

# CR. P.C. TODAY

(As modified upto March, 1996)

3rd Edition

Muhammed Sohul Hussain  
District & Sessions Judge

# **Cr. P.C. TODAY**

(As modified upto March, 1996)

---

Guidelines for the new entrants in the Magistracy and the legal profession as well as for the Law Students.

- The Code of Criminal Procedure, 1898  
(Act V of 1898)

**3rd Edition**

Muhammed Sohul Hussain,  
District & Sessions Judge

*Published by :*

Prof. Monowara Sohul,  
District Judge's Bungalow,  
Comilla.

*All right including translation reserved by the  
author.*

First Edition : 1984

Second Edition : 1986

Third Edition : 1996

Price : Tk. 450.00

*Composed by :*

Rose Computer & Publication,  
38, Banglabazar,  
Dhaka -1100.

*Printed by :*

Super Offset Printers Ltd.  
186/1 Inner Circular Road,  
Motijheel, Dhaka.

*Dedicated to*  
*the memory of my late respected parents —*  
*Moulvi Md. Ahmed Hussian*  
*And*  
*Begum Sitara Ahmed*

## Foreword

I am indeed happy to see that distinguished author, Mr. Muhammed Sohul Hussain, has taken considerable pains in incorporating into the third edition of the book entitled "Cr. P. C. Today" the recent amendments along with his well thought-out comments on these modifications. Certain new topics, like "The Judicial System in Bangladesh", "Organogram of the Judicial Hierarchy", Procedure to deal with the Military, the Child offenders and the Deaf and Dumb accuseds have also been included in Part—A to enlarge, enrich and improve the contents of the book. Therefore, I sincerely believe that the magistrates, judges, lawyers, law enforcing agencies and law students would be immensely benefited from this new edition. In fact, this is a valuable text book on Bangladesh Code of Criminal Procedure, a dependable work based on sound scholarship in which due care has meticulously been taken to make it readable and useful. I am convinced that the book would be warmly received in the legal arena of Bangladesh.



**(DR. M. ERSHADUL BARI)**

Ph. D. (London), LL.M.  
PROFESSOR AND DEAN,  
FACULTY OF LAW,  
UNIVERSITY OF DHAKA



## Preface.

Second edition of the book is almost off from the market for about three years and even though many members of the Bar and the Bench as well as a good number of Varsity students were out to get me on for the third edition yet I was all through hesitant, primarily, for the reason that paper and printing materials have become very dear and secondarily for the reason that reprinting of a law book is a very uphill task, for, it requires insertion of all the amendments which have taken place in the meantime and also to add all subsequent Case Laws pin-pointing the departure, if any, in principles enunciated earlier and while the author is a judge, the job becomes all the more arduous, as, he is to do the same in the midst of his strenuous judicial work. But in the last month while it happened to catch my attention that the chairman of the Faculty of law, University of Dhaka, has been going to take his class keeping in his hand a much-too-used torn-out jacketless "Cr.P.C. Today" I could not but make final my decision to go for the third edition of the book and the present edition is, practically, the offspring of the said incident.

In this edition I have also brought within the scope and ambit of my works the law students apart from the new entrants in the magistracy and the legal profession. I have enlarged and enriched this Edition by adding new topics in Part-A, such as, "The Judicial system in Bangladesh." "Organogram of the Judicial Hierarchy", "How to deal with The Military Offenders, The Child Offenders, The Deaf and Dumb accuseds", etc. and have also pointed out some legislative lapses occurring in Section 13A and in Schedule II of the Cr.P.C. with respect to Sections 376, 385, 387, etc. of the Penal Code and also in the use of the terms "Upazila Magistrate", "Sub-Divisions", "Upazilas", "Transportation", etc.

Part-A of the book has been couched mainly for the new entrants in the Magistracy and the legal profession as well as for the law Students and Part-B contains the upto-date versions of the whole Code with notes, comments and rulings on important topics and new laws. No attempt has been made to explain and annotate those provisions of the Code which remained unamended since before 1980, because, existing authorities are affording sufficiently on them. Part-C which contained Government instructions and circulars have been dropped this time, as, now those are known to all.

The recent amendments have introduced new provisions which are, because of their newness, having no precedents, as a result, the annotations and commentaries as made thereon in this book are expected to help apply the said provisions till the controversial points arising out of them are settled through case laws

With these few words I commit this humble work of mine to the judgement of those for whose use it has been written without however any claim as to its worth, though I have spared no pains to make it useful at least to the minimum extent. I shall consider my efforts amply rewarded if its users find it of any benefit howsoever little.

In spite of best efforts, there might be any error or omission in the present edition, for which I shall be highly grateful, if it is brought to my notice.

Before I conclude I must acknowledge the debt I greatly owe to Mr. Farooq Ahmed; Sub-Judge & Assistant Sessions Judge, Mr. Abu Yusuf Chowdhury and Mr. M.A. Malik. I also thankfully acknowledge the assistance rendered by my Stenographer Mr. Ratan Singha and the Printer of the book Mr. L. Mahmood.

