill relates to Courts by which offences are triable.

This Clause provides any offence may be tried by the High Court, or the Court of Session, or any other Court by which such offence is shown in the First Schedule to be triable.

Clause 22 of the Bill relates to Sentences High Courts and Sessions Judges may pass.

This Clause provides that High Court may pass any sentence authorised by law. A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

Clause 23 of the Bill relates to sentences which Magistrates may pass.

This Clause provides the Judicial Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding fifty thousand rupees, or of both.

Clause 24 of the Bill relates to sentence of imprisonment in default of fine.

This Clause provides the Court of a Judicial Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law subject to certain conditions.

Clause 25 of the Bill relates to Sentence in cases of conviction of several offences at one trial.

This Clause provides the court shall, considering the gravity of offences, order such punishments to run concurrently or consecutively.

Clause 26 of the Bill relates to Mode of conferring powers.

This Clause provides the High Court or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally be their official titles.

Clause 27 of the Bill relates to Powers of officers appointed.

Clause 28 of the Bill relates to Withdrawal of powers.

This Clause provides the High Court or the State Government, as the case may be, may withdraw all or any of the powers conferred on any person or by any officer subordinate to it.

Clause 29 of the Bill relates to Powers of Judges and Magistrates exercisable by their successors-in-office.

This Clause provides the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

Clause 30 of the Bill relates to Powers of superior officers of police.

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

Clause 31 of the Bill relates to Public when to assist Magistrates and police.

This Clause provides every person be bound to assist a Magistrate or police officer reasonably demanding his aid for arrest, prevent breach of peace or to prevent damages to public property.

Clause 32 of the Bill relates to Aid to person, other than police officer, executing warrant.

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

Clause 33 of the Bill relates to Public to give information of certain offences.

Clause 34 of the Bill relates to Duty of officers employed in connection with the affairs of a village to make certain report.

This Clause provides every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station with regards to commission of certain offences.

Clause 35 of the Bill relates to circumstances leads to arrest without warrant by the police.

This Clause provide any police officer may without an order from a Magistrate and without a warrant, arrest any person commits a cognizable offence and other certain circumstances.

Clause 36 of the Bill relates to Procedure of arrest and duties of officer making arrest.

Clause 37 of the Bill relates to Designated Police Officer.

This Clause provides the State shall establish a Police control room in every district and at State level and designate a police officer.

Clause 38 of the Bill relates to Right of arrested person to meet an advocate of his choice during interrogation.

This Clause provides arrested person, interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

Clause 39 of the Bill relates to arrest on refusal to give name and residence.

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

Clause 40 of the Bill relates to arrest by private person and procedure on such arrest.

This Clause provides any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender.

Clause 41 of the Bill relates to arrest by Magistrate.

This Clause provides any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Clause 42 of the Bill relates to Protection of members of the Armed Forces from arrest.

This Clause provides, no member of the Armed Forces shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.

Clause 43 of the Bill relates to arrest how made.

This Clause explains about the arrest by the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action with certain exceptions to arrest of woman.

Clause 44 of the Bill relates to search of place entered by person sought to be arrested.

Clause 45 of the Bill relates to pursuit of offenders into other jurisdictions.

This Clause provides police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.

Clause 46 of the Bill relates to unnecessary restraint against arrested person.

This Clause provides person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Clause 47 of the Bill relates to Person arrested to be informed of grounds of arrest and of right to bail.

This Clause provides every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

Clause 48 of the Bill relates to Obligation of person making arrest to inform about the arrest, etc., to relative or friend.

This Clause provides every police officer or other person making any arrest under this

Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or mentioned by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

Clause 49 of the Bill relates to search of arrested person.

This Clause provides the police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing and with a direction female shall be searched by female.

Clause 50 of the Bill relates to power to seize offensive weapons.

Clause 51 of the Bill relates to Examination of accused by medical practitioner at the request of police officer.

This Clause provides the police officer or other person making any arrest, take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Sanhita to produce the person arrested.

Clause 52 of the Bill relates to Examination of person accused of rape by medical practitioner.

Clause 53 of the Bill relates to Examination of arrested person by medical officer.

This Clause provides any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made and subject to certain exceptions.

Clause 54 of the Bill relates to Identification of person arrested.

This Clause provides a person arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit, subject to certain exceptions.

Clause 55 of the Bill relates to Procedure when police officer deposes subordinate to arrest without warrant.

Clause 56 of the Bill relates to health and safety of arrested person.

This Clause provides the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.

Clause 57 of the Bill relates to Person arrested to be taken before Magistrate or officer in charge of police station.

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

Clause 58 of the Bill relates to Person arrested not to be detained more than twenty-four hours.

This Clause clarifies no police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate, exceed twenty-four

hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not.

Clause 59 of the Bill relates to Police to report apprehensions.

This Clause provides Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Clause 60 of the Bill relates to Discharge of person apprehended.

This Clause provides that no person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Clause 61 of the Bill relates to Power, on escape, to pursue and retake.

This Clause provides a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.

Clause 62 of the Bill relates to Arrest to be made strictly according to the Sanhita.

This Clause provides that no arrest shall be made except in accordance with the provisions of this Sanhita or any other law for the time being in force providing for arrest.

Clause 63 of the Bill relates to Form of summons.

This Clause provides every summons issued by a Court shall be in writing, in duplicate, signed by the presiding officer of such Court or by such other officer as the High Court may, from time to time, by rule direct, and shall bear the seal of the Court; or in an encrypted or any other form of electronic communication and shall bear the image of the seal of the Court.

Clause 64 of the Bill relates to service of summons.

Clause 65 of the Bill relates to service of summons on corporate bodies, firms, and societies.

This Clause provides service of a summons on a company or corporation may be effected by serving it on the Director, Manager, Secretary or other officer of the company or corporation, or by letter sent by registered post addressed to the Director, Manager, Secretary or other officer of the company or corporation in India, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Clause 66 of the Bill relates to Service when persons summoned cannot be found.

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

Clause 67 of the Bill relates to Procedure when service cannot be effected as before provided.

Clause 68 of the Bill relates to Service on Government servant.

This Clause provides the person summoned is in the active service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the manner provided by section 64, and shall return it to the Court under his signature with the endorsement required by that section.

Clause 69 of the Bill relates to Service of summons outside local limits.

This Clause provides when a Court desires that a summons issued shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction the person summoned resides, or is, to be there served.

Clause 70 of the Bill relates to Proof of service in such cases and when serving officer not present.

Clause 71 of the Bill relates to Service of summons on witness by post.

This Clause provides that a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by electronic communication or by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

Clause 72 of the Bill relates to Form of warrant of arrest and duration.

This Clause provides every warrant of arrest issued by a Court under this Sanhita shall be in writing, signed by the presiding officer of such Court and shall bear the seal of the Court and further the warrant shall remain in force until it is cancelled by the Court which issued.

Clause 73 of the Bill relates to Power to direct security to be taken.

Clause 74 of the Bill relates to Warrants to whom directed.

This Clause provides that a warrant of arrest shall ordinarily be directed to one or more police officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same.

Clause 75 of the Bill relates to Warrant may be directed to any person.

This Clause provides the Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest.

Clause 76 of the Bill relates to Warrant directed to police officer.

