

AFRASIAB MOHAL JUDICIAL ACADEMY LAHORE

Discretionary powers of criminal court under the CR.P.C, 1898

[Section 76]

76. Court may direct security to be taken: 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 execute 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 the warrant is directed shall take such security and shall release such person from custody.

(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; and

(c) the time at which he is to attend before the Court.

(3) Recognizance to be forwarded: Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

[Section 107(4)]

107. Security for keeping the peace in other cases: Whenever [*Magistrate of the First*

Class] is informed that any person is likely to commit a breach of the peace, disturb the

public tranquillity or to do any wrongful act that may probably occasion a breach of the

peace or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient

ground for proceeding may, in 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 to

fix.

(2) Proceeding shall not be taken under this section unless either, the person informed

against or the place where the breach of the peace or, disturbance is apprehended, is

within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken

before any Magistrate [*except with the approval of the Sessions Judge*], unless both the

persons informed against and the place where the breach of the peace or disturbance is

apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) Procedure if Magistrate not empowered to act under sub-section (1): When any

Magistrate not empowered to proceed under sub-section (1) has reason to believe that

any person is likely to commit a breach of the peace or disturb the public tranquillity or to

do any wrongful act that may probably occasion a breach of the peace or disturb the

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public tranquillity, and that such breach of the peace, or disturbance, cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons; issue a warrant for his arrest if he is not already in custody or before the Court and may send him before a Magistrate empowered to deal with the case together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter.

[Section 123(3-B)]

123. Imprisonment in default of security: (1) If any person ordered to give security under Section 106 or Section 118 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.

(3-B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3-A) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

[Section 141]

141. Procedure on failure to appoint jury or omission to return verdict: If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by Section 140.

[Section 205(2)]

205. Magistrate may dispense with personal attendance of the accused. (1) Whenever a magistrate issues a summons, he may, if he sees reasons so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader. (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 manner hereinbefore provided.

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[Section 227]

227. Court may alter charge: (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.

[Section 228]

228. When trial may proceed immediately after alteration: If the charge framed or alteration or addition made under Section 227 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 prosecution in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

[Section 244-A]

244-A. Statement made under Section 164: The statement of a witness duly recorded under Section 164, if it was made in the presence of the accused and if he had notice of it and was given, an opportunity of cross-examining the witness, may in the discretion of the Court, if such witness is produced and examined, be treated as evidence in case for all purposes subject to the provisions of the Qanun-e-Shahadat, 1984.

[Section 265-E]

265-E. Plea: (1) The charge shall be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.
(2)- If the accused pleads guilty, the Court shall record the plea, and may in its discretion convict him thereon.

[Section 265-F]

265-F. Evidence for prosecution: (1) if the accused does not plead guilty or the Court in its discretion does not convict him on his plea, the Court shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution:
Provided that the Court shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.

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(2) The Court shall ascertain from the Public Prosecutor or, as the case may be from the complainant, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon such persons to give evidence before it.

(3) The Court may refuse to summon any such witness, if it is of opinion that such witness is being called for the purpose of vexation or delay or defeating "the ends of justice. Such ground shall be recorded by the Court in-writing.

(4) When the examination of the witnesses for the prosecution and the examination of any of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(5) If the accused puts in any written statement, the Court shall file it with the record.

(6) If the accused, or any one of several accused, says that he means to adduce evidence, the Court shall call on the accused to enter on his defence and produce his evidence.

(7) If the accused, or any one of several accused, after entering on his defence, applies to the Court to issue any process for compelling the attendance of any witness for examination or the production of any document or other thing, the Court shall issue such process unless it considers that the application is made for the purpose of vexation or delay or defeating the ends of justice. Such ground shall be recorded by the Court in writing.

[Section 265-J]

265-J. Statement under Section 164 admissible: The statement of a witness duly recorded under Section 164, if it was made in the presence of the accused and if he had notice of it and was given an opportunity of cross-examining the witness, may, in the discretion of the Court, if such witness is produced and examined, be treated as evidence in the case for all purposes Subject to the provisions of the Qanun-e-Shahadat 1984.

[Section 359(2)]

359. Mode of recording evidence under Section 356 or Section 357: (1) Evidence taken under -Section 356 or Section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(2) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down any particular question and answer.

[Section 361]

361. Interpretation of evidence to accused or his pleader: (1) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall

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be interpreted to him in open Court in a language understood by him.

(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 in for the purpose of formal proof, it shall be in the discretion

of the Court to interpret as much thereof as appears necessary.

[Section 395]

395. Procedure if punishment cannot be inflicted under Section 394 : (1)

In any case

in which under Section 394, a sentence of whipping is wholly or partially, prevented

from being executed; the Offender shall be kept in custody till the Court which passed the

sentence can revise it; and the said Court, may, at its discretion, either remit such

sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the

sentence of whipping as was not executed, to imprisonment for any term not exceeding

twelve months, or to a fine not exceeding-five-hundred rupees, which may be in addition to any other punishment to which he may have been sentenced for the

same

offence.

(2) Nothing in this section shall be deemed to authorize any Court' to inflict imprisonment

for a term or a fine of an amount exceeding that to which the accused is liable by law, or

that which the said Court is competent to inflict.

[Section 439]

439. High Court's powers Of revision: (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 423, 426, 427 and 428 or on a Court by Section 338, and may enhance the

sentence and, when the Judges Composing the Court of Revision are equally divided in.

opinion, the case shall be disposed of in manner provided by Section 4.29.

(2) No order under this section, shall be made to the prejudice of the accused unless he

has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate the

Court shall not inflict a greater punishment for the offence which, in the opinion of such

Court, the accused has committed, than might have been inflicted for such offence by a

Magistrate of the First Class.

(4) Nothing in this section shall be, deemed to authorize a High Court—

(a) To convert a finding of acquittal into one of conviction; or

(b) to entertain any proceedings in revision, with respect to an order made .by the

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Sessions Judge under Section

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled to show cause against his conviction.

[Section 484]

484. Discharge of offender on submission of apology : When any Court has under Section 480 or Section 482 adjudged an offender to punishment or 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 of apology being made to its satisfaction.

[Section 497(2)]

497. When bail may be taken in case of non-bailable offence: (1) When any person accused 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, he may be released on bail but he 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 or imprisonment for ten years: Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail, provided further that a person accused of an offence as aforesaid shall not be released on bail unless the prosecution has been given notice to show cause why he should not be so released:

Proviso : [Omitted by the Ordinance, LIV of 2001.]

(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 further inquiry into his guilt, the accused shall, 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.

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[Section 514]

514. Procedure on forfeiture of bond : (1) Whenever it is proved to the satisfaction- of the Court by which a bond under this Code has been taken, or of the Court of a Magistrate of the First Class, or, when the bond is for appearance before a Court, to the satisfaction of such Court, that such 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.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and, sale of the movable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court, which issued it; and it shall authorise the attachment, and sale of any movable property belonging to such person without such limits, when endorsed by the *[District Officer Revenue]* within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the, Warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may; at its discretion remit any portion of the penalty mentioned and enforce payment in part only.

(6) 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.

(7) When any person who has furnished security under section 107 or section 108 is convicted of an offence the commission of which constitutes a breach of the condition of his bond, or of a bond executed in lieu of his bond under Section 514-B, 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.