District Judge's  
Chamber, Comilla.  
19th March, 1996

Muhammed Sohul Hussain

## CONTENTS

## PART-A

GUIDELINES FOR THE NEW ENTRANTS IN THE  
MAGISTRACY AND THE LEGAL PROFESSION AS WELL  
AS FOR THE LAW STUDENTS:

TO BE HAD

Sections	Page
1. Judicial system in Bangladesh.	2
2. Organogram of the Judicial system.	6
3. Historical back ground of the Act.	7
4. Salient feature of the Act.	8
5. Administration of Criminal Justice.	13
6. Legal meaning of some words used in the Code of Criminal Procedure.	17
7. Cognizance.	21
8. Charge.	23
9. Procedure to be followed in the regular trial of cases by Magistrates:	25
—Complaint case.	25
—Police case.	27
—Framing of charge and discharge	28
—Trial of Cross-cases.	29
10. Some important matters to be taken note of before trial of a case is taken up.	29
11. Irregularities which vitiate proceedings.	30
12. Age of the Offender or the victim.	31
13. How to meet some exceptional circumstances in trying a case.	33



Sections	Page
14. Judgment	35
15. Punishment	36
16. Bail	39
—Bail by police.	40
—Anticipatory bail.	40
—Cancellation of bail.	42
17. Summary trial	43
18. Proceedings under section 107.	45
—Important rulings	129
19. Proceedings under section 133	47
—Important rulings.	142
20. Proceedings under section 144	50
—Important rulings	146
21. Proceedings under section 145.	51
—Important rulings	149
22. Appeal.	54
23. Child Offender	60
24. Contempt of Courts.	61
—under the Contempt of Courts Act, 1926	61
—under the Penal Code and the Code of Criminal Procedure.	64
—Contempt of Family Court	68
The Contempt of Courts Act, 1926 (Act XVIII of 1926)	68
25. Offences under the Penal Code which are exclusively triable by the Special Judge.	70

Sections	Page
26. Offences under the Penal Code which are exclusively triable by Village Courts	71
27. Police investigation and time limit	163
28. Trial in absentia	215
29. Commencement of Trial	19 and 242
30. Defence Counsel	217
31. Recording of deposition of witnesses.	237
32. Requirements about sending of records and cases to the higher courts	186
33. Section 339B and 512	294 and 295
34. Examination of accuseds u/s 243 and 342: —distinction thereof.	44
35. Punishment for false and vexatious cases.	204
36. Procedure to deal with an accused who is a Military personnel.	73 and 312
37. Glimpse at the Nari-0-Shishu Nirjatan (Bishesh Bidhan) Ain, 1995 (Act XVIII of 1995).	79

A  
PART — B  
THE CODE OF CRIMINAL PROCEDURE 1898

CONTENTS

PART I

PRELIMINARY

CHAPTER I

Sections	Page
1. Short title	82-85
Commencement, Extent.	
2. [Repealed.]	
3. Expressions in former Acts.	
4. Definitions.	
Words referring to acts	
Words to have same meaning as in Penal Code.	
5. Trial of offences under Penal Code.	
Trial of offences against other laws	

## PART II

CONSTITUTION AND POWERS OF CRIMINAL  
COURTS AND OFFICES

## CHAPTER II

OF THE CONSTITUTION OF CRIMINAL COURTS  
AND OFFICES*A.- Classes of Criminal Courts*

6. Classes of Criminal Courts. 86-89

*B.- Territorial Divisions*

7. Sessions Divisions and districts.  
Power to alter divisions and districts.  
Existing divisions and districts maintained till altered.
8. Power to divide districts into sub-divisions.  
Existing sub-divisions maintained.

*C.- Courts and Offices*

9. Court of Session.
10. District Magistrate.
11. Officers temporarily succeeding to vacancies in office of District Magistrate.
12. Subordinate Magistrates.  
Local limits of their jurisdiction.
13. Power to put Magistrate in charge of sub-division.  
Delegation of powers to District Magistrate.



Sections	Page
13A. Upazila Magistrate.	89-94
14. Special Magistrates.	
15. Benches of Magistrates.	
Powers exercisable by Bench in absence of special direction.	
16. Power to frame rules for guidance of Benches.	
17. Subordination of Magistrates and Benches to District Magistrate; to Sub-divisional Magistrate.	
Sub-ordination of Assistant Sessions Judges to Sessions Judge.	

*D.- Courts of Metropolitan Magistrates.*

18. Appointment of Metropolitan Magistrate.
19. Benches.
20. Local Limits of jurisdiction.
21. Chief Metropolitan Magistrate.

*E.- Justices of the Peace*

22. Justices of the peace for the mafassal.
- 23-24. [Repealed.]
25. Ex-officio Justices of the Peace.

*E.- Suspension and Removal*

- 26-27. [Repealed.]

## CHAPTER II

### POWERS OF COURTS

#### *A.-Description of Offences cognizable by each Court*

- |   |        |
|---|--------|
| 28. Offences under Penal Code.              | 94-100 |
| 29. Offences under other laws.              |        |
| 29A. [Omitted.]                             |        |
| 29B. Jurisdiction in the case of juveniles. |        |
| 29C. Offences not punishable with death.    |        |
| 30. [Omitted.]                              |        |

#### *B.-Sentences which may be passed by Courts of various Classes*

- |  |  |
|--|--|
| 31. Sentences which High Court Division and Sessions Judges may pass.    |  |
| 32. Sentences which Magistrates may pass.                                |  |
| 33. Power of Magistrates to sentence to imprisonment in default of fine. |  |
| Proviso as to certain cases.   |  |
| 33A. Higher powers of certain Magistrates.                               |  |
| 34. [Omitted.]   |  |
| 34A. [Omitted.]  |  |
| 35. Sentence in cases of conviction of several offences at one trial.    |  |
| Maximum term of punishment.  |  |
| 35A. Term of imprisonment in cases where convicts are in custody.        |  |