This Clause provides a warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Clause 77 of the Bill relates to Notification of substance of warrant.

This Clause provides the police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Clause 78 of the Bill relates to Person arrested to be brought before Court without delay.

This Clause provides the police officer or other person executing a warrant of arrest shall without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person with certain exceptions.

Clause 79 of the Bill relates to Where warrant may be executed.

This Clause provides a warrant of arrest may be executed at any place in India.

Clause 80 of the Bill relates to Warrant forwarded for execution outside jurisdiction.

Clause 81 of the Bill relates to Warrant directed to police officer for execution outside jurisdiction.

This Clause provides that a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

Clause 82 of the Bill relates to Procedure on arrest of person against whom warrant issued.

Clause 83 of the Bill relates to Procedure by Magistrate before whom such person arrested is brought.

This Clause provides the Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court with certain exceptions.

Clause 84 of the Bill relates to Proclamation for person absconding.

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

Clause 85 of the Bill relates to Attachment of property of person absconding.

This Clause provides the Court issuing a proclamation, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

Clause 86 of the Bill relates to Identification and attachment of property of proclaimed person.

This Clause provides the Court may, on the written request from a police officer not below the rank of the Superintendent of Police or Commissioner of Police, initiate the process of requesting assistance from a Court or an authority in the contracting State for identification, attachment and forfeiture of property belonging to a proclaimed person.

Clause 87 of the Bill relates to claims and objections to attachment.

Clause 88 of the Bill relates to Release, sale and restoration of attached property.

This Clause provides that the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

Clause 89 of the Bill relates to Appeal from order rejecting application for restoration of attached property.

This Clause provides any person aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first-mentioned Court.

Clause 90 of the Bill relates to Issue of warrant in lieu of, or in addition to, summons.

This Clause provide a Court may issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest.

Clause 91 of the Bill relates to Power to take bond for appearance.

This Clause provides any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial.

Clause 92 of the Bill relates to Arrest on breach of bond for appearance.

This Clause provides any person who is bound by any bond taken to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Clause 93 of the Bill relates to Provisions generally applicable to summonses and warrants of arrest.

Clause 94 of the Bill relates to Summons to produce document or other thing.

Clause 95 of the Bill relates to Procedure as to documents, parcel or thing in custody of postal authority.

This Clause provides any document, parcel or thing in the custody of a postal authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding, such Magistrate or Court may require the postal authority to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

Clause 96 of the Bill relates to issuing of search-warrant.

Clause 97 of the Bill relates to Search of place suspected to contain stolen property, forged documents, etc.

Clause 98 of the Bill relates to Power to declare certain publications forfeited and to issue search-warrants for the same.

Clause 99 of the Bill relates to Application to High Court to set aside declaration of forfeiture.

Clause 100 of the Bill relates to Search for persons wrongfully confined.

This Clause provides any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Clause 101 of the Bill relates to Power to compel restoration of abducted females.

This Clause affords complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Clause 102 of the Bill relates to Directions for search-warrants.

Clause 103 of the Bill relates to Persons in charge of closed place to allow search.

Clause 104 of the Bill relates to Disposal of things found in search beyond jurisdiction.

Clause 105 of the Bill relates to Recording of search and seizure through audio-video electronic means.

This Clause seeks to provide the process of conducting search of a place or taking possession of any property, article or thing, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably cell phone and the police officer shall without delay forward such recording to the concern authority.

Clause 106 of the Bill relates to Power of police officer to seize certain property.

This Clause seeks to provide any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

Clause 107 of the Bill relates to Attachment.

Clause 108 of the Bill relates to Magistrate may direct search in his presence.

This Clause seeks to provide any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant., forfeiture or restoration of property.

Clause 109 of the Bill relates to Power to impound document or thing produced before Court.

This Clause seeks to provide any Court may impound any document or thing produced before it.

Clause 110 of the Bill relates to Reciprocal arrangements regarding processes.

Clause 111 of the Bill relates to Definitions.

This Clause relates to certain definitions in respect of Chapter VIII of the Reciprocal arrangements for assistance in certain matters and procedure for attachment and forfeiture of property outside India.

Clause 112 of the Bill relates to Letter of request to competent authority for investigation in a country or place outside India.

Clause 113 of the Bill relates to Letter of request from a country or place outside India to a Court or an authority for investigation in India.

This Clause seeks to provide, upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may forward the same to the Chief Judicial Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced; or send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.

Clause 114 of the Bill relates to Assistance in securing transfer of persons.

This Clause seeks to provide, a Court in India, in relation to a criminal matter, desires that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall send such warrant in duplicate in such form to such Court, Judge or Magistrate through such authority, as the Central Government may, by notification, specify in this behalf and that Court, Judge or Magistrate, as the case may be, shall cause the same to be executed.

Clause 115 of the Bill relates to Assistance in relation to orders of attachment or forfeiture of property.

This Clause seeks to provide, the Court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property.

Clause 116 of the Bill relates to Identifying unlawfully acquired property.

This Clause seeks to provide that the Court shall, on receipt of a letter of request, direct any police officer not below the rank of Sub-Inspector of Police to take all steps

necessary for tracing and identifying such property include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institutions or any other relevant matters.

Clause 117 of the Bill relates to Seizure or attachment of property.

This Clause seeks to provide that any officer conducting an inquiry or investigation under section 116 has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.

Clause 118 of the Bill relates to Management of properties seized or forfeited under this Chapter.

This Clause seeks to provide that the Court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an Administrator of such property.

Clause 119 of the Bill relates to Notice of forfeiture of property.

Clause 120 of the Bill relates to Forfeiture of property in certain cases.

This Clause seeks to provide that the Court may, after considering the explanation, if any, to the show-cause notice issued and the material available before it and after giving to the person affected and a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime with certain exceptions.

Clause 121 of the Bill relates to Fine in lieu of forfeiture.

This Clause seeks to provide that the Court makes a declaration that any property stands forfeited to the Central Government and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

Clause 122 of the Bill relates to Certain transfers to be null and void.

This Clause seeks to provide after the making of an order under sub-section (1) of section 117 or the issue of a notice under section 119, any property referred to in the said order or notice is transferred by any mode whatsoever such transfers shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 120, then, the transfer of such property shall be deemed to be null and void.

Clause 123 of the Bill relates to Procedure in respect of letter of request.

This Clause seeks to provide every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

Clause 124 of the Bill relates to power of the Central Government to issue notification with regards to the application of Chapter VIII with the contracting State.

This Clause seeks to provide the Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification.

Clause 125 of the Bill relates to Security for keeping the peace on conviction.

This Clause seeks to provide a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences or of abetting and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years.

Clause 126 of the Bill relates to Security for keeping the peace in other cases.

This Clause seeks to provide an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

Clause 127 of the Bill relates to Security for good behaviour from persons disseminating seditious matters.

Clause 128 of the Bill relates to Security for good behaviour from suspected persons.

This Clause seeks to provide an Executive Magistrate receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

Clause 129 of the Bill relates to Security for good behaviour from habitual offenders.

This Clause seeks to provide an Executive Magistrate receives information that there is within his local jurisdiction a person who is a habitual offender, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

Clause 130 of the Bill relates to Order to be made.

This Clause seeks to provide a Magistrate require any person to show cause under such section, shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the fitness for payment of sureties.

Clause 131 of the Bill relates to Procedure in respect of person present in Court.

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

Clause 132 of the Bill relates to Summons or warrant in case of person not so present.

This Clause seeks to provide, when a person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court with certain exceptions.

Clause 133 of the Bill relates to Copy of order to accompany summons or warrant.

This Clause seeks to provide every summons or a copy of the order shall accompany warrant issued under *Clause 132* and the officer serving shall deliver such copy or executing such summons or warrant to the person served with, or arrested under, the same.

Clause 134 of the Bill relates to Power to dispense with personal attendance.

This Clause seeks to provide the Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader.

Clause 135 of the Bill relates to Inquiry as to truth of information.

This Clause seeks to provide the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

Clause 136 of the Bill relates to Order to give security.

This Clause seeks to provide that, it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly.

Clause 137 of the Bill relates to Discharge of person informed against.

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

Clause 138 of the Bill relates to Commencement of period for which security is required.

Clause 139 of the Bill relates to Contents of bond.

This Clause seeks to provide that the bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Clause 140 of the Bill relates to Power to reject sureties.

This Clause seeks to provide that the Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond with certain exceptions.

Clause 141 of the Bill relates to Imprisonment in default of security.

This Clause seeks to provide that any person ordered to give security, does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

Clause 142 of the Bill relates to Power to release persons imprisoned for failing to give security.

Clause 143 of the Bill relates to Security for unexpired period of bond.

This Clause seeks to provide that a person for whose appearance a summons or warrant has been issued, appears or is brought before the Magistrate or Court, the Magistrate or Court shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security.

Clause 144 of the Bill relates to Order for maintenance of wives, children and parents.

This Clause seeks to provide that any person having sufficient means neglects or refuses to maintain his wife, unable to maintain herself, or his legitimate or illegitimate

minor child, whether married or not, unable to maintain itself, or his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain himself, or his father or mother, unable to maintain himself or herself, a Judicial Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct with certain exceptions.

Clause 145 of the Bill relates to jurisdiction of filing application under section 144 and procedures for recording the evidence.

This Clause seeks to fix the jurisdiction for making application, any person in any district where he is, or where he or his wife resides, or where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

Clause 146 of the Bill relates to Alteration in allowance.

This Clause seeks to provide that on proof of a change in the circumstances of any person, a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance.

Clause 147 of the Bill relates to Enforcement of order of maintenance.

This Clause seeks to provide that a copy of the order of maintenance or interim maintenance and expenses of proceedings, as the case may be, 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 for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be, is to be paid; and such order may be enforced by any Judicial Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

Clause 148 of the Bill relates to Dispersal of assembly by use of civil force.

This Clause seeks to provide that the Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Clause 149 of the Bill relates to Use of armed forces to disperse assembly.

This Clause seeks to provide that any assembly cannot otherwise be dispersed, and it is necessary for the public security that it should be dispersed, the District Magistrate or any other Executive Magistrate authorised by him, who is present, may cause it to be dispersed by the armed forces.

Clause 150 of the Bill relates to Power of certain armed force officers to disperse assembly.

This Clause seeks to provide that the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or Gazetted Officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

Clause 151 of the Bill relates to Protection against prosecution for acts done under sections 148, 149 and 150.

This Clause seeks to provide no prosecution against any person for any act purporting to be done under section 148, section 149 or section 150 shall be instituted in any Criminal Court except with the sanction of the Central Government where such person is an officer or member of the armed forces or the State Government in any other case;

Clause 152 of the Bill relates to Conditional order for removal of nuisance.

Clause 153 of the Bill relates to the service or notification of order against the removal of nuisance.

Clause 154 of the Bill relates to person against the order is addressed to obey or show cause.

Clause 155 of the Bill relates to consequences of failure in compliance with the order for removal of nuisance.

Clause 156 of the Bill relates to Procedures to be followed in existence of public right is denied.

Clause 157 of the Bill relates to Procedure on appearance to show cause.

Clause 158 of the Bill relates to Power of Magistrate to direct local investigation and examination of an expert.

Clause 159 of the Bill relates to Power of Magistrate to furnish written instructions, etc.

Clause 160 of the Bill relates to Procedure on order being made absolute and consequences of disobedience.

Clause 161 of the Bill relates to Injunction to prevent imminent danger or injury during pending inquiry.

Clause 162 of the Bill relates to Magistrate may prohibit repetition or continuance of public nuisance.

Clause 163 of the Bill relates to Power to issue order in urgent cases of nuisance or apprehended danger.

Clause 164 of the Bill relates to Procedure where dispute concerning land or water is likely to cause breach of peace.

Clause 165 of the Bill relates to Power to attach subject of dispute and to appoint receiver.

Clause 166 of the Bill relates to Dispute concerning right of use of land or water.

Clause 167 of the Bill relates to Local inquiry by the District Magistrate.

Clause 168 of the Bill relates to power of police to prevent cognizable offences.

Clause 169 of the Bill relates to Information of design to commit cognizable offences.

Clause 170 of the Bill relates to power of the police to arrest to prevent the commission of cognizable offences.

Clause 171 of the Bill relates to Prevention of injury to public property.

Clause 172 of the Bill relates to Persons bound to conform to lawful directions of police.

Clause 173 of the Bill relates to Information in cognizable cases.

Clause 174 of the Bill relates to Information as to non-cognizable cases and investigation of such cases.

Clause 175 of the Bill relates to power of police officer to investigate cognizable case.

Clause 176 of the Bill relates to Procedure for investigation by the police officer upon receipt of information.

Clause 177 of the Bill relates to submission of Report to the Magistrate.

Clause 178 of the Bill relates to Power to hold investigation or preliminary inquiry.

Clause 179 of the Bill relates to Police officer's power to require attendance of witnesses.

Clause 180 of the Bill relates to Examination of witnesses by police.

Clause 181 of the Bill relates to statements to the police and use thereof.

Clause 182 of the Bill relates to no inducement to be offered.

Clause 183 of the Bill relates to Recording of confessions and statements.

Clause 184 of the Bill relates to Medical examination of the victim of rape.

Clause 185 of the Bill relates to Search by police officer.

Clause 186 of the Bill relates to search warrant when officer in charge of police station may require another to issue search-warrant.

Clause 187 of the Bill relates to Procedure when investigation cannot be completed in twenty-four hours.

Clause 188 of the Bill relates to Report of investigation by subordinate police officer.

This Clause provides that any subordinate police officer has made any investigation, shall report the result of such investigation to the officer in charge of the police station.

Clause 189 of the Bill relates to Release of accused when evidence deficient.

Clause 190 of the Bill relates to Cases to be sent to Magistrate, when evidence is sufficient.

Clause 191 of the Bill relates to Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.

Clause 192 of the Bill relates to Diary of proceedings in investigation.

Clause 193 of the Bill relates to Report of police officer on completion of investigation.

Clause 194 of the Bill relates to Police to enquire and report on suicide, etc.

Clause 195 of the Bill relates to Power to summon persons.

Clause 196 of the Bill relates to Inquiry by Magistrate into cause of death.

Clause 197 of the Bill relates to Ordinary place of inquiry and trial.

Clause 198 of the Bill relates to Place of inquiry or trial.