Sections	Page
----------	------

*C.-Ordinary and Additional Powers*

- |     |  |         |
|-----|--|---------|
| 36. | Ordinary powers of Magistrates.                  | 101-103 |
| 37. | Additional powers conferrable on Magistrates.    |         |
| 38. | Control of District Magistrates investing power. |         |

*D.-Conferment, Continuance and Cancellation of Powers*

- |     |                               |  |
|-----|-------------------------------|--|
| 39. | Mode of conferring powers.    |  |
| 40. | Powers of officers appointed. |  |
| 41. | Powers may be cancelled.      |  |

### PART III

#### GENERAL PROVISIONS

#### CHAPTER IV

#### **OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS**

- |     |   |  |
|-----|---|--|
| 42. | Public when to assist Magistrate and police.  |  |
| 43. | Aid to person, other than police-officer, executing warrant.                          |  |
| 44. | Public to give information of certain offences.                                       |  |
| 45. | Village-headmen, accountants, landholders and others bound to report certain matters. |  |

Appointment of village-headmen by District Magistrate or

Sub-divisional Magistrate in certain cases for purposes of this section.

CHAPTER V  
OF ARREST, ESCAPE AND RETAKING

*A.-Arrest generally*

- |     |   |         |
|-----|---|---------|
| 46. | Arrest how made.  | 104-108 |
|     | Resisting endeavour to arrest.                                    |         |
| 47. | Search of place entered by person sought to be arrested.          |         |
| 48. | Procedure where ingress not obtainable.                           |         |
|     | Breaking open zanana.   |         |
| 49. | Power to break open doors and windows for purposes of liberation. |         |
| 50. | No unnecessary restraint.   |         |
| 51. | Search of arrested persons.                                       |         |
| 52. | Mode of searching women.  |         |
| 53. | Power to seize offensive weapons.                                 |         |

*B.- Arrest without Warrant*

- |     |   |  |
|-----|---|--|
| 54. | When police may arrest without warrant.                                     |  |
| 55. | Arrest of vagabonds, habitual robbers, etc.                                 |  |
| 56. | Procedure when police-officer deputs subordinate to arrest without warrant. |  |
| 57. | Refusal to give name and residence.   |  |
| 58. | Pursuit of offenders into other jurisdictions.                              |  |
| 59. | Arrest by private persons and procedure on such arrest.                     |  |



Sections	Page
60. Person arrested to be taken before Magistrate or officer in charge of police-station.	108-111
61. Person arrested not to be detained more than twenty-four hours.	
62. Police to report apprehensions.	
63. Discharge of person apprehended.	
64. Offence committed in Magistrate's presence.	
65. Arrest by or in presence of Magistrate.	
66. Power, on escape, to pursue and retake.	
67. Provisions of sections 47, 48 and 49 to apply to arrests under section 66.	

## CHAPTER VI

### OF PROCESSES TO COMPEL APPEARANCE

#### *A.-Summons*

68. Form of summons.  
Summons by whom served.
69. Summons how served.  
Signature of receipt for summons.
70. Service when person summoned cannot be found.
71. Procedure when service cannot be effected as before provided.
72. Service on servant of Republic.
73. Service of summons outside local limits.
74. Proof of service in such cases and when serving officer not present.

Sections	Page
<i>B.- Warrant of Arrest</i>	
75. Form of warrant of arrest.	111-117
Continuance of warrant of arrest.	
76. Court may direct security to be taken.	
Recognizance to be forwarded.	
77. Warrants to whom directed.	
Warrants to several persons.	
78. Warrant may be directed to landholders, etc.	
79. Warrant directed to police-officer.	
80. Notification of substance of warrant,	
81. Person arrested to be brought before Court without delay.	
82. Where warrant may be executed.	
83. Warrant forwarded for execution outside jurisdiction.	
84. Warrant directed to police-officer for execution outside jurisdiction.	
85. Procedure on arrest of person against whom warrant issued.	
86. Procedure by Magistrate before whom person arrested is brought.	
<i>C-Proclamation and Attachment</i>	
87. Proclamation for person absconding.	
88. Attachment of property of person absconding.	
89. Restoration of attached property.	

*D.-Other Rules regarding Processes*

90. Issue of warrant in lieu of, or in addition to, summons. 117-121
91. Power to take bond for appearance.
92. Arrest by breach of bond for appearance.
93. Provisions of this Chapter generally applicable to summonses and warrants arrest.

*E.- Special Rules regarding processes issued for service or execution outside Bangladesh and processes received from outside Bangladesh for service or execution within Bangladesh.*

- 93A. Sending of summons for service outside Bangladesh.
- 93B. Sending of warrants for execution outside Bangladesh.
- 93C. Service and execution in Bangladesh of processes received from outside Bangladesh.

**CHAPTER VII****OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, WRONGFULLY CONFINED***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. Power to restrict warrant.