Clause 199 of the Bill relates to Offence triable where act is done or consequence ensues. This Clause provides that an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

Clause 200 of the Bill relates to Place of trial where act is an offence by reason of relation to other offence.

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

Clause 201 of the Bill relates to Place of trial in case of certain offences.

Clause 202 of the Bill relates to Offences committed by means of electronic communications, letters, etc.

Clause 203 of the Bill relates to Offence committed on journey or voyage.

Clause 204 of the Bill relates to Place of trial for offences triable together.

Clause 205 of the Bill relates to Power to order cases to be tried in different sessions divisions.

Clause 206 of the Bill relates to High Court to decide, in case of doubt, district where inquiry or trial shall take place.

Clause 207 of the Bill relates to Power to issue summons or warrant for offence committed beyond local jurisdiction.

Clause 208 of the Bill relates to Offence committed outside India.

Clause 209 of the Bill relates to Receipt of evidence relating to offences committed outside India.

Clause 210 of the Bill relates to Cognizance of offences by Magistrates.

Clause 211 of the Bill relates to Transfer of criminal cases on application of the accused.

Clause 212 of the Bill relates to Making over of cases to Magistrates.

Clause 213 of the Bill relates to Cognizance of offences by Courts of Session.

This Clause provides that except as otherwise expressly provided by this Sanhita or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Sanhita.

Clause 214 of the Bill relates to Additional Sessions Judges to try cases made over to them.

This Clause provides that an Additional Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

Clause 215 of the Bill relates to Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

Clause 216 of the Bill relates to Procedure for witnesses in case of threatening, etc.

This Clause provides that witness or any other person may file a complaint in relation to an offence under section 230 of the Bhartiya Nyaya Sanhita, 2023.

Clause 217 of the Bill relates to Prosecution for offences against the State and for criminal conspiracy to commit such offence.

Clause 218 of the Bill relates to Prosecution of Judges and public servants.

Clause 219 of the Bill relates to Prosecution for offences against marriage.

Clause 220 of the Bill relates to Prosecution of offences under section 498A of the Bhartiya Nyaya Sanhita, 2023.

Clause 221 of the Bill relates to Cognizance of offence.

This Clause provides that No Court shall take cognizance of an offence punishable under section 67 of the Bhartiya Nyaya Sanhita, 2023 where the persons are in a marital relationship, except upon prima facie satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband.

Clause 222 of the Bill relates to Prosecution for defamation.

This Clause provides that no Court shall take cognizance of an offence punishable under Chapter XIX of the Bhartiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence, subject to certain exceptions.

Clause 223 of the Bill relates to Examination of complainant.

This Clause provides that a Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate, subject to certain exceptions.

Clause 224 of the Bill relates to Procedure by Magistrate not competent to take cognizance of the case.

This Clause provides that the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall, return it for presentation to the proper Court with an endorsement to that effect and direct the complainant to the proper Court.

Clause 225 of the Bill relates to Postponement of issue of process.

Clause 226 of the Bill relates to Dismissal of complaint.

This Clause provides that the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons.

Clause 227 of the Bill relates to Issue of process.

This Clause provides that the Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be a summons-case, he shall issue summons to the accused for his attendance, or a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or some other Magistrate having jurisdiction.

Clause 228 of the Bill relates to Magistrate may dispense with personal attendance of accused.

This Clause provides that the Magistrate issues a summons, dispense with the personal attendance of the accused and permit him to appear by his pleader and further at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance.

Clause 229 of the Bill relates to Special summons in cases of petty offence.

This Clause provides that the Magistrate taking cognizance of a petty offence, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader.

Clause 230 of the Bill relates to Supply to the accused of copy of police report and other documents.

This Clause provides that the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim, free of cost.

Clause 231 of the Bill relates to supply of copies of statements and documents to accused in other cases triable by Court of Session.

This Clause provides when a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under *Clause 227* that the offence is triable exclusively by the Court of Session, the Magistrate shall forthwith furnish to the accused, free of cost.

Clause 232 of the Bill relates to Commitment of case to Court of Session when offence is triable exclusively by it.

This Clause provides when a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, commit, after complying with the provisions of *Clause 230* or *Clause 231*.

Clause 233 of the Bill relates to Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

Clause 234 of the Bill relates to Contents of charge.

Clause 235 of the Bill relates to Particulars as to time, place and person.

Clause 236 of the Bill relates to When manner of committing offence must be stated.

This Clause provides that the nature of the case is such that the particulars mentioned in clauses 234 and 235 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Clause 237 of the Bill relates to words in charge taken in sense of law under which offence is punishable.

This Clause provides that in every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Clause 238 of the Bill relates to Effect of errors.

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

Clause 239 of the Bill relates to Court may alter charge.

Clause 240 of the Bill relates to Recall of witnesses when charge altered.

This Clause provides that Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice and also to call any further witness whom the Court may think to be material.

Clause 241 of the Bill relates to Separate charges for distinct offences.

This Clause provides for every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, subject to certain conditions.

Clause 242 of the Bill relates to Offences of same kind within year may be charged together.

This Clause provides that a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding five and Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Bharatiya Nyaya Sanhita, 2023 or of any special or local law, subject to certain conditions.

Clause 243 of the Bill relates to Trial for more than one offence.

Clause 244 of the Bill relates to Where it is doubtful what offence has been committed.

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

Clause 245 of the Bill relates to When offence proved included in offence charged.

Clause 246 of the Bill relates to What persons may be charged jointly.

Clause 247 of the Bill relates to Withdrawal of remaining charges on conviction on one of several charges.

This Clause provides that a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges and such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

Clause 248 of the Bill relates to Trial to be conducted by Public Prosecutor.

This Clause provides that every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

Clause 249 of the Bill relates to Opening case for prosecution.

This Clause provides that the accused appears or is brought before the Court, in pursuance of a commitment of the case under *Clause 232*, or under any other law for the time being in force, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

Clause 250 of the Bill relates to Discharge.

This Clause provides that the accused may prefer an application for discharge within a period of sixty days from the date committal under *Clause 232* and if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

Clause 251 of the Bill relates to Framing of charge.

Clause 252 of the Bill relates to Conviction on plea of guilty.

This Clause provides that the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.

Clause 253 of the Bill relates to Date for prosecution evidence.

This Clause provides that the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under *Clause 252*, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

Clause 254 of the Bill relates to Evidence for prosecution.

Clause 255 of the Bill relates to Acquittal.

This Clause provides that after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Judge considers that there is no evidence that the accused committed the offence, the Judge shall record an order of acquittal.

Clause 256 of the Bill relates to Entering upon defence.

Clause 257 of the Bill relates to Arguments.

This Clause provides that the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his pleader shall be entitled to reply, subject to certain conditions.

Clause 258 of the Bill relates to Judgment of acquittal or conviction.

Clause 259 of the Bill relates to Previous conviction.

This Clause provides that a previous conviction is charged under the provisions of sub-section (7) of section 234, and the accused does not admit that he has been previously convicted as alleged in the charge, the Judge may, after he has convicted the said accused under section 252 or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon, subject to certain conditions.

Clause 260 of the Bill relates to Procedure in cases instituted under section 223(1).

Clause 261 of the Bill relates to Compliance with section 231.

Clause 262 of the Bill relates to When accused shall be discharged.

Clause 263 of the Bill relates to Framing of charge.

This Clause provides that upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge.

Clause 264 of the Bill relates to Conviction on plea of guilty.

This Clause provides that the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

Clause 265 of the Bill relates to Evidence for prosecution.

Clause 266 of the Bill relates to Evidence for defence.

Clause 267 of the Bill relates to Evidence for prosecution.

Clause 268 of the Bill relates to When accused shall be discharged.

Clause 269 of the Bill relates to Procedure where accused is not discharged.

Clause 270 of the Bill relates to Evidence for defence.

This Clause provides that accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 266 shall apply to the case.

Clause 271 of the Bill relates to Acquittal or conviction.

Clause 272 of the Bill relates to Absence of complainant.

This Clause provides that the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may after giving thirty days' time to the complainant to be present, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

Clause 273 of the Bill relates to Compensation for accusation without reasonable cause.

Clause 274 of the Bill relates to Substance of accusation to be stated.

This Clause provides that When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge, subject to certain condition.

Clause 275 of the Bill relates to Conviction on plea of guilty.

This Clause provides that the accused pleads guilty, the Magistrate shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him thereon.

Clause 276 of the Bill relates to Conviction on plea of guilty in absence of accused in petty cases.

Clause 277 of the Bill relates to Procedure when not convicted.

Clause 278 of the Bill relates to Acquittal or conviction.

Clause 279 of the Bill relates to Non-appearance or death of complainant.

Clause 280 of the Bill relates to Withdrawal of complaint.

This Clause provides that a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, or if there be more than one accused, against all or any of them, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused against whom the complaint is so withdrawn.

Clause 281 of the Bill relates to Power to stop proceedings in certain cases.

This Clause provides that any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.

Clause 282 of the Bill relates to Power of Court to convert summons-cases into warrant-cases.

This Clause provides that the course of the trial of a summons-case relating to an offence punishable with imprisonment for a term exceeding six months, it appears to the Magistrate that in the interests of justice, the offence should be tried in accordance with the procedure for the trial of warrant-cases, such Magistrate may proceed to re-hear the case in the manner provided by this Sanhita for the trial of warrant-cases and may re-call any witness who may have been examined.

Clause 283 of the Bill relates to Power to try summarily.

Clause 284 of the Bill relates to Summary trial by Magistrate of the second class.

This Clause provides that the High Court may confer on any Magistrate invested with the powers of a Magistrate of the second class power to try summarily any offence which is

punishable only with fine or with imprisonment for a term not exceeding six months with or without fine, and any abetment of or attempt to commit any such offence.

Clause 285 of the Bill relates to Procedure for summary trials.

This Clause provides that trials under this Chapter XXIII, the procedure specified in this Sanhita for the trial of summons-case shall be followed except as hereinafter mentioned and No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

Clause 286 of the Bill relates to Record in summary trials.

Clause 287 of the Bill relates to Judgment in cases tried summarily.

This Clause provides that every case tried summarily in which the accused does not plead guilty, the Magistrate shall record the substance of the evidence and a judgment containing a brief statement of the reasons for the finding.

Clause 288 of the Bill relates to Language of record and judgment.

This Clause provides that Every such record and judgment shall be written in the language of the Court and The High Court may authorise any Magistrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.

Clause 289 of the Bill relates to Application of the Chapter.

Clause 290 of the Bill relates to Application for plea bargaining.

Clause 291 of the Bill relates to Guidelines for mutually satisfactory disposition.

Clause 292 of the Bill relates to Report of the mutually satisfactory disposition to be submitted before the Court.

Clause 293 of the Bill relates to Disposal of the case.

Clause 294 of the Bill relates to Judgment of the Court.

This Clause provides that the Court shall deliver its judgment in terms of section 293 in the open Court and the same shall be signed by the presiding officer of the Court.

Clause 295 of the Bill relates to Finality of the judgment.

This Clause provides that the judgment delivered by the Court under this section shall be final and no appeal (except the special leave petition under article 136 and writ petition under articles 226 and 227 of the Constitution) shall lie in any Court against such judgment.

Clause 296 of the Bill relates to Power of the Court in plea bargaining.

This Clause provides that Court shall have, for the purposes of discharging its functions under this Chapter, all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Sanhita.

Clause 297 of the Bill relates to Period of detention undergone by the accused to be set off against the sentence of imprisonment.

This Clause provides that the provisions of section 469 shall apply, for setting off the period of detention undergone by the accused against the sentence of imprisonment imposed under this Chapter, in the same manner as they apply in respect of the imprisonment under other provisions of this Sanhita.

Clause 298 of the Bill relates to Savings.

This Clause provides that the provisions of Chapter XXIV shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Sanhita and nothing in such other provisions shall be construed to constrain the meaning of any provision of this Chapter.

Clause 299 of the Bill relates to Statements of accused not to be used.

This Clause provides that notwithstanding anything contained in any law for the time being in force, the statements or facts stated by an accused in an application for plea bargaining filed under section 290 shall not be used for any other purpose except for the purpose of this Chapter.

Clause 300 of the Bill relates to Non-application of the Chapter.

It provides that Nothing in this Chapter shall apply to any juvenile or child as defined in section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Clause 301 of the Bill relates to Definitions.

This Clause relates to certain definitions in respect of Chapter XXV of the Attendance of persons confined or detained in prisons.

Clause 302 of the Bill relates to Power to require attendance of prisoners.

Clause 303 of the Bill relates to Power of State Government or Central Government to exclude certain persons from operation of section 302.

Clause 304 of the Bill relates to Officer in charge of prison to abstain from carrying out order in certain contingencies.

Clause 305 of the Bill relates to Prisoner to be brought to Court in custody.

This Clause provides that subject to the provisions of section 304, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 302 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained.

Clause 306 of the Bill relates to Power to issue commission for examination of witness in prison. The provisions of this Chapter shall be without prejudice to the power of the Court to issue, under section 319, a commission for the examination, as a witness, of any person confined or detained in a prison; and the provisions of Part B of Chapter XXVI shall apply in relation to the examination on commission of any such person in the prison as they apply in relation to the examination on commission of any other person.

Clause 307 of the Bill relates to Language of Courts. This Clause provides that the State Government may determine what shall be, for purposes of this Sanhita, the language of each Court within the State other than the High Court.

Clause 308 of the Bill relates to Evidence to be taken in presence of accused.

This Clause provides that except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader, subject to certain condition. It is also

Clause 309 of the Bill relates to Record in summons-cases and inquiries.

This Clause provides that all summons-cases tried before a Magistrate, in all inquiries under sections 165 to 168 (both inclusive), and in all proceedings under section 493 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of the evidence in the language of the Court, subject to certain condition.

Clause 310 of the Bill relates to Record in warrant-cases.

Clause 311 of the Bill relates to Record in trial before Court of Session.

Clause 312 of the Bill relates to language of record of evidence.

Clause 313 of the Bill relates to procedure in regard to such evidence when completed.

Clause 314 of the Bill relates to interpretation of evidence to accused or his pleader.

Clause 315 of the Bill relates to remarks respecting demeanour of witness.

This Clause provides that a presiding Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Clause 316 of the Bill relates to record of examination of accused.

Clause 317 of the Bill relates to interpreter to be bound to interpret truthfully.

This Clause provides for the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Clause 318 of the Bill relates to record in High Court.