Sections	Page
98. Search of house suspected to contain stolen property, forged documents, etc.	121-127
99. Disposal of things found in search beyond jurisdiction.	
99A. Power to declare certain publications forfeited and to issue search-warrants for the same.	
99B. Application to High Court Division to set aside order of forfeiture.	
99C. Hearing by Special Bench.	
99D. Order of Special Bench setting aside forfeiture.	
99E. Evidence to prove nature or tendency of newspapers.	
99F. Procedure in High Court Division.	
99G. Jurisdiction barred.	

*C.-Discovery of Persons wrongfully confined*

100. Search for persons wrongfully confined

*D.-General Provisions relating to Searches*

101. Direction, etc., of search-warrants.
102. Persons in charge of closed place to allow search.
103. Search to be made in presence of witnesses.  
Occupant of place searched may attend.
104. Power to impound document, etc., produced.
105. Magistrate may direct search in his presence.



PART IV  
PREVENTION OF OFFENCES

CHAPTER VIII  
OF SECURITY FOR KEEPING THE PEACE AND  
FOR GOOD BEHAVIOUR

*A.-Security for keeping the peace on conviction.*

106. Security for keeping the peace on conviction. 127-132

*B.-Security for keeping the Peace in other Cases and Security  
for Good Behaviour*

107. Security for keeping the peace in other cases.  
Procedure of Magistrate not empowered to act  
under sub-section (1).
108. Security for good behavior from persons  
disseminating seditious matter.
109. Security for good behaviour from vagrants and  
suspected persons.
110. Security for good behaviour from habitual  
offenders.
111. [Repealed.]
112. Order to be made.
113. Procedure in respect of person present in Court.
114. Summons or warrant in case of person not so  
present.
115. Copy of order under section 112 to accompany  
summons or warrant.
116. Power to dispense with personal attendance.

Sections	Page
117. Inquiry as to truth of information.	132-139
118. Order to give security.	
119. Discharge of person informed against.	
<i>C.-Proceedings in all Cases subsequent to Order to furnish Security</i>	
120. Commencement of period for which security is required.	
121. Contents of bond.	
122. Power to reject sureties.	
123. Imprisonment in default of security.	
Proceedings when to be laid before High Court Division or Court of Sessions.	
Kind of imprisonment.	
124. Power to release persons imprisoned for failing to give security.	
125. Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.	
126. Discharge of sureties.	
126A. Security for unexpired period of bond.	

## CHAPTER IX

### UNLAWFUL ASSEMBLIES

- 127. Assembly to disperse on command of Magistrate or police-officer.
- 128. Use of civil force to disperse.
- 129. Use of military force.

Sections	Page
130. Duty of officer commanding troops required by Magistrate to disperse assembly	139-145
131. Power of commissioned military officers to disperse assembly.	
132. Protection against prosecution for acts done under this Chapter.	

## CHAPTER X

### PUBLIC NUISANCES

- 132A. Application.
133. Conditional order for removal of nuisance.
134. Service for notification of order.
135. Person to whom order is addressed to obey or show cause or claim jury.
136. Consequence of his failing to do so.
137. Procedure where he appears to show cause.
138. [Omitted.]
139. [Omitted.]
- 139A. Procedure where existence of public right is denied.
140. Procedure on order being made absolute.  
Consequences of disobedience to order.
141. [Omitted.]
142. Injunction pending inquiry.
143. Magistrate may prohibit repetition or continuance of public nuisance.

## CHAPTER XI

TEMPORARY ORDERS IN URGENT CASES OF  
NUISANCE OR APPREHENDED DANGER

144. Power to issue order absolute at once in urgent cases of nuisance or apprehended danger. 145-158

## CHAPTER XII

## DISPUTES AS TO IMMOVABLE PROPERTY

145. Procedure where dispute concerning land, etc., is likely to cause breach of peace.

Inquiry as to possession.

Party in possession to retain possession until legally evicted.

146. Power to attach subject of dispute.
147. Disputes concerning rights of use of immovable property, etc.
148. Local inquiry.  
Order as to costs.

## CHAPTER XIII

## PREVENTIVE ACTION OF THE POLICE

149. Police to prevent cognizable offences.
150. Information of design to commit such offences.
151. Arrest to prevent such offences.
152. Prevention of injury to public property.
153. Inspection of weights and measures.

## PART V

INFORMATION TO THE POLICE AND THEIR POWERS  
TO INVESTIGATE

## CHAPTER XIV

- |      |  |         |
|------|--|---------|
| 154. | Information in cognizable cases.   | 155-161 |
| 155. | Information in non-cognizable cases<br>Investigation into non-cognizable cases.  |         |
| 156. | Investigation into cognizable cases.   |         |
| 157. | Procedure where cognizable offence suspected.<br>Where local investigation dispensed with.<br>Where police-officer in charge sees no sufficient<br>ground for investigation. |         |
| 158. | Reports under section 157 how submitted.   |         |
| 159. | Power to hold investigation or preliminary inquiry.  |         |
| 160. | Police-officer's power to require attendance of<br>witnesses.  |         |
| 161. | Examination of witnesses by police.  |         |
| 162. | Statements to police not to be signed; use of such<br>statements in evidence.  |         |
| 163. | No inducement to be offered.   |         |
| 164. | Power to record statements and confessions.  |         |
| 165. | Search by police-officer.  |         |
| 166. | When officer-in-charge of police-station may require<br>another to issue search-warrant.   |         |
| 167. | Procedure when investigation cannot be completed<br>in twenty-four hours.  |         |



Sections	Page
168. Report of investigation subordinate police-officer.	164-170
169. Release of accused when evidence deficient.	
170. Case to be sent to Magistrate when evidence is sufficient.	
171. Complainants and witnesses not to be required to accompany police-officer.	
Complainants and witnesses not to be subjected to restraint.	
Recusant complainant or witness may be forwarded in custody	
172. Diary of proceedings in investigation.	
173. Report of police-officer.	
174. Police to inquire and report on suicide, etc.	
175. Power to summon persons.	
176. Inquiry by Magistrate into cause of death	
Power to disinter corpses.	