This Clause provides that every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it, and such evidence and examination shall be taken down in accordance with such rule.

Clause 319 of the Bill relates to when attendance of witness may be dispensed with and commission issued.

Clause 320 of the Bill relates to commission to whom to be issued.

Clause 321 of the Bill relates to execution of Commissions.

This Clause provides that the receipt of the commission, the Chief Judicial Magistrate or Judicial Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials or warrant-cases under this Sanhita.

Clause 322 of the Bill relates to parties may examine witnesses.

Clause 323 of the Bill relates to return of commission.

Clause 324 of the Bill relates to adjournment of proceeding.

This Clause provides that every case in which a commission is issued under section 319, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Clause 325 of the Bill relates to execution of foreign commissions.

Clause 326 of the Bill relates to deposition of medical witness.

Clause 327 of the Bill relates to identification report of Magistrate.

Clause 328 of the Bill relates to evidence of officers of the Mint.

Clause 329 of the Bill relates to reports of certain Government scientific experts.

Clause 330 of the Bill relates to no formal proof of certain documents.

Clause 331 of the Bill relates to affidavit in proof of conduct of public servants.

This Clause provides that any application is made to any Court in the course of any inquiry, trial or other proceeding under this Sanhita, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the

application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

Clause 332 of the Bill relates to evidence of formal character on affidavit.

Clause 333 of the Bill relates to authorities before whom affidavits may be sworn.

Clause 334 of the Bill relates to previous conviction or acquittal how proved.

Clause 335 of the Bill relates to record of evidence in absence of accused.

Clause 336 of the Bill relates to evidence of public servants, experts, police officers in certain cases.

Clause 337 of the Bill relates to person once convicted or acquitted not to be tried for same offence.

Clause 338 of the Bill relates to appearance by Public Prosecutors.

Clause 339 of the Bill relates to permission to conduct prosecution.

Clause 340 of the Bill relates to right of person against whom proceedings are instituted to be defended.

This Clause provides that any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Sanhita, may of right be defended by an advocate of his choice.

Clause 341 of the Bill relates to legal aid to accused at State expense in certain cases.

Clause 342 of the Bill relates to procedure when corporation or registered society is an accused.

Clause 343 of the Bill relates to tender of pardon to accomplice.

Clause 344 of the Bill relates to power to direct tender of pardon.

This Clause provides that at any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

Clause 345 of the Bill relates to trial of person not complying with conditions of pardon.

Clause 346 of the Bill relates to power to postpone or adjourn proceedings.

Clause 347 of the Bill relates to local inspection.

Clause 348 of the Bill relates to power to summon material witness, or examine person present.

This Clause provides that any Court may, at any stage of any inquiry, trial or other proceeding under this Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

Clause 349 of the Bill relates to power of Magistrate to order person to give specimen signatures or handwriting.

This Clause provides that a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Sanhita, it is expedient to direct any person, including an accused person, to give specimen signatures or finger impressions or handwriting or voice sample, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place

specified in such order and shall give his specimen signatures or finger impressions or handwriting or voice sample, subject to certain conditions.

Clause 350 of the Bill relates to expenses of complainants and witnesses.

This Clause provides that subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of the Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Sanhita.

Clause 351 of the Bill relates to power to examine the accused.

Clause 352 of the Bill relates to oral arguments and memorandum of arguments.

Clause 353 of the Bill relates to accused person to be competent witness.

Clause 354 of the Bill relates to no influence to be used to induce disclosure.

Clause 355 of the Bill relates to provision for inquiries and trial being held in the absence of accused in certain cases.

Clause 356 of the Bill relates to inquiry, trial or judgment in absentia of proclaimed offender.

Clause 357 of the Bill relates to procedure where accused does not understand proceedings.

This Clause provides that the accused, though not a person with mental illness, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Clause 358 of the Bill relates to power to proceed against other persons appearing to be guilty of offence.

Clause 359 of the Bill relates to compounding of offences.

Clause 360 of the Bill relates to withdrawal from prosecution.

Clause 361 of the Bill relates to procedure in cases which Magistrate cannot dispose of.

Clause 362 of the Bill relates to procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

This Clause provides that in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing the judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained and thereupon the provisions of Chapter XX shall apply to the commitment so made.

Clause 363 of the Bill relates to trial of persons previously convicted of offences against coinage, stamp-law or property.

Clause 364 of the Bill relates to procedure when Magistrate cannot pass sentence sufficiently severe.

Clause 365 of the Bill relates to conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

Clause 366 of the Bill relates to court to be open.

Clause 367 of the Bill relates to procedure in case of accused being person with mental illness.

Clause 368 of the Bill relates to procedure in case of person with mental illness tried before Court.

Clause 369 of the Bill relates to release of person with mental illness pending investigation or trial.

Clause 370 of the Bill relates to resumption of inquiry or trial.

Clause 371 of the Bill relates to procedure on accused appearing before Magistrate or Court.

Clause 372 of the Bill relates to when accused appears to have been of sound mind.

Clause 373 of the Bill relates to judgment of acquittal on ground of mental illness.

This Clause provides that any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of mental illness, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Clause 374 of the Bill relates to person acquitted on such ground to be detained in safe custody.

Clause 375 of the Bill relates to power of State Government to empower officer-in-charge to discharge.

Clause 376 of the Bill relates to procedure where prisoner with mental illness is reported capable of making his defence.

Clause 377 of the Bill relates to procedure where person with mental illness detained is declared fit to be released.

Clause 378 of the Bill relates to delivery of person with mental liabilities to care of relative or friend.

Clause 379 of the Bill relates to procedure in cases mentioned in section 215.

Clause 380 of the Bill relates to appeal.

Clause 381 of the Bill relates to power to order costs.

Clause 382 of the Bill relates to procedure of Magistrate taking cognizance.

Clause 383 of the Bill relates to summary procedure for trial for giving false evidence.

Clause 384 of the Bill relates to procedure in certain cases of contempt.

Clause 385 of the Bill relates to procedure where Court considers that case should not be dealt with under section 384.

Clause 386 of the Bill relates to when Registrar or Sub-Registrar to be deemed a Civil Court.

Clause 387 of the Bill relates to discharge of offender on submission of apology.

Clause 388 of the Bill relates to imprisonment or committal of person refusing to answer or produce document.

Clause 389 of the Bill relates to summary procedure for punishment for non-attendance by a witness in obedience to summons.

Clause 390 of the Bill relates to appeals from convictions under sections 383, 384, 388 and 389.

Clause 391 of the Bill relates to certain Judges and Magistrates not to try certain offences when committed before themselves.

Clause 392 of the Bill relates to judgment.

Clause 393 of the Bill relates to language and contents of judgment.

Clause 394 of the Bill relates to order for notifying address of previously convicted offender.

Clause 395 of the Bill relates to order to pay compensation.

Clause 396 of the Bill relates to victim compensation scheme.

Clause 397 of the Bill relates to treatment of victims.

Clause 398 of the Bill relates to witness protection scheme.

Clause 399 of the Bill relates to compensation to persons groundlessly arrested.

Clause 400 of the Bill relates to order to pay costs in non-cognizable cases.

Clause 401 of the Bill relates to order to release on probation of good conduct or after admonition.