## PART VI

### PROCEEDINGS IN PROSECUTIONS

#### CHAPTER XV

#### OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

##### *A.-Place of Inquiry or Trial*

177. Ordinary place of inquiry and trial.
178. Power to order cases to be tried in different sessions divisions.

Sections	Page
179. Accused triable in district where act is done or where consequence ensues.	171-175
180. Place of trial where act is offence by reason of relation to other offence.	
181. Being a thug or belonging to a gang of dacoits, escape from custody, etc.	
Criminal misappropriation and criminal breach of trust.	
Theft.	
Kidnapping and abduction.	
182. Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.	
183. Offence committed on a journey.	
184. [Repealed.]	
185. High Court Division to decide, in case of doubt, district where inquiry or trial shall take place.	
186. Power to issue summons or warrant for offence committed beyond local jurisdiction.	
Magistrate's procedure on arrest.	
187. Procedure where warrant issued by subordinate Magistrate.	
188. Liability for offences committed outside Bangladesh.	
Political Agents to certify fitness of inquiry into charge.	
189. Power to direct copies of depositions and exhibits to be received in evidence.	

*B.-Conditions requisite for Initiation of Proceedings*

- |   |  |
|---|--|
| 190. Cognizance of offences by Magistrates. |  |
| 191. Transfer on application of accused.    |  |

Sections	Page
192. Transfer of cases by Magistrates.	176-181
193. Cognizance of offence by Courts of Session.	
194. [Omitted.]	
195. Prosecution for contempt of lawful authority of public servants.	
Prosecution for certain offences against public justice.	
Prosecution for certain offence relating to documents given in evidence.	
196. Prosecution for offences against the state.	
196A. Prosecution for certain classes of criminal conspiracy.	
196B. Preliminary inquiry in certain cases.	
197. Prosecution of Judges and public servants.	
Power of Government as to prosecution.	
198. Prosecution for breach of contract, defamation and offences against marriage.	
199. Prosecution for adultery or enticing a married woman.	
199A. Objection by lawful guardian to complaint by person other than person aggrieved.	
199B. Form of authorisation under second proviso to section 198 or 199	

## CHAPTER XVI

### OF COMPLAINTS TO MAGISTRATES

200. Examination of complainant.
201. Procedure by Magistrate not competent to take cognizance of the case.

Sections	Page
202. Postponement for issue of process.	182-188
203. Dismissal of complaint.	

## CHAPTER XVII

### OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204. Issue of process.
205. Magistrate may dispense with personal attendance of accused.
- 205A. [Omitted.]
- 205B. [Omitted.]
- 205C. Transfer of case Court of Session when offence is trial exclusively by it.
- 205CC. Transfer of case to District Magistrate, etc.
- 205D. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

## CHAPTER XVIII

### OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT DIVISION. (Ss. 206-220. -Omitted.)

## CHAPTER XIX

### OF THE CHARGE

#### Form of Charges

221. Charge to state offence.
- Specific name of offence sufficient description.
- How stated where offence has no specific name.



Sections	Page
What implied in charge.	
Language of charge.	
Previous conviction when to be set out.	
222. Particulars as to time, place and person.	189-190
223. When manner of committing offence must be stated.	
224. Words in charge taken in sense of law under which offence is punishable.	
225. Effect of errors.	
226. [Omitted.]	
227. Court may alter charge.	
228. When trial may proceed immediately after alteration.	
229. When new trial may be directed, or trial suspended.	
230. Stay of proceedings if prosecution of offence in altered charge require previous sanction.	
231. Recall of witnesses when charge altered.	
232. Effect of material error.	

#### *Joinder of Charges*

233. Separate charges for distinct offences.	
234. Three offences of same kind within year may be charged together.	
235. Trial for more than one offence.	
Offence falling within two definitions.	
Acts constituting one offence, but constituting when combined a different offence.	
236. Where it is doubtful what offence has been committed.	
237. When a person is charged with one offence, he can be convicted of another.	
238. When offence proved included in offence charged.	



Sections	Page
239. What persons may be charged jointly.	197-207
240. Withdrawal of remaining charges on conviction on one of several charges.	

## CHAPTER XX

### OF THE TRIAL OF CASES BY MAGISTRATES.

- 241. Procedure in cases.
- 241A. When accused shall be discharged.
- 242. Charge to be framed.
- 243. Conviction on admission of truth of accusation.
- 244. Procedure when no such admission is made.
- 245. Acquittal.  
Sentence.
- 246. [Omitted.]
- 247. Non-appearance of complainant.
- 248. Withdrawal of complaint.
- 249. Power to stop proceedings when no complainant.  
Frivolous Accusations in Cases tried by Magistrates.
- 250. False, frivolous or vexatious accusations.

### CHAPTER XXI-[Omitted.]

## CHAPTER XXII

### OF SUMMARY TRIALS

- 260. Power to try summarily.
- 261. Power to invest Bench of Magistrates invested with less power.
- 262. Procedure for summary trials  
Limit of imprisonment.

Sections	Page
437. <i>[Omitted.]</i>	
438. Report to High Court Division.	268-272
439. High Court Division's powers of revision.	
439A. Sessions Judge's power of revision.	
440. Optional with Court to hear parties.	
441. <i>[Omitted.]</i>	
442. High Court Division's order to be certified to lower Court or Magistrate.	

## CHAPTER XXXIIA

### TIME FOR DISPOSAL OF APPEAL AND REVISION

442A. Time for disposal of appeals and Revision.

## PART VIII

### SPECIAL PROCEEDINGS CHAPTER XXXII *[Omitted.]*

## CHAPTER XXXIV

### LUNATICS

- 464. Procedure in case of accused being lunatic.
- 465. Procedure in case of person being lunatic before Court of Sessions.
- 466. Release of lunatic pending investigation or trial. Custody of lunatic.
- 467. Resumption of inquiry or trial.
- 468. Procedure on accused appearing before Magistrate or Court.

Sections	Page
469. When accused appears to have been insane.	273-277
470. Judgment of acquittal on ground of lunacy.	
471. Person acquitted on such ground to be detained insafe custody.	
Power of Government to relieve Inspector General of certain functions.	
472. <i>[Repealed.]</i>	
473. Procedure where lunatic prisoner is reported capable of making his defence.	
474. Procedure where lunatic detained under section 466 or 471 is declared fit to be released.	
475. Delivery of lunatic to care of relative or friend.	

## CHAPTER XXXV

### PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING

#### THE ADMINISTRATION OF JUSTICE.

476. Procedure in cases mentioned in section 195.	
476A. Superior Court may complain where subordinate Court has omitted to do so.	
476B. Appeals.	
477. <i>[Repealed.]</i>	
478. <i>[Omitted.]</i>	
479. <i>[Omitted.]</i>	
480. Procedure in certain cases of contempt.	
481. Record in such cases.	

Sections	Page
482. Procedure where Court considers that case should not be dealt with under section 480.	277-283
483. When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.	
484. Discharge of offender on submission apology.	
485. Imprisonment or committal of person refusing to answer or produce document.	
485A. Summary procedure for punishment for non-attendance by a witness in obedience to summons.	
486. Appeals from convictions in contempt cases.	
487. Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.	

## CHAPTER XXXVI

### OF THE MAINTENANCE OF WIVES AND CHILDREN

- 488. Order for maintenance of wives and children.  
Enforcement of order.
- 489. Alteration in allowance.
- 490. Enforcement of order of maintenance.

## CHAPTER XXXVII

### DIRECTIONS OF THE NATURE OF A Habeas Corpus

- 491. Power to issue directions of the nature of a habeas corpus.
- 491A. *[Omitted.]*

**PART IX**  
**SUPPLEMENTARY PROVISIONS**  
**CHAPTER XXXVIII**  
**OF THE PUBLIC PROSECUTOR**

492. Power to appoint Public Prosecutors. 284-288
493. Public Prosecutor may plead in all Courts in cases under his charge.  
 Pleaders provately instructed to be under his direction.
494. Effect of withdrawal from prosecution.
495. Permission to conduct prosecution.

**CHAPTER XXXIX**  
**OF BAIL**

496. In what cases bail to be taken.
497. When bail may be taken in case of non-bailable offence.
- 497A [Omitted.]
498. Power to direct admission to bail or reduction of bail.
499. Bond of accused and sureties.
500. Discharge from custody.
501. Power to order sufficient bail when that first taken is insufficient.
502. Discharge of sureties.



## CHAPTER XL

OF COMMISSIONS FOR THE EXAMINATION OF  
WITNESSES

503. When attendance of witness may be dispensed with Issue of commission and procedure thereunder. 288-294
504. Commission in case of witness being within a Metropolitan Area.
505. May examine witnesses.
506. Power of Subordinate Magistrate to apply for issue of commission.
507. Return of commission.
508. Adjournment of inquiry or trial.
- 508A Application of this Chapter to Commissions issued in Burma.

## CHAPTER XLI

## SPECIAL RULES OF EVIDENCE.

509. Deposition of medical witness.  
Power to summon medical witness.
- 509A Report of post-mortem examination.
510. Report of chemical Examiner, serologist, etc.
- 510A Evidence of formal character on Affidavit.
511. Previous conviction or acquittal how proved.
512. Record of evidence in absence of accused.  
Record of evidence when offender unknown.

**CHAPTER XLII**  
**PROVISION AS TO BONDS**

- |   |         |
|---|---------|
| 513. Deposit instead of recognizance.   | 295-299 |
| 514. Procedure on forfeiture of bond.   |         |
| 514A Procedure in case of insolvency or death of surety of<br>when a bond is forfeited. |         |
| 514B Bond required from a minor.  |         |
| 515. Appeal from, and revision of, orders under section<br>514.                         |         |
| 516. Power to direct levy of amount due on certain recog-<br>nizances.                  |         |

**CHAPTER XLIII**  
**OF THE DISPOSAL OF PROPERTY**

- 516A Order for custody and disposal of property pending  
trial in certain cases.
517. Order for disposal of property regarding which  
offence committed.
518. Order may take form of reference to District or  
Sub-divisional Magistrate.
519. Payment to innocent purchaser of money found on  
accused.
520. Stay of order under sections 517, 518 or 519.
521. Destruction of libellous and other matter.
522. Power to restore possession of immoveable property.
523. Procedure by police upon seizure of property taken  
under section 51 stolen.
- Procedure where owner of property seized  
unknown.