Clause 402 of the Bill relates to special reasons to be recorded in certain cases.

Clause 403 of the Bill relates to Court not to alter judgment.

Clause 404 of the Bill relates to copy of judgment to be given to the accused and other persons.

Clause 405 of the Bill relates to judgment when to be translated.

Clause 406 of the Bill relates to Court of Session to send copy of finding and sentence to District Magistrate.

Clause 407 of the Bill relates to sentence of death to be submitted by Court of Session for confirmation.

Clause 408 of the Bill relates to power to direct further inquiry to be made or additional evidence to be taken.

Clause 409 of the Bill relates to power of High Court to confirm sentence or annul conviction.

Clause 410 of the Bill relates to confirmation or new sentence to be signed by two Judges.

Clause 411 of the Bill relates to procedure in case of difference of opinion.

Clause 412 of the Bill relates to procedure in cases submitted to High Court for confirmation.

Clause 413 of the Bill relates to no appeal to lie unless otherwise provided.

Clause 414 of the Bill relates to appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.

Clause 415 of the Bill relates to appeals from convictions.

Clause 416 of the Bill relates to no appeal in certain cases when accused pleads guilty.

Clause 417 of the Bill relates to no appeal in petty cases.

Clause 418 of the Bill relates to appeal by the State Government against sentence.

Clause 419 of the Bill relates to appeal in case of acquittal.

Clause 420 of the Bill relates to appeal against conviction by High Court in certain cases.

Clause 421 of the Bill relates to special right of appeal in certain cases.

Clause 422 of the Bill relates to appeal to Court of Session how heard.

Clause 423 of the Bill relates to petition of appeal.

Clause 424 of the Bill relates to procedure when appellant in jail.

Clause 425 of the Bill relates to summary dismissal of appeal.

Clause 426 of the Bill relates to procedure for hearing appeals not dismissed summarily.

Clause 427 of the Bill relates to powers of the Appellate Court.

Clause 428 of the Bill relates to judgments of Subordinate Appellate Court.

Clause 429 of the Bill relates to order of High Court on appeal to be certified to lower Court.

Clause 430 of the Bill relates to suspension of sentence pending the appeal; release of appellant on bail.

Clause 431 of the Bill relates to arrest of accused in appeal from acquittal.

Clause 432 of the Bill relates to appellate Court may take further evidence or direct it to be taken.

Clause 433 of the Bill relates to procedure where Judges of Court of Appeal are equally divided.

Clause 434 of the Bill relates to finality of judgments and orders on appeal.

Clause 435 of the Bill relates to abatement of appeals.

Clause 436 of the Bill relates to reference to High Court.

Clause 437 of the Bill relates to disposal of case according to decision of High Court.

Clause 438 of the Bill relates to calling for records to exercise powers of revision.

Clause 439 of the Bill relates to power to order inquiry.

Clause 440 of the Bill relates to Sessions Judge's powers of revision.

Clause 441 of the Bill relates to power of Additional Sessions Judge.

Clause 442 of the Bill relates to High Court's powers of revision.

Clause 443 of the Bill relates to power of High Court to withdraw or transfer revision cases.

Clause 444 of the Bill relates to option of Court to hear parties.

Clause 445 of the Bill relates to statement by Magistrate of grounds of his decision to be considered by High Court.

Clause 446 of the Bill relates to High Court's order to be certified to lower Court.

Clause 447 of the Bill relates to power of Supreme Court to transfer cases and appeals.

Clause 448 of the Bill relates to power of High Court to transfer cases and appeals.

Clause 449 of the Bill relates to power of Sessions Judge to transfer cases and appeals.

Clause 450 of the Bill relates to withdrawal of cases and appeals by Session Judge.

Clause 451 of the Bill relates to withdrawal of cases by Judicial Magistrate.

Clause 452 of the Bill relates to making over or withdrawal of cases by Executive Magistrates.

Clause 453 of the Bill relates to reasons to be recorded.

Clause 454 of the Bill relates to execution of order passed under section 410.

Clause 455 of the Bill relates to execution of sentence of death passed by High Court.

Clause 456 of the Bill relates to postponement of execution of sentence of death in case of appeal to Supreme Court.

Clause 457 of the Bill relates to postponement of capital sentence on pregnant woman.

Clause 458 of the Bill relates to power to appoint place of imprisonment.

Clause 459 of the Bill relates to execution of sentence of imprisonment.

Clause 460 of the Bill relates to direction of warrant for execution.

Clause 461 of the Bill relates to warrant with whom to be lodged.

Clause 462 of the Bill relates to warrant for levy of fine.

Clause 463 of the Bill relates to effect of such warrant.

Clause 464 of the Bill relates to warrant for levy of fine issued by a Court in any territory to which this Sanhita does not extend.

Clause 465 of the Bill relates to suspension of execution of sentence of imprisonment.

Clause 466 of the Bill relates to who may issue warrant.

Clause 467 of the Bill relates to sentence on escaped convict when to take effect.

Clause 468 of the Bill relates to sentence on offender already sentenced for another offence.

Clause 469 of the Bill relates to period of detention undergone by the accused to be set off against the sentence of imprisonment.

Clause 470 of the Bill relates to saving.

Clause 471 of the Bill relates to return of warrant on execution of sentence.

Clause 472 of the Bill relates to money ordered to be paid recoverable as a fine.

Clause 473 of the Bill relates to mercy Petition in death sentence cases.

Clause 474 of the Bill relates to power to suspend or remit sentences.

Clause 475 of the Bill relates to power to commute sentence.

Clause 476 of the Bill relates to restriction on powers of remission or commutation in certain cases.

Clause 477 of the Bill relates to concurrent power of Central Government in case of death sentences.

Clause 478 of the Bill relates to state Government to act after concurrence with Central Government in certain cases.

Clause 479 of the Bill relates to bail and bond.

Clause 480 of the Bill relates to cases bail to be taken.

Clause 481 of the Bill relates to maximum period for which an undertrial prisoner can be detained.

Clause 482 of the Bill relates to when bail may be taken in case of non-bailable offence.

Clause 483 of the Bill relates to bail to require accused to appear before next appellate Court.

Clause 484 of the Bill relates to direction for grant of bail to person apprehending arrest.

Clause 485 of the Bill relates to special powers of High Court or Court of Session regarding bail.

Clause 486 of the Bill relates to amount of bond and reduction thereof.

Clause 487 of the Bill relates to bond of accused and sureties.

Clause 488 of the Bill relates to declaration by sureties.

Clause 489 of the Bill relates to discharge from custody.

Clause 490 of the Bill relates to power to order sufficient bail when that first taken is insufficient.

Clause 491 of the Bill relates to discharge of sureties.

Clause 492 of the Bill relates to deposit instead of recognizance.

Clause 493 of the Bill relates to procedure when bond has been forfeited.

Clause 494 of the Bill relates to cancellation of bond and bail bond.

Clause 495 of the Bill relates to procedure in case of insolvency of death of surety or when a bond is forfeited.

Clause 496 of the Bill relates to bond required from minor.

Clause 497 of the Bill relates to appeal from orders under section 446.

Clause 498 of the Bill relates to power to direct levy of amount due on certain recognizances.

Clause 499 of the Bill relates to order for custody and disposal of property pending trial in certain cases.