Sections	Page
524. Procedure where no claimant appears within six months.	300-304
525. Power to sell perishable property.	

## CHAPTER XLIV

### OF THE TRANSFER OF CRIMINAL CASES

525A Power of Appellate Division to transfer cases and appeals.

526. High Court Division may transfer case or itself try it.  
 Notice to Public Prosecutor of application under this section.

Adjournment on application under this section.

526A [Omitted.]

526B Power of Sessions Judge to transfer cases.

527. [Omitted.]

528. Sessions Judge may withdraw cases from Assistant Sessions Judge.

District or Sub-divisional Magistrate may withdraw or refer cases.

Power to authorize District Magistrate to withdraw classes of cases.

CHAPTER XLIVA.-[Supplementary Provisions relating to European and Pakistan British Subjects and others.]

[Omitted.]

CHAPTER XLV  
OF IRREGULAR PROCEEDING

529. Irregularities which do not vitiate proceeding. 306-309
530. Irregularities which vitiate proceedings.
531. Proceedings in wrong place.
532. [Omitted.]
533. Non-compliance with provisions of section 164 or 364.
534. [Omitted.]
535. Effect of omission to prepare charge.
536. [Omitted.]
537. Finding or sentence when reversible by reason of error or omission in charge or other proceedings.
538. Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

CHAPTER XLVI  
MISCELLANEOUS

539. Courts and persons before whom affidavits may be sworn.
- 539A Affidavit in proof of conduct of public servant.
- 539B Local inspection.
540. Power to summon material witness or examine person present.
- 540A Provision for inquiries and trial being held in the absence of accused in certain cases.

Sections	Page
263. Record in cases where there is no appeal.	208-214
264. Record in appealable cases.	
265. Language of record and judgment.	
Bench may be authorised to employ clerk.	

### CHAPTER XXIII OF TRIALS BEFORE COURTS OF SESSION

- 265A. Trial to be conducted by Public Prosecutor.
- 265B. Opening case for prosecution.
- 265C. Discharge.
- 265D. Framing charge.
- 265E. Conviction on plea of guilty.
- 265F. Date for prosecution evidence.
- 265G. Evidence for prosecution.
- 265H. Acquittal.
- 265I. Entering upon defence.
- 265K. Judgment of acquittal or conviction.
- 265L. Previous conviction.

### CHAPTER XXIV GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

- 337. Tender of pardon to accomplice.
- 338. Power to direct tender of pardon.
- 339. Trial of person to whom pardon has been tendered.



Sections	Page
339A. Procedure in trial of person under section 339.	214-235
339B. Trial in absentia.	
339C. Time for disposal of cases.	
339D. [Omitted]	
340. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.	
341. Procedure where accused does not understand proceedings.	
342. Power to examine the accused.	
343. No influence to be used to induce disclosures.	
344. Power to postpone or adjourn proceedings.	
Remand.	
Reasonable cause for remand.	
345. Compounding offences.	
346. Procedure of Magistrate in cases which he cannot dispose of.	
347. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.	
348. Trial of persons previously convicted of offences against coinage, stamp-law or property.	
349. Procedure when Magistrate cannot pass sentence sufficiently severe.	
349A. Conviction on evidence partly recorded one Sessions Judge, etc., and partly by another.	
350. Conviction on evidence partly recorded by one Magistrate and partly by another.	
350A. Changes in constitution of Benches.	
351. Detention of offenders attending Court.	
352. Courts to be open.	

CHAPTER XXV  
OF THE MODE OF TAKING AND RECORDING  
EVIDENCE IN INQUIRIES AND TRIALS.

353. Evidence to be taken in presence of accused. 236-242.
354. Manner of recording evidence.
355. Record in summons cases and in trials of certain offences by first and second class Magistrates.
356. Record in other cases.  
Evidence given in English.  
Memorandum when evidence not taken down by the Magistrate or Judge himself.
357. Language of record of evidence.
358. Option to Magistrate in cases under section 355.
359. Mode of recording evidence under section 356 or section 357.
360. Procedure in regard to such evidence when completed.
361. Interpretation of evidence to accused or his pleader.
362. [Omitted.]
363. Remarks respecting demeanor of witness.
364. Examination of accused how recorded.
365. Record of evidence in High Court Division.

CHAPTER XXVI  
OF THE JUDGMENT

366. Mode of delivering judgment.
367. Language of judgment.  
Contents of judgment.

Sections	Page
Judgment in alternative.	
368. Sentence of death.	242-246
Sentence of transportation.	
369. Court not to alter judgment.	
370. <i>[Omitted.]</i>	
371. Copy of judgment, etc., to be given to accused on application.	
Case of person sentenced to death.	
372. Judgment when to be translated.	
373. Court of Session to send copy of finding and sentence to District Magistrate.	

## CHAPTER XXVII

### OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION

374. Sentence of death to be submitted by Court of Session.
375. Power to direct further inquiry to be made or additional evidence to be taken.
376. Power of High Court Division to confirm sentence or annul conviction.
377. Confirmation or new sentence to be signed by two Judges.
378. Procedure in case of difference of opinion.
379. Procedure in cases submitted to High Court Division for confirmation.
380. *[Repealed.]*

## CHAPTER XXVIII

## OF EXECUTION

381. Execution of order passed under section 376. 246-250
382. Postponement of capital sentence on pregnant woman.
383. Execution of sentences of transportation or imprisonment in other cases.
384. Direction of warrant for execution.
385. Warrant with whom to be lodged.
386. Warrant for levy of fine.
387. Effect of such warrant.
388. Suspension of execution of sentence of imprisonment.
389. Who may issue warrant.
390. Execution of sentence of whipping only.
391. Execution of sentence of whipping, in addition to imprisonment.
392. Mode of inflicting punishment.  
Limit of number of stripes.
393. No to be executed by installments Exemptions.
394. Whipping not to be inflicted if offender not in fit state of health.  
Stay of execution.
395. Procedure if punishment cannot be inflicted under section 394.
396. Execution of sentences on escaped convicts.



Sections	Page
397. Sentence on offender already sentenced for another offence.	251-256
398. Saving as to section 396 and 397.	
399. Confinement of youthful offenders in reformatories.	
400. Return of warrant on execution on execution of sentence.	

## CHAPTER XXIX OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES

401. Power to suspend or remit sentences.
402. Power to commute punishment.
- 402A. Sentences of death.

## CHAPTER XXX OF PREVIOUS ACQUITTALS OR CONVICTIONS

403. Person once convicted or acquitted not to be tried for same offence.

## PART VII OF APPEAL, REFERENCE AND REVISION

### CHAPTER XXXI OF APPEALS

404. Unless otherwise provided, no appeal to lie.
405. Appeal from order rejecting application for restoration of attached property.



Sections	Page
406. Appeal from order requiring security for keeping the peace or for good behaviour.	256-263
406A. Appeal from order refusing to accept or rejecting a surety.	
407. Appeal from Sentence of Magistrate of the second or third class.	
Transfer of appeals to first class Magistrate.	
408. Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.	
409. Appeals to Court of Session how heard.	
410. Appeal from sentence of Court of Session.	
411. <i>[Omitted.]</i>	
411A. <i>[Omitted.]</i>	
412. No appeal in certain cases when accused pleads guilty.	
413. No appeal in petty cases.	
414. No appeal from certain summary convictions.	
415. Proviso to sections 413 and 414.	
415A. Special right appeal in certain cases.	
416. <i>[Repealed.]</i>	
417. Appeal in case of acquittal.	
417A. Appeal against inadequacy of sentence.	
418. Appeals on what matters admissible.	
419. Petition of appeal.	
420. Procedure when appellant in jail.	

Sections	Page
421. Summary dismissal of appeal.	263-267
422. Notice of appeal.	
423. Powers of Appellate Court in disposing of appeal.	
424. Judgments of subordinate Appellate Court.	
425. Order by High Court Division on appeal to be certified to lower Court.	
425A Power of Appellate Division to transfer cases and appeals.	
426. Suspension of sentence pending appeal. Release of appellant on bail.	
427. Arrest of accused in appeal from acquittal.	
428. Appellate Court may take further evidence or direct it to be taken.	
429. Procedure where judges of Court of Appeal are equally divided.	
430. Finality of orders on appeal.	
431. Abatement of appeals.	

## CHAPTER XXXII

### OF REFERENCE AND REVISION

432. *[Omitted.]*
433. *[Omitted.]*
434. *[Omitted.]*
435. Power to call for records of inferior Courts.
436. Power to order inquiry.

Sections	Page
541. Power to appoint place of imprisonment.	309-313
Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil	
542. [Repealed.]	
543. Interpreter to be bound to interpret truthfully.	
544. Expenses of complainants and witnesses.	
545. Power of Court to pay expenses or compensation out of fine.	
546. Payments to be taken into account in subsequent suit.	
546A Order of payment of certain fees paid by complainant in non-cognizable cases.	
547. Moneys ordered to be paid recoverable as fines.	
548. Copies of proceedings.	
549. Delivery to military authorities of persons liable to be tried by Court-martial.	
Apprehension of such persons.	
550. Powers to police to seize property suspected to be stolen.	
551. Powers of superior officers of police.	
552. Power to compel restoration of abducted females.	
553. [Repealed.]	
554. Power of chartered High Court Division to make rules for inspection of records of subordinate Courts.	
Power of other High Court Division to make rules for other purposes.	

Sections	Page
555. Forms	
556. Case in which judge or Magistrate is personally interested.	314-316
557. Practising pleader not to sit as Magistrates in certain Court.	
558. Power to decide language of Courts.	
559. Provision for powers of Judges and Magistrates being exercised by their successors in office.	
560. Officers concerned in sales not to purchase or bid for property.	
561. Special provisions with respect to offence rape by a husband.	
561A Saving of inherent power of High Court Division.	
First offenders	
562-563. [Repealed.]	
Previously convicted offenders	
565. Order for notifying address of previously convicted offender.	
SCHEDULE I.— [Repealed.]	
SCHEDULE II.— TABULAR STATEMENT OF OFFENCES.	
SCHEDULE III.— ORDINARY POWERS OF MAGISTRATES.	
SCHEDULE IV.— ADDITIONAL POWERS WITH WHICH MAGISTRATES MAY BE INVESTED.	
SCHEDULE V.— FORMS.	