Clause 500 of the Bill relates to order for disposal of property at conclusion of trial.

Clause 501 of the Bill relates to payment to innocent purchaser of money found on accused.

Clause 502 of the Bill relates to appeal against orders under section 500 or section 501.

Clause 503 of the Bill relates to destruction of libellous and other matter.

Clause 504 of the Bill relates to power to restore possession of immovable property.

Clause 505 of the Bill relates to procedure by police upon seizure of property.

Clause 506 of the Bill relates to procedure where no claimant appears within six months.

Clause 507 of the Bill relates to power to sell perishable property.

Clause 508 of the Bill relates to irregularities which do not vitiate proceedings.

Clause 509 of the Bill relates to irregularities which vitiate proceedings.

Clause 510 of the Bill relates to proceedings in wrong place.

Clause 511 of the Bill relates to non-compliance with provisions of section 183 or section 316.

Clause 512 of the Bill relates to effect of omission to frame, or absence of, or error in, charge.

Clause 513 of the Bill relates to finding or sentence when reversible by reason of error, omission or irregularity.

Clause 514 of the Bill relates to defect or error not to make attachment unlawful.

Clause 515 of the Bill relates to definitions.

Clause 516 of the Bill relates to bar to taking cognizance after lapse of the period of limitation.

Clause 517 of the Bill relates to commencement of the period of limitation.

Clause 518 of the Bill relates to exclusion of time in certain cases.

Clause 519 of the Bill relates to exclusion of date on which Court is closed.

Clause 520 of the Bill relates to continuing offence.

This Clause provides that the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

Clause 521 of the Bill relates to extension of period of limitation in certain cases.

This Clause provides that notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

Clause 522 of the Bill relates to trials before High Courts.

This Clause deals with an offence is tried by the High Court otherwise than under section 448, it shall, in the trial of the offence, observe the same procedure as a Court of Sessions would observe if it were trying the case.

Clause 523 of the Bill relates to delivery to commanding officers of persons liable to be tried by Court-martial.

Clause 524 of the Bill relates to forms.

This Clause deals with subject to the power conferred by article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

Clause 525 of the Bill relates to power of High Court to make rules.

Clause 526 of the Bill relates to power to alter functions allocated to Executive Magistrate in certain cases.

Clause 527 of the Bill relates to case in which Judge or Magistrate is personally interested.

Clause 528 of the Bill relates to practicing advocate not to sit as Magistrate in certain Courts.

This Clause provides that no advocate who practices in the Court of any Magistrate shall sit as a Magistrate in that Court or in any Court within the local jurisdiction of that Court.

Clause 529 of the Bill relates to public servant concerned in sale not to purchase or bid for property.

This Clause provides that a public servant having any duty to perform in connection with the sale of any property under this Sanhita shall not purchase or bid for the property.

Clause 530 of the Bill relates to saving of inherent powers of High Court.

This Clause provides that nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give

effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

Clause 531 of the Bill relates to duty of High Court to exercise continuous superintendence over Courts.

This Clause provides that every High Court shall so exercise its superintendence over the Courts of Sessions and Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by the Judges and Magistrates.

Clause 532 of the Bill relates to trial and proceedings to be held in electronic mode.

This Clause provides that trials and proceedings under this Code, may be held in electronic mode, by use of electronic communication or use of audio-video electronic means.

Clause 533 of the Bill relates to repeal and savings.

This Clause provides that the Code of Criminal Procedure, 1973 is repealed.

FINANCIAL MEMORANDUM

The Bharatiya Nyaya Sanhita Bill, 2023, if enacted, is not likely to involve any expenditure, either recurring or non-recurring, from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 2 of the Bill empowers the State Government to make rules *inter alia* to provide for other means of communication device for the purpose of video conferencing.

Sub-clause (2) of clause 11 of the Bill empowers the High Court to make rules *inter alia* to provide for qualification and experience of any person to confer upon power of Judicial Magistrate in respect of a particular case or class of cases.

Sub-clause (3) of clause 48 of the Bill empowers the State Government to make rules for the form to keep book of entry of arrested person.

Sub-clause (2) of clause 153 of the Bill empowers the State Government to make rules to provide for the manner of notification of proclamation of order.

Sub-clause (2) of clause 179 of the Bill empowers the State Government to make rules *inter alia* to provide for the payment of reasonable expenses to persons attending police officer.

Sub-clause (3) of clause 320 of the Bill empowers the Central Government to make rules *inter alia* to provide for Form for issuing Commission for taking evidence of witnesses in other country.

Sub-clause (2) of clause 341 of the Bill empowers that the High Court may make rules *inter alia* for the mode of selecting advocate for defence; the facilities and the fee to be provided to such advocate by Government.

Clause 350 of the Bill empowers the State Government to make rules to provide for reasonable expenses to witnesses for attending Court.

Sub-clause (2) of clause of the Bill 369 empowers the State Government to make rules *inter alia* to provide for detention of accused in a mental Health establishment.

Sub-clause (5) of clause 394 of the Bill empowers the State Government to make rules to carry out provisions of clause 394 relating to notification of residence and change thereof of released convicts.

Sub-clause (2) of clause 462 of the Bill empowers the State Government to make rules *inter alia* to provide for the manner of execution of search warrant.

Sub-clause (5) of clause 474 empowers the appropriate Government to make rules to provide for direction as to suspension of sentences and the conditions for presentation of petition.

Clause 506 of the Bill empowers the State Government to make rules provide for the manner of dealing with proceeds of sale of property of non-claimant.

Clause 523 of the Billempowers the Central Government to make rules *inter alia* to provide for the manner of trial of persons belonging to the armed forces of the union.

Clause 525 of the Bill empowers the High Court to make rules for other matters.

The matters in respect of which such rules may be made are matters of procedures and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to consolidate and amend the law relating to Criminal Procedure.

(Shri Amit Shah, Minister of Home Affairs and Cooperation)

MGIPMRND—277LS(S3)—10-08-2023.

List of Domain Experts

1.	Shri Praveen Sinha, Ex-Special Director, Central Bureau of Investigation (CBI)
2.	Dr. Padmini Singh, Joint Secretary, Department of Legal Affairs
3.	Smt. Anupama Nilekar Chandra, Additional Director General (ADG), Bureau of Police Research & Development (BPR&D)
4.	Dr. Vikram Singh, Former Director General of Police (DGP)
5.	Prof. Naveen Chaudhary, National Forensic Sciences University, Gandhinagar, Gujarat
6.	Ms. Sonia Mathur, Senior Advocate
7.	Shri Jagdish Rana, Advocate
8.	Shri Anand Dey, Advocate
9.	Dr. Pinky Anand, Senior Advocate and Former Additional Solicitor General of India
10.	Justice Ritu Raj Awasthi, Chairman, Law Commission of India
11.	Dr. Adish C. Aggarwala, Senior Advocate, President, Supreme Court Bar Association
12.	Justice (Retd.) Satish Chandra
13.	Shri Utkarsh Sharma, Advocate
14.	Shri K.L. Janjani, Senior Advocate
15.	Shri Sanjeev Deshpande, Senior Advocate
16.	Prof. (Dr.) Faizan Mustafa, Former Vice-Chancellor, National Academy of Legal Studies and Research (NALSAR)
17.	Dr. Aditya Sondhi, Senior Advocate